

## **Ordinance 2015-03**

An Ordinance Amending Ordinances 01.01.010 – 01.01.030 and 01.01.70 of the Hyde Park City Municipal Code and Adopting the Codified Hyde Park City Municipal Code.

WHEREAS, Hyde Park City desires to adopt the Hyde Park City Municipal Code as Codified by Municipal Code online;

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Hyde Park City Council as follows:

### 1.01 Code Adoption

- 1.01.010 Adoption Of The Municipal Code
- 1.01.020 Ordinances Passed Prior To The Adoption Of The Code
- 1.01.030 Municipal Code Administration
- 1.01.070 Severability

#### 1.01.010 Adoption Of The Municipal Code

In accordance with Utah Code Annotated §10-3-707, all ordinances of a general nature now in force in the City of Hyde Park, Utah, as revised, compiled, and set forth herein as a volume entitled the "Hyde Park City Municipal Code" are adopted, passed, published and declared to be the municipal code, as passed by authority of the city council.

#### 1.01.020 Ordinances Passed Prior To The Adoption Of The Code

Unless repealed, all ordinances passed prior to the codification of the municipal code, and any revision, continue in full force and effect as codified herein. In the event of discrepancies between the substantive context of the municipal code and the official hard copy, the official hard copy governs.

#### 1.01.030 Municipal Code Administration

1. In accordance with Utah Code Annotated §10-3-707, as amended, and in order to facilitate effective application of municipal ordinances adopted by the city council, administrative staff is delegated authority to compile or arrange for the compilation of all applicable ordinances of the municipality into the municipal code (MSMC), under the direction of the city recorder.
2. During the process of compiling and after the ordinance adopting the code is approved, administrative staff shall have the authority including but not limited as follows:
  1. To administer the municipal code and carry out the provisions authorized in Utah Code Annotated §§10-3-707, 708, 709, 710, and 711 to create, compile, and enforce the municipal code.
  2. To create titles, chapters, sections, names and headings, summaries, and/or other parts as necessary.
  3. To codify relevant existing ordinances into the municipal code.
  4. To codify any and all relevant subsequent ordinances in the municipal code.

5. To make such changes, alterations, modifications, additions, and substitutions therein as deemed best to complete a simplified municipal code of ordinances with errors, inconsistencies, repetitions, and ambiguities therein eliminated.
6. To publish the municipal code and make it available for the public, including the administration of an electronic on-line code.
7. To otherwise implement the municipal code to effectuate this section.

1.01.070 Severability

If any section, subsection, sentence, clause or phrase of the municipal code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**Effective Date:** This ordinance will become effective immediately upon its adoption by the City Council.

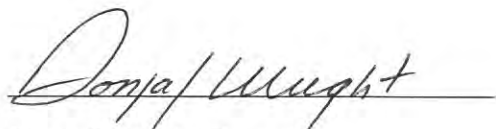
**ADOPTED AND APPROVED** by the HYDE PARK CITY COUNCIL this 13 day of May, 2015.

HYDE PARK CITY, a municipal corporation



Bryan L. Cox, Mayor

ATTEST:



Donja J. Wright, Recorder



## **1 General Provisions**

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- [1.20 Principles Of Criminal Responsibility](#)
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### **1.10 Adoptions And Introduction**

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#### **1.10.010 Adoption Of The Municipal Code**

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#### **1.10.020 Ordinances Passed Prior To The Adoption Of Code**

Unless repealed, all ordinances passed prior to the codification of the municipal code, and any revision, continue in full force and effect as codified herein. In the event of discrepancies between the substantive context of the municipal code and the official hard copy, the official hard copy governs.

#### **1.10.030 Municipal Code Administration**

- A. In accordance with Utah Code Annotated §10-3-707, as amended, and in order to facilitate effective application of municipal ordinances adopted by the city council, administrative staff is delegated authority to compile or arrange for the compilation of all applicable ordinances of the municipality into the municipal code (MSMC), under the direction of the city recorder.
- B. During the process of compiling and after the ordinance adopting the code is approved, administrative staff shall have the authority including but not limited as follows:
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  - 2. To create titles, chapters, sections, names and headings, summaries, and/or other parts as necessary.
  - 3. To codify relevant existing ordinances into the municipal code.
  - 4. To codify any and all relevant subsequent ordinances in the municipal code.
  - 5. To make such changes, alterations, modifications, additions, and substitutions therein as deemed best to complete a simplified municipal code of ordinances with errors, inconsistencies, repetitions, and ambiguities therein eliminated.
  - 6. To publish the municipal code and make it available for the public, including the administration of an electronic on-line code.
  - 7. To otherwise implement the municipal code to effectuate this section.

#### **1.10.040 Effective Date**

These Revised Ordinances shall become effective February 1, 1979.

### **1.10.050 Definition And Rules Of Construction**

In the construction of the ordinances of this municipality, the following rules and definitions shall be observed and applied unless such construction would be inconsistent with the manifest intent of these ordinances.

- A. General rule. All words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
- B. Gender – singular and plural. Unless otherwise indicated from the context of the ordinance, all words used in the singular shall include the plural and all words used in the masculine gender shall extend to and apply to the feminine gender.
- C. Person. The term “person” includes all individuals both male and female, any governmental agency, corporation, partnership, association, company, and every other from of organizations whether formed voluntarily or involuntarily.
- D. Tenses. The use of any verb in the present tense shall include the future and past tense when applicable.
- E. Highway – Road. The terms “highway” and “road” include public bridges, and may be equivalent to the words “county way,” “county road,” “common road,” and “state road.”
- F. Street. The term “street” includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.
- G. Business. The term “business” includes any trade, profession, calling, activity, operation or enterprise for which a license is required by any ordinances of this municipality.
- H. License. The term “license” includes any certificate or license issued by this municipality.
- I. Property. The term “property” includes both real and personal property.
- J. Owner. The term “owner” applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lease of a whole or part of a building or land.
- K. Tenant – Occupant. The term “tenant” or “occupant” applied to a building or land shall apply to any person who occupies all or any part of such building or land either alone or with others.
- L. Reasonable time. In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.
- M. Time – how computed. The time within which an act is to be done as provided in any ordinance or in any resolution or order of this municipality when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a holiday, then the last day shall be the day next following such Sunday or holiday which is not a Sunday or holiday. When time is expressed in hours, Sunday and all holidays shall be excluded.
- N. Week. The word “week” shall be construed to mean any seven-day period.
- O. Location. Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct, or offense prohibited or required shall be within the boundaries of this municipality.
- P. Chief of Police, city marshal, town marshal or marshal. The terms “chief of police,” “city marshal,” “town marshal” or “marshal” as used in this code all have the same meaning and may be used interchangeably.
- Q. Municipality. The word “municipality” as used throughout this code means the City of Hyde Park.
- R. Governing Body. The word “governing body” as used throughout this code means the city council of this municipality.
- S. Offense. Offense means any act, action, or conduct prohibited by this code or the failure to perform any acts required by this code.
- T. Officer or Officials. The terms “officer” or “official” as used in this code means any elected or appointed person employed by the municipality unless the context clearly indicates otherwise.
- U. Recorder / Clerk. The term “recorder / clerk” means the individual appointed to act as the recorder of the municipality.

### **1.10.060 Captions**

The captions in this code immediately preceding each section are intended as mere captions to indicate the content of the section and shall not be deemed or taken to be part of the sections.

### **1.10.070 Severability**

If any section, subsection, sentence, clause or phrase of the municipal code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

### **1.10.080 Numbering Of Ordinances**

- A. The recorder / clerk shall, in so far as possible, assign all ordinances of a general nature adopted after these revised ordinances a number which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.
- B. The recorder / clerk shall keep all ordinance of a local, private or temporary nature, including franchises, grants, dedications, bond issues and tax levies, in a separate book of “Special Ordinances” properly indexed and organized according to date adopted. The first number of such an ordinance shall be the last two digits of the year the ordinance is adopted, followed by a dash which is followed by a number which shall be a sequential, ascending number indicating the order in which such special ordinance was adopted during the year.
- C. Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

### **1.10.090 Statutes Or Codes Included And Excluded**

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this code unless the provisions of this code specifically include, incorporate, or make the citation or statute part of this code by reference or incorporation, and any such reference or citation not specifically included or incorporated may be changed, amended or deleted without publication on an order of the governing body.

### **1.10.100 Construction Of Penalties**

### **1.10.110 Introductory Provisions To Construction Of Crimes Under This Code**

### **1.10.120 Application Of Code - Offense Prior To Effective Date**

- A. The provisions of this code shall govern the construction of, the punishment for, and the defense against any offense defined in this code or, except where otherwise specifically provided or the context otherwise requires, any offense defined outside this code; provided such offense was committed after the effective date of this code.
- B. Any offense committed prior to the effective date of this code shall be governed by the ordinances of this municipality existing at the time of commission thereof, except that a defense or limitation on punishment available under this code shall be available to any defendant tried or retired after the effective date. An offense under this code shall be deemed to have been committed prior to the effective date of this code if any of the elements of the offense occurred prior to the effective date.

#### **1.10.130 Purposes And Principles Of Construction**

The provisions of this code shall be construed in accordance with these general purposes to:

- A. Forbid and prevent commission of offenses.
- B. Define adequately the conduct and mental state which constitute each offense and safeguard conduct that which without fault from condemnation as criminal.
- C. Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.
- D. Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

#### **1.10.140 Crimes Abolished**

No conduct is a crime or an offense unless made so by this code, or other ordinances or other applicable statute.

#### **1.10.150 Strict Construction Rule Not Applicable**

The rule that a penal ordinance is to be strictly construed shall not apply to this code, or any of its provisions, or other ordinances of this municipality. All provisions of this code and offenses defined by it shall be construed according to the fair import of their terms to promote justice and to affect the objects of the law and general purposes of section 1.10.130.

#### **1.10.160 Procedure - Governed By State And Constitutional Provisions Liability For Civil Damages Not Affected**

- A. Except as otherwise provided, the procedure governing the accusation, prosecution, conviction, and punishment of offenders and offenses is too regulated by this code, but shall be in conformity with the laws of Utah and the Constitution of the United States.
- B. This code does not bar, suspend, or otherwise affect any rights to or liability for damages, penalty, forfeiture, impeachment, or other remedy authorized by law to be covered or enforced in a civil action, administrative proceeding, or otherwise, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this code.

#### **1.10.170 Jurisdiction And Venue**

#### **1.10.180 Jurisdiction And Offenses**

- A. A person is subject to prosecution in this municipality for an offense which he commits, while either within or outside the municipality by his own conduct or that of another for which he is legally accountable, if:
  - 1. The offense is committed either wholly or partly within the municipality; or
  - 2. The conduct outside this municipality constitutes an attempt within this municipality; or
  - 3. The conduct outside this municipality constitutes a conspiracy to commit an offense within this municipality and an act in furtherance of the conspiracy occurs in this municipality; or
  - 4. The conduct within the municipality constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction and offense under this code and such other jurisdiction.
- B. An offense is committed partly within this municipality if either the conduct which is an element of the offense, or the result which is such an element, occurs within this municipality.
- C. An offense which is based on an omission to perform a duty imposed by this code is committed within this municipality regardless of the location of the offender at the time of the omission.

#### **1.10.190 Limitation Of Actions**

#### **1.10.200 Embezzlement Of Public Moneys - Falsification Of Public Records**

A prosecution for embezzlement of public moneys or the falsification of public records may be commenced at any time.

#### **1.10.210 Misdemeanor - Any Infraction - Commencement Of Prosecution**

- A. Except as otherwise provided in this part, prosecutions for other offense are subject to the following periods of limitation:
  - 1. A prosecution for a misdemeanor must be commenced within two years after it is committed;
  - 2. A prosecution for any infraction must be commenced within one year after it is committed;
- B. The prosecution is commenced on the filing of a complaint or information.

#### **1.10.220 Fraud Or Breach Of Fiduciary Obligation - Misconduct By Public Officer Or Employee**

If the period prescribed in Section 1-132-A has expired, a prosecution may nevertheless be commenced for:

- A. Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years; and

- B. Any offense based on misconduct in office by a public officer or employee at any time during the term of the defendant's public office or period of his public employment or within two years thereafter, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years.

#### **1.10.230 Defendant Out Of State**

The period of limitation does not run against any defendant during any period of time he is out of state following the commission of an offense.

#### **1.10.240 Lesser Included Offense For Which Period Of Limitations Has Run**

Whenever a defendant is charged with an offense for which the period of limitations has not run and the defendant should be found guilty of a lesser offense for which the period of limitations has run, the finding of the lesser and included offense against which the statute of limitations has run shall not be a bar to punishment for the lesser offense.

#### **1.10.250 Multiple Prosecution And Double Jeopardy - Criminal Joinder**

#### **1.10.260 "Single Criminal Episode" Defined**

In this code unless the context requires a different definition, "single criminal episode" means all conduct which is closely related in time and is incident to an attempt or an accomplishment of a single criminal objective.

Nothing in this part shall be construed to limit or modify the joinder of offenses and defendants in criminal proceedings.

#### **1.10.270 Incorporation By Reference Of Provisions Of State Criminal Code**

The provisions of Utah Code Annotated 76-1-402 through 76-1-405 are hereby adopted as part of this code and incorporated herein by reference.

#### **1.10.280 Joinder Of Offenses And Defendants**

- A. Two or more offenses under this code or the ordinances of this municipality may be charged in the same citation or complaint in a separate count for each offense if the offenses charged are of the same or similar character or are based on the same act or transgression or on two or more acts or transactions connected together or constitution parts of a common scheme or plan.
- B. Two or more defendants may be charged in the same citation or complaint if they are alleged to have participated in the same act or transaction or the same series of acts or transactions. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

#### **1.10.290 Burden Of Proof**

The provisions of Utah Code Annotated 76-1-501 through 76-1-504 are hereby adopted and incorporated herein by reference.

#### **1.10.300 Definitions**

The provisions of Utah Code Annotated 76-1-601 are hereby adopted and incorporated herein by reference.

### **1.20 Principles Of Criminal Responsibility**

#### **1.20.010 Culpability Generally**

#### **1.20.020 Criminal Responsibility For Conduct Of Another**

#### **1.20.030 Defenses To Criminal Responsibility**

#### **1.20.040 Justification Excluding Criminal Responsibility**

#### **1.20.010 Culpability Generally**

The provisions of Utah code Annotated 76-2-101 through 76-2-104 are hereby adopted and incorporated herein by reference.

#### **1.20.020 Criminal Responsibility For Conduct Of Another**

The provision of Utah Code Annotated 76-2-201 through 76-2-205 are hereby adopted as part of this code and incorporated herein by reference.

#### **1.20.030 Defenses To Criminal Responsibility**

The provision of Utah Code Annotated 76-2-301 through 76-2-308 hereby are adopted as part of the code and incorporated herein by reference.

#### **1.20.040 Justification Excluding Criminal Responsibility**

The provisions of Utah code Annotated 76-2-401 through 76-2-406 are hereby adopted and incorporated herein by reference.

### **1.30 Punishments**

#### **1.30.010 Classifications Of Offenses**

#### **1.30.020 Sentencing In Accordance With Chapter**

#### **1.30.030 Designation Of Offenses**

#### **1.30.040 Misdemeanors Classified**

#### **1.30.050 Infractions**

#### **1.30.060 Continuing Violation**

#### **1.30.070 Sentencing**

#### **1.30.080 Sentences Or Combination Of Sentences Allowed - Civil Penalties**

#### **1.30.090 Misdemeanor Conviction - Term Of Imprisonment**

#### **1.30.100 Infraction Conviction - Fine, Forfeiture, And Disqualification**



1.30.110 Fines, Special Provisions And Special Sanctions

1.30.120 Fines Of Persons

1.30.130 Fines Of Corporations, Associations, Partnerships, Or Government Instrumentalities

1.30.140 Misdemeanors Defined

1.30.150 Limitation And Special Provisions On Sentences

**1.30.010 Classifications Of Offenses**

**1.30.020 Sentencing In Accordance With Chapter**

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

**1.30.030 Designation Of Offenses**

Offenses are designated as misdemeanors or infractions.

**1.30.040 Misdemeanors Classified**

- A. Misdemeanors are classified into two categories:
  - 1. Class B misdemeanors.
  - 2. Class C misdemeanors.
- B. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or in any ordinance of this municipality when no other specification as to punishment or category is made, is a class B misdemeanor.

**1.30.050 Infractions**

- A. Infractions are not classified.
- B. Any offense which is made an infraction in this code or other ordinances of this municipality or which is expressly designated an infraction and any offense designated by this code or other ordinances of this municipality which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

**1.30.060 Continuing Violation**

In all instances where the violation of these ordinances or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

**1.30.070 Sentencing**

**1.30.080 Sentences Or Combination Of Sentences Allowed - Civil Penalties**

Within the limits prescribe by this code, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or a combination of such sentences:

- A. To pay a fine; or
- B. Reserved.
- C. To probation; or
- D. To imprisonment.

**1.30.090 Misdemeanor Conviction - Term Of Imprisonment**

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- A. In the case of a class B misdemeanor, for a term not exceeding six (6) months;
- B. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

**1.30.100 Infraction Conviction - Fine, Forfeiture, And Disqualification**

- A. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture or both.
- B. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

**1.30.110 Fines, Special Provisions And Special Sanctions**

**1.30.120 Fines Of Persons**

A person who has been convicted of an offense may in addition to the imprisonment imposed be sentenced to pay a fine not to exceed \$1,000 and imprisonment as set forth in section 1.30.090 in the case of a Class B misdemeanor and in the case of a class C misdemeanor or infraction by a fine not to exceed \$500.

**1.30.130 Fines Of Corporations, Associations, Partnerships, Or Government Instrumentalities**

The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this ordinance and for an offense defined outside this code for which no special corporate fine is specified shall pay an amount fixed by the court, not exceeding the sum of \$5,000.00 when the conviction is a class B misdemeanor and \$1,000 when the conviction is for a class C misdemeanor or for an infraction.

**1.30.140 Misdemeanors Defined**

### **1.30.150 Limitation And Special Provisions On Sentences**

The provisions of Utah Code Annotated 76-3-401 through 76-3-405 are hereby adopted and incorporated herein by reference; as such limitations and special provisions on sentences apply to misdemeanors.

### **1.40 Administrative Remedies**

1.40.010 Hearings

1.40.020 Request

1.40.030 Form Of Request

1.40.040 Procedure

1.40.050 Not Additional Remedy

#### **1.40.010 Hearings**

#### **1.40.020 Request**

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

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

#### **1.40.030 Form Of Request**

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

#### **1.40.040 Procedure**

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

#### **1.40.050 Not Additional Remedy**

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



## **2 Administrative Code**

- 2.10 Police
- 2.30 General Police Powers
- 2.40 Inchoate Offenses
- 2.50 Offenses Against The Person
- 2.60 Offenses Against Property
- 2.70 Offense Against The Family
- 2.80 Offenses Against Government
- 2.90 Offenses Against Public Order And Decency
- 2.100 Offenses Against Public Health, Safety, Welfare And Morals
- 2.110 Trademarks, Trade Names And Devices
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### **2.10 Police**

- 2.10.010 Police Department
- 2.10.020 Police Department-Established
- 2.10.030 Marshall - Chief Of Police
- 2.10.040 Additional Powers And Duties Of Policemen
- 2.10.050 Register Or Arrest
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- 2.10.070 Register Of Property To Be Kept
- 2.10.080 Stolen Property Disposition
- 2.10.090 Jail
- 2.10.100 Governing Body To Provide
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- 2.10.130 Duties Of Jailer
- 2.10.140 Prisoners To Labor On Public Works
- 2.10.150 Work To Be Performed Under The Direction Of The Jailer
- 2.10.160 Time Off For Work Performed
- 2.10.170 Failure To Perform Work Made Breach Of Rules
- 2.10.180 Time Off For Good Behavior

#### **2.10.010 Police Department**

#### **2.10.020 Police Department-Established**

There is hereby established a regularly constituted police force to be known as the police department which shall consist of a chief of police and such other police officers as shall be employed by the municipality.

#### **2.10.030 Marshall - Chief Of Police**

- A. Powers. Cities see U.C.A. Sections 10-6-65 through 10-6-68. Towns see U.C.A. Sections 10-6-69 and 10-13-10 and 17-25-1 et. seq.
- B. He shall organize, supervise, and be responsible for all the activities of the police department and shall define and assign the duties of the different police officers.
- C. He shall, when required, attend meetings of the governing body to consult with and advise them on matters of public safety. He shall execute all lawful orders of the mayor and governing body and see that all orders and judgments of the justice of the peace are carried into effect.

#### **2.10.040 Additional Powers And Duties Of Policemen**

The chief of police and all police officers of the municipality shall have the following powers and duties in addition to those that may be assigned to them as above provided:

- A. To suppress riots, disturbances, and breaches of the peace, and to apprehend all persons committing any offense against the law of the state or ordinances of the municipality.
- B. To execute and serve all warrants, processes, commitments, and writs whatsoever issued by the justice of the peace.
- C. To preserve the public peace, prevent crime, detect and arrest offenders, protect persons and property, remove nuisances existing in the public streets, roads, highways and other public places, enforce every law relating to the suppression of offenses, render such assistance in the collection of licenses as may be required by the license collector and perform all duties enjoined upon them by law and ordinance.

#### **2.10.050 Register Or Arrest**

The chief of police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.

#### **2.10.060 Property Taken From The Person Arrested - Triplicate Receipts**

When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must be the time issue triplicate receipts therefore specifying particularly the amount of money or kind of property taken. One of the receipts he must deliver to the person arrested. Another he must forthwith file with the clerk of the court to which the complaint and other papers in the case are required by law to be sent. The third receipt must be sent at once to the office of the police department.

#### **2.10.070 Register Of Property To Be Kept**

The chief of police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into his office or taken from the person of the prisoner and must attach a number to each article and made a corresponding entry thereof.

#### **2.10.080 Stolen Property Disposition**

It shall be the duty of the chief of police to keep all lost or stolen property that comes into the possession of the police department or any of its members. He shall make all reasonable efforts to discover the owners thereof.

#### **2.10.090 Jail**

##### **2.10.100 Governing Body To Provide**

- A. The governing body shall provide for a place of incarceration which shall be the municipal jail.
- B. The governing body may contract with any person, county, municipality, or combination thereof for the purpose of providing suitable premises and facilities to be used by the municipality as the municipal jail.

#### **2.10.110 Jailer**

Until another person is appointed, the chief of police shall be ex officio jailer. The jailer shall:

- A. Receive and safely keep all persons duly committed to his custody and file and preserve all commitments by which persons are committed.
- B. Keep a record of each showing the date of arrest, offense charged, term of commitment, date of release and the name, age and place of birth and description of the person committed in a book kept for that purpose.

#### **2.10.120 Rules**

The jailer shall formulate a system of prison rules and discipline and keep a record in which shall be entered a statement of every infraction thereof committed by any person confined therein.

#### **2.10.130 Duties Of Jailer**

The jailer shall receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding. He shall cause the prison to be warmed and lighted, when necessary, and to be kept in a sanitary condition. He shall enforce all rules prescribed by the governing body for the government of the prison.

#### **2.10.140 Prisoners To Labor On Public Works**

Any prisoner committed to the jail or other place of incarceration as a punishment or in default of the payment of a fine or fine and costs, arising from a violation of the ordinances of this municipality shall be required to work for the municipality at such labor on public works and ways as his strength will permit, not exceeding eight hours in each working day.

#### **2.10.150 Work To Be Performed Under The Direction Of The Jailer**

The labor on public works and ways shall be designated by and performed under the direction the jail, which labor may include, among other things, clerical, janitorial, car washing, common and menial labor performed in and upon any building, road, or property owned or maintained by the municipality. The labor required by this section shall be performed in addition to that labor required by jail regulations to be performed by all prisoners confined in the jail in cleaning and maintaining their cells

#### **2.10.160 Time Off For Work Performed**

For each month in which a prisoner confined or committed to the jail has actually and satisfactorily performed work as reported and recorded by the officer in charge, five days shall be deducted from his period of confinement. The reduction of sentence allowed pursuant to this part shall be in addition to the reduction allowed by section 13.10.180, but no prisoner shall be granted a total reduction of sentence under this part in excess of ten days for any single month. Proportionate reductions shall be made for the fractional period of a month included in any sentence.

#### **2.10.170 Failure To Perform Work Made Breach Of Rules**

Failure to perform the specified labor, except when the strength of the prisoner will not permit, shall constitute a breach of the rules of the municipal jail, and no reduction of sentence shall be allowed under Section 13-129.

#### **2.10.180 Time Off For Good Behavior**

- A. Every person undergoing sentence for thirty days or more who has not been guilty of a breach of the rules of the prison shall be entitled to a reduction for the period of his sentence as follows: 1) From a term of one month, five days; 2) from a term of two months, ten days; 3) from a term of three months, fifteen days; 4) from a term of four months, twenty days; 5) from a term of five months, twenty-five days; 6) from a term of six months, thirty days.
- B. Proportionate reductions shall be made for the fractional parts of a month included in any sentence.

### **2.30 General Police Powers**

2.30.010 Offenses Re: Minors Curfew

2.30.020 Purchase, Possession Prohibited

2.30.030 Minor Prohibited Where Beer Is Sold

2.30.040 Intoxicants And Liquor

2.30.050 Public Intoxication Prohibited

2.30.060 Illegal Sale, Manufacturing, Storage Of Intoxicating Liquor

2.30.070 Possession Of Liquor

2.30.080 Liquor To Drunken Person

2.30.090 Alcoholic Beverages And Minors  
2.30.100 Canvassing Or Soliciting  
2.30.110 Solicitation Of Drinks  
2.30.120 Disturbing The Peace  
2.30.130 Noise  
2.30.140 Fighting-Threatening  
2.30.150 Loudspeakers  
2.30.160 Sale Or Use Of Fireworks Unlawful  
2.30.170 Throwing Objects Prohibited  
2.30.180 Vulgar Language  
2.30.190 Indecent Exposure  
2.30.200 Offensive, Indecent Entertainment  
2.30.210 Window Peeping  
2.30.220 Look Outs For Illegal Acts  
2.30.230 Unlawful Use Of Restrooms  
2.30.240 Public Property - Documents  
2.30.250 Public Property  
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2.30.270 Hunting - Firearms - Trapping  
2.30.280 Title  
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2.30.300 Discharge Of Firearms Prohibited - Exceptions  
2.30.310 Trapping Prohibited - Exceptions

#### **2.30.010 Offenses Re: Minors Curfew**

#### **ORDINANCE 98-4**

AN ORDINANCE ESTABLISHING A UNIFORM CURFEW FOR MINORS TO PROHIBIT MINORS FROM LOITERING IN ANY OF THE SIDEWALKS, STREETS, ALLEYS OR PUBLIC PLACES IN THE CITY BETWEEN SPECIFIED NIGHT TIME HOURS.

#### **SECTION 1: DECLARATION OF FINDINGS AND POLICY**

The City Council finds that it is in the best interest of the City and the citizens thereof to establish a uniform curfew ordinance because it:

- A. Provides a clear message about appropriate norms for youth in our community;
- B. Provides clear boundaries and supervision;
- C. Reduces crime;
- D. Provides parents with an extra tool to keep children safe as youths who are off the streets at night are less likely to be victims of crimes; and
- E. Provides police more resources through this written ordinance to fight crime in our community.

#### **SECTION 2: PROHIBITED ACTS**

- A. It is unlawful for any minor under eighteen (18) years of age to remain or loiter in any of the sidewalks, streets, alleys or public places in the City between ten- thirty (10:30) p.m. and five (5) a.m. immediately following from Sunday evening through Friday morning.
- B. It is unlawful for any minor under eighteen (18) years of age to remain or loiter in any of the sidewalks, streets, alleys or public places in the City between twelve (12:00) midnight and five (5) a.m. immediately following from Friday evening through Sunday morning.
- C. It is unlawful for any parent, guardian or other person having legal care and custody of any minor under eighteen (18) years of age to allow or permit any such minor to remain or loiter on any of the sidewalks, streets, alleys, or public places in the City, within the times provided in Subsection A and B of this section except as provided in Subsection D of this section.
- D. The provisions of Subsection A, B, and C of this Section shall not apply where the minor under the age of eighteen (18) is:
  - 1. Married;
  - 2. Accompanied by a parent, guardian or other adult person having care of such minor.
  - 3. Returning home from, going to or being in attendance at any religious or school function, organized dance, theater, sport event or other such associational activity; provided, however, that going to or from such activity shall be by direct route and within a reasonable time of the commencement or termination of such event;
  - 4. Engaged in a legitimate emergency errand;
  - 5. Engaged in a legitimate employment and can produce evidence of such employment; or
  - 6. In a motor vehicle engaged in normal travel, while traveling to, from or through the City on an interstate trip.

#### **SECTION 3. EFFECTIVE DATE**

This ordinance shall become effective fifteen (15) days after its passage.

ADOPTED AND APPROVED by the HYDE PARK CITY COUNCIL this 10<sup>th</sup> day of March, 1998.

#### **2.30.020 Purchase, Possession Prohibited**

Any person who maintains in his place of business a tobacco vending machine accessible to persons under the age of 19 or provides any method of self-help for the disposition to persons under the age of 19 by gift, sale or otherwise of any cigarette or cigarette paper or wrapper or any paper made or prepared for the purposes of making cigarettes or tobacco in any form whatsoever is guilty of a class C misdemeanor. Cigarette vending machines shall be deemed accessible to persons under the age of

19 except:

- A. Where they are in locations where persons under the age of 19 are prohibited.
- B. Where the machine can be operated only by owner or his employee, wither directly or through a remove control device which is inaccessible to the customer and must be operated for each sale.
- C. In private industrial locations where only adult employees are customarily allowed, provided such locations are inaccessible to persons under the age of 19.
- D. In adult-private clubs, provided that such locations are inaccessible to persons under the age of 19.

#### **2.30.030 Minor Prohibited Where Beer Is Sold**

- A. It is unlawful for any person to operate any pool or billiard hall in this municipality if beer as defined in this code is kept, sold or consumed without first making a regulation and enforcing the same, keeping posted in a conspicuous place the terms of such regulation, which shall read, "No person under 21 years of age permitted in these premises."
- B. It is unlawful for any person in charge of or employed in such pool or billiard hall to permit any person under the age of 21 years of age to enter upon or remain in any such premises or for any person under the age of 21 years of age to enter upon or remain in any such premises or for any person under the age of 21 years to enter upon or remain in said premises for any purpose.
- C. Pool or billiard halls may be kept open to minors where no beer as defined in this code is kept or consumed or sold.

#### **2.30.040 Intoxicants And Liquor**

#### **2.30.050 Public Intoxication Prohibited**

- A. It is a class C misdemeanor for any person to be under the influence of an intoxicating liquor, a controlled substance or of any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another in a public place or in a private place where he unreasonably disturbs another person.
- B. A peace officer or magistrate may release from custody an individual arrested under this section if he believes imprisonment is unnecessary for the protection of the individual or another.

#### **2.30.060 Illegal Sale, Manufacturing, Storage Of Intoxicating Liquor**

It shall be unlawful for any person, except as permitted by state law, and the ordinances of this municipality to knowingly have in his possession any intoxicating liquor or to manufacture, keep, sell, or store for sale, offer or expose for sale, import, carry, transport, advertise, distribute, give away, dispense, or serve intoxicating liquor.

#### **2.30.070 Possession Of Liquor**

It shall be unlawful except as permitted by stat law and the ordinances of this municipality for any person to have or keep for sale or possession any liquor which has not been purchased form the state liquor store or package agency.

#### **2.30.080 Liquor To Drunken Person**

It shall be unlawful for any person to sell or supply any alcoholic beverage or to permit alcoholic beverages to be sold or supplied to any person who is apparently under the influence of liquor.

#### **2.30.090 Alcoholic Beverages And Minors**

- A. It shall be unlawful for alcoholic beverages to be given, sold, or otherwise supplied to any person under the age of 21 years, but this shall not apply to supplying liquor to such person for medicinal purposes only by the parent or guardian of such person or to the administering of liquor to such person by a physician in accordance with the provisions of this part.
- B. It shall be unlawful for any person under the age of 21 years to have possession or beer or any intoxicating liquor.

#### **2.30.100 Canvassing Or Soliciting**

It shall be unlawful for any person to canvass or solicit for alcoholic beverages by mail, telephone, or other manner, and the person is hereby prohibited from engaging in such activities, except to the extent that such prohibition may be in conflict with the laws of the United State or the State of Utah.

#### **2.30.110 Solicitation Of Drinks**

No person shall frequent or loiter in any tavern, cabaret, or night club, with the purpose of soliciting the purchase of alcoholic drinks. No proprietor or operator of any such establishment shall allow the presence in such establishment of any who violates the provisions of this section.

#### **2.30.120 Disturbing The Peace**

#### **2.30.130 Noise**

It is a class C misdemeanor for any person to disturb the peace or quiet of any neighborhood, family or person by loud or unusual noises, by tumultuous or offensive conduct.

#### **2.30.140 Fighting-Threatening**

It is a class C misdemeanor for any person to threaten physical force against another person or to challenge, invite or engage in a fight.

#### **2.30.150 Loudspeakers**

- A. It is an infraction for any person to maintain, operate, connect or suffer or permit to be maintained, operated or connected any calliope or radio apparatus, sound device or any talking machine or loudspeaker attached thereto in such a manner that the loudspeaker or amplifier causes the sound from such radio apparatus or sound device or talking machine to be projected directly therefrom outside of any building, vehicle or out-of-doors, provided that the chief of police may grant a permit to so broadcast any events or happenings of cultural, political, intellectual or religious interested. Every person desiring a permit to so broadcast shall make application, file a

statement showing the place where he proposes to broadcast, the times and probable duration, and the nature, topics or titles of said broadcast. Said permit shall not be arbitrarily denied and when an application for a permit is denied, the chief or police shall set forth in writing and with particularity the grounds for so denying the application for a permit.

- B. Nothing herein contained shall be construed to prevent the operation of a radio apparatus, sound device, amplifier or talking machine used in a reasonable manner by any person within any building, vehicle or structure even though the sound therefrom may be heard on the outside of such building, vehicle or structure, provided that the said apparatus, sound device, amplifier or talking machine shall not project the sound therefrom directly outside of any building, vehicle or out-of-doors, and provided further that no such radio apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound therefrom is projected outside of such walls or window.

#### **2.30.160 Sale Or Use Of Fireworks Unlawful**

It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, sell, possess, or use, or explode any toy cannon in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers, torpedoes;; sky-rockets, Roman candles, bombs, or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxaiates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal light flares, except as in this section provided; provided, further, this section shall not prohibit the use of toy pistols, toy canes, toy guns, or sparklers.

#### **2.30.170 Throwing Objects Prohibited**

Every person, who willfully or carelessly throws any stone, stick, snowball or other missile whereby any person is hit or any window broken or other property injured or destroyed, or in such manner as to render travel upon the public streets and places dangerous, or in such manner as to frighten or annoy any traveler, is guilty of an infraction.

#### **2.30.180 Vulgar Language**

It shall be a class C misdemeanor for any person to use vulgar, profane, or indecent language on any public street or other public place or in any public dance hall, club dance, skating rink, or place of business open to public patronage.

#### **2.30.190 Indecent Exposure**

- A. It shall be a class B misdemeanor for any person over five years of age to indecently expose his body in public.
- B. For the purpose of this section:
1. Indecent exposure means:
    - a. The exposed male genital or the covered mal genital shown in a discernibly turgid state.
    - b. The exposed female genital or female breasts which are not covered with an opaque covering below a point immediately above the top of the nipple (or the breast with only the nipple covered).
  2. "Public" means any place open to or frequented by the public or which may be seen from any place open to or frequented by the public and includes private clubs, associations or other places where the public frequents.

#### **2.30.200 Offensive, Indecent Entertainment**

It shall be unlawful for any person to hold, conduct or carry on, or to cause or permit to be held, conducted or caused any motion pictures, exhibition or entertainment of any sort which is offensive to decency, or which is of an obscene, indecent or immoral nature, or so suggestive as to be offensive to the moral sense

#### **2.30.210 Window Peeping**

It shall be a class C misdemeanor for any person to look, peer, or peep into or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through the window to observe any person undressed, or in the act of dressing or undressing.

#### **2.30.220 Look Outs For Illegal Acts**

It shall be a class C misdemeanor for any person to act as a guard or lookout for any building, premises, or establishment used for gambling, for illegal sale or purchase of intoxicating liquors, or for any person soliciting, offering or engaging in prostitution, gambling or any other form of vice, or illegal act, or any prostitute, on any street or sidewalk. Nor shall any person give any signal intended to, or calculated to warn, or give warning of the approach of any peace officer to any person in or about such building or premises or place mentioned herein.

#### **2.30.230 Unlawful Use Of Restrooms**

No person over the age of five years shall use the restroom and washrooms designated for the opposite sex.

#### **2.30.240 Public Property - Documents**

#### **2.30.250 Public Property**

For the purpose of this part, "public property" means any publicly owned property except the traveled portion of public streets, and includes any park, sidewalk, curb or any part of any public right-of-way devoted to any planting or park like use.

#### **2.30.260 Unlawful Acts**

On any public property it is unlawful for any person to:

- A. Willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, railing, bench, paving, paving material, water line or any facilities or property and

equipment of any public utilities or parts of appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, wall or rock border, or other structures or equipment, facilities or public property or appurtenances whatever, either real or personal.

- B. Soil or litter public restrooms and washrooms.
- C. Dig and remove any sand, soil, rock, stones, trees, shrubs, or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency, unless permission is obtained.
- D. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, any tent, fly or windbreak, or run or string any rope, cord or wire into, upon or across any public property, except with special permit.
- E. Urinate or defecate, except in a public restroom in receptacles place there for such purpose.
- F. Damage, cut, carve, burn, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire or other contrivance to any tree or plant. No person shall dig in or otherwise disturb, or in any other way injure or impair the natural beauty or usefulness of any park area. This subsection shall not apply to any person authorized to perform the act proscribed.
- G. Climb any tree or walk, stand or sit on monuments, fountains, railings, fences, planted areas or upon any other property not designed or customarily used for such purposes or to intentionally stand, sit or lie in or upon any street, sidewalk, stairway or crosswalk so as to prevent free passage of persons or vehicles passing over, along or across any street, sidewalk, stairway or crosswalk.
- H. Drop, throw, place, discard, dump, leave or otherwise deposit any bottles, broken glass, garbage, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse or other trash on any public property except in waste containers provided therefor. No such refuse or trash shall be placed in any waters contiguous to any park or planted area or left anywhere on the grounds thereof.
- I. Sleep on seats, benches, sidewalks, curbs, planters, walls or other areas.
- J. Expose or offer for sale any article or thing or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, without first obtaining a license, except that the governing body may exempt designated areas from this subsection by resolution on such terms and conditions as it may prescribe.
- K. To beg or to go from door to door of private homes or commercial and business establishments or place himself in or upon any public way or public place to beg or to receive money or other things of value.

#### **2.30.270 Hunting - Firearms - Trapping**

#### **2.30.280 Title**

This part shall be known as the "Firearms Control, Hunting and Trapping Ordinance."

#### **2.30.290 Definitions**

- A. The term "firearm" shall mean any gun, revolver, pistol, rifle or firearm of any kind or nature, or any air gun or any other such type instrument designed to propel or throw missiles.
- B. The term "trapping" shall mean the use of any mechanical device which entraps, snares or snaps closed on any animal.

#### **2.30.300 Discharge Of Firearms Prohibited - Exceptions**

It shall be a class C misdemeanor for any person to discharge any firearm within the municipality except as follows:

- A. At the police target range, when established.
- B. At a regularly conducted school as part of a supervised course of instruction.
- C. At a regularly organized gun club shooting range where the range and facilities have been approved by the governing body.
- D. In self defense or in any case of any peace officer in the discharge of his duty.

#### **2.30.310 Trapping Prohibited - Exceptions**

It shall be a class C misdemeanor for any person to trap, set a trap, or engage in trapping in this municipality, except that the mayor may authorize any employees of the city to engage in trapping where it is deemed by the mayor to be in the best interests of the municipality.

### **2.40 Inchoate Offenses**

#### **2.40.010 Attempt**

#### **2.40.020 Attempt - Elements Of Offense**

#### **2.40.030 Attempt - Classification Of Offenses**

#### **2.40.040 Criminal Conspiracy**

#### **2.40.050 Conspiracy - Elements Of Offense**

#### **2.40.060 Conspiracy - Classification Of Offenses**

#### **2.40.070 Exemptions And Restrictions**

#### **2.40.080 Specific Attempt Or Conspiracy Offense Prevails**

#### **2.40.090 Conviction Of Inchoate And Principal Offense Prohibited**

#### **2.40.010 Attempt**

#### **2.40.020 Attempt - Elements Of Offense**

- A. For the purpose of this part a person is guilty of an attempt to commit any act made an offense by any ordinance of this municipality if, acting with the kind of culpability otherwise required for the commission of the offense, he engages in conduct constituting a substantial step toward commission of the offense.
- B. For the purposes of this part, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.
- C. No defense to the offense of attempt shall arise:
  - 1. Because of the offense attempted was actually committed; or
  - 2. Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believed them to be.

#### **2.40.030 Attempt - Classification Of Offenses**

Criminal attempt to commit:

- A. A class B misdemeanor is a class C misdemeanor;
- B. A class C misdemeanor is an infraction;
- C. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

#### **2.40.040 Criminal Conspiracy**

#### **2.40.050 Conspiracy - Elements Of Offense**

For purposes of this part a person is guilty of conspiracy when he, intending that conduct constituting an offense under these ordinances whether he specifically intends to violate the ordinances whether he specifically intends to violate the ordinances or not, agrees with one or more persons to engage in or cause the performance of such conduct and any one of them commits an overt act in pursuance of the conspiracy, except where the offense is arson, or burglary, the overt act is not required for the commission of the conspiracy.

#### **2.40.060 Conspiracy - Classification Of Offenses**

Conspiracy to commit:

- A. A class B misdemeanor is a class C misdemeanor;
- B. A class C misdemeanor is an infraction;
- C. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

#### **2.40.070 Exemptions And Restrictions**

#### **2.40.080 Specific Attempt Or Conspiracy Offense Prevails**

Whenever any offense specifically designates or defines an attempt or conspiracy and provides a penalty for the attempt or conspiracy other than provided in this part, the specific offense shall prevail over the provisions of this part.

#### **2.40.090 Conviction Of Inchoate And Principal Offense Prohibited**

No person shall be convicted of both an inchoate and principal offense or of both an attempt to commit an offense and a conspiracy to commit the same offense.

### **2.50 Offenses Against The Person**

#### **2.50.010 Assault And Related Offenses**

#### **2.50.020 Reserved**

#### **2.50.030 Assault**

#### **2.50.040 Reserved**

#### **2.50.050 Reserved**

#### **2.50.060 Reserved**

#### **2.50.070 Harassment**

#### **2.50.080 Terroristic Threat**

#### **2.50.090 Reserved**

#### **2.50.100 Interfering With Custodial Rights Or Personal Liberty**

#### **2.50.110 Reserved**

#### **2.50.120 Reserved**

#### **2.50.130 Custodial Interference**

#### **2.50.140 Unlawful Detention**

#### **2.50.150 Sexual Offenses**

#### **2.50.160 Reserved**

#### **2.50.170 Sodomy**

#### **2.50.190 Reserved**

#### **2.50.200 Reserved**

#### **2.50.210 Reserved**

#### **2.50.220 Married Persons' Conduct Exempt - Limitations Of Actions - "Penetration" Or "Touching" Sufficient To Constitute Offense**

#### **2.50.010 Assault And Related Offenses**

#### **2.50.020 Reserved**

#### **2.50.030 Assault**

- A. Assault is:
  - 1. An attempt, with unlawful force or violence to do bodily injury to another; or
  - 2. A threat accompanied by a show of immediate force or violence, to do bodily injury to another.
- B. Assault is a class B misdemeanor.

#### **2.50.040 Reserved**

#### **2.50.050 Reserved**

#### **2.50.060 Reserved**

#### **2.50.070 Harassment**

- A. A person is guilty of harassment if, with intent to frighten or harass another, he communicates in writing a threat to commit any violent felony.



B. Harassment is a class C misdemeanor.

#### **2.50.080 Terroristic Threat**

A. A person commits terroristic threat if he threatens to commit any offense involving violence with intent:

1. To cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
2. To place a person in fear of imminent serious bodily injury.
3. To prevent or interrupt the occupation of a place of assembly; or aircraft, automobile or other form of conveyance, but shall not include a facility of public transportation operated by a common carrier.

B. Terroristic threat is a class B misdemeanor.

#### **2.50.090 Reserved**

#### **2.50.100 Interfering With Custodial Rights Or Personal Liberty**

#### **2.50.110 Reserved**

#### **2.50.120 Reserved**

#### **2.50.130 Custodial Interference**

A. A person, whether a parent or other, is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains a child under the age of sixteen from his parent, guardian, or other lawful custodian:

1. Knowing he has no legal right to do so; and
2. With intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by the court of competent jurisdiction.

B. A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of sixteen pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause he conceals or detains the child with intent to deprive the other person of his lawful visitation or custody rights.

C. A person is guilty of custodial interference if without good cause he takes, entices, conceals, or detains an incompetent or other person under the age of sixteen who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has no legal right to do so.

D. Custodial interference is a class B misdemeanor.

#### **2.50.140 Unlawful Detention**

A. A person commits unlawful detention if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.

B. Unlawful detention is a class B misdemeanor.

#### **2.50.150 Sexual Offenses**

A. A male person commits unlawful sexual intercourse if he has sexual intercourse with a female, not his wife, who is under sixteen years of age when at the time of intercourse the male is no more than three years older than the female.

B. Unlawful sexual intercourse is a class B misdemeanor. Evidence that the actor was not more than three years older than the victim at the time of the intercourse shall be raised by the defendant.

#### **2.50.160 Reserved**

#### **2.50.170 Sodomy**

A. A person commits sodomy when he engages in any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

B. Sodomy is a class B misdemeanor.

#### **2.50.190 Reserved**

#### **2.50.200 Reserved**

#### **2.50.210 Reserved**

#### **2.50.220 Married Persons' Conduct Exempt - Limitations Of Actions - "Penetration" Or "Touching" Sufficient To Constitute Offense**

A. The provisions of this part shall not apply to conduct between persons married to each other; provided, however, that for purposes of this part, persons living apart pursuant to a lawful order of a court of competent jurisdiction shall not be deemed to be married.

B. No prosecution may be institute or maintained under this part unless the alleged offense was brought to the notice of public authority

1. Within three months of its occurrence; or
2. Where the alleged victim was less than eighteen years of age or otherwise incompetent to make complaint, within three months after a parent, guardian, or other competent person specifically interested in the victim, other than the alleged offender, learned of the offense.

C. In any prosecution for unlawful sexual intercourse, or sodomy, any sexual penetration or, in the case of sodomy, any touching, however slight, is sufficient to constitute the offense.

### **2.60 Offenses Against Property**

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2.60.420 Using Or Making Slugs  
2.60.430 Reserved  
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2.60.450 Criminal Simulation  
2.60.460 Reserved  
2.60.470 Reserved  
2.60.480 False Or Fraudulent Insurance Claim - Punishment As For Theft

#### **2.60.010 Property Destruction**

##### **2.60.020 Definitions**

- A. "Property" means any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure.
- B. "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging or assembling persons or conducting business whether a person is actually present or not.
- C. "Property" is that of another, if anyone other than the actor has a possessory or proprietary interest in any portion thereof.
- D. "Value" means:
  - 1. The market value of the property if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or
  - 2. Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.
  - 3. If the property damaged has a value that cannot be ascertained by the criteria set forth in subsections 1 and 2 above, the property shall be deemed to have a value of \$50.00.

##### **2.60.030 Arson**

- A. A person is guilty of arson if, by means of fire or explosives, a person unlawfully and intentionally damages the property of another.
- B. Arson is a class B misdemeanor if the damage caused exceeds \$250.00 and is a class C misdemeanor if the damage is less than \$249.99.

##### **2.60.040 Reserved**

##### **2.60.050 Reckless Burning**

- A. A person is guilty of reckless burning if he damages the property of another by reckless use of fire or causing an explosion.
- B. Reckless burning is a class B misdemeanor if the damage to property exceeds \$500.00 in value; and a class C misdemeanor if the damage to property exceeds \$50.00 in value. Any other violation under this section shall constitute an infraction.

##### **2.60.060 Reserved**

#### **2.60.070 Criminal Mischief**

- A. A person commits criminal mischief if:
  - 1. He intentionally damages, defaces or destroys the property of another;
  - 2. He recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.
- B. Criminal mischief is defined herein as a class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of \$250.00 and a class C misdemeanor if the actor's conduct causes or is intended to cause loss of less than \$250.00.

#### **2.60.080 Burglary And Criminal Trespass**

##### **2.60.090 Definitions**

For purposes of this part:

- A. A person "enters or remains unlawfully" in or upon premises when the premises or any portion thereof at the time of the entry or remaining are not open to the public and when the actor is not otherwise licensed or privileged to enter or remain on the premises or such portion thereof.
- B. Liability under paragraph A is not affected by the fact that it may be impossible to identify particular property as belonging to the victim at the time of the failure to make the required payment or disposition.
- C. An officer or employee of the government or of a financial institution is presumed:
  - 1. To know of any legal obligation relevant to his liability under this section; and
  - 2. To have dealt with the property as his own if he fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of his accounts.
- D. As used in this section:
  - 1. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
  - 2. "Government" means the United States, any state or any county, municipality, or other political unit within territory belonging to the United States, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government or formed pursuant to interstate compact or international treaty.

#### **2.60.100 Reserved**

#### **2.60.110 Reserved**

#### **2.60.120 Reserved**

#### **2.60.130 Manufacture Or Possession Of Instrument For Burglary Or Theft**

Any person who manufactures or possesses any instrument, tool, device, article or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a class B misdemeanor.

#### **2.60.140 Criminal Trespass**

- A. For purposes of this section "enter" means intrusion of the entire body.
- B. A person is guilty of criminal trespass if under circumstances not amounting to burglary as defined in sections 76-6-202 through 76-6-204 of the Utah Code:
  - 1. He enters or remains unlawfully on property; and
    - a. Intends to cause annoyance or injury to any person thereon or damage to any property thereon; or
    - b. Intends to commit any crime, other than theft or a felony;
    - c. Is reckless as to whether his presence will cause fear for the safety of another.
  - 2. Knowing his entry of presence is unlawful, he enters or remains on property as to which notice against entering is given by:
    - a. Personal communication to the actor by the owner or someone with apparent authority to act for the owner; or
    - b. Fencing or other enclosure obviously designed to exclude intruders; or
    - c. Posting of signs reasonably likely to come to the attention of intruders.
- C. A violation of subsection B-1 is a class C misdemeanor unless it was committed in a dwelling in which event it is a class B misdemeanor. A violation of subsection B-2 is an infraction.
- D. It is a defense to prosecution under this section:
  - 1. That the property was open to the public when the actor entered or remained; and
  - 2. The actor's conduct did not substantially interfere with the owner's use of the property.

#### **2.60.150 Theft**

##### **2.60.160 Definitions**

For the purposes of this part:

- A. "Property" means anything of value, including real estate, tangible and intangible person property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.
- B. "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other

reproduction.

C. "Purpose to deprive" means to have the conscious object:

1. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or
2. To restore the property only upon payment of a reward or other compensation;
3. To dispose of the property under circumstances that make it unlikely that the owner will recover it.

D. "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.

E. "Deception" occurs when a person intentionally:

1. Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that it is likely to affect the judgment of another in the transaction; or
2. Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or
3. Prevents another from acquiring information likely to affect his judgment in the transaction; or
4. Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether lien, security interest, claim, or impediment is or is not valid or is or is not a matter of official record;
5. Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise that would not be performed.

#### **2.60.170 Presumptions And Defenses**

The following presumption shall be applicable to this part:

- A. Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.
- B. It is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.
- C. It is a defense under this part that the actor:
  1. Acted under an honest claim of right to the property or service involved; or
  2. Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or
  3. Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

#### **2.60.180 Theft-Evidence To Support Accusation**

Conduct denominated theft in this part constitutes a single offense embracing the separate offenses as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, and receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in sections 13-640-3 through 13-640-11 subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

#### **2.60.180 Theft-Elements**

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

#### **2.60.190 Theft By Deception**

- A. A person commits theft if he obtains or exercises control over property of another by deception and with a purpose to deprive him thereof.
- B. Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares or worth in communications addressed to the public or to a class or group.

#### **2.60.200 Theft By Extortion**

- A. A person is guilty of theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof.
- B. As used in this section, extortion occurs when a person threatens to:
  1. Cause physical harm in the future to the person threatened or to any other person or to property at any time; or
  2. Subject the person threatened or any other person to physical confinement or restraining; or
  3. Engage in other conduct constituting a crime; or
  4. Accuse any person of a crime or expose him to hatred, contempt or ridicule; or
  5. Reveal any information sought to be concealed by the person threatened; or
  6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
  7. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
  8. Bring about or continue a strike, boycott or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
  9. Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

#### **2.60.210 Theft Of Lost, Mislaid Or Mistakenly Delivered Property**

A person commits theft when:

- A. He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and
- B. He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph A.

#### **2.60.220 Receiving Stolen Property - Duties Of Pawnbrokers**

- A. A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof;
- B. The knowledge or belief required for paragraph A is presumed in the case of an actor who:
  - 1. Is found in possession or control of other property stolen on a separate occasion; or
  - 2. Has received other stolen property within the year preceding the receiving offense charged; or
  - 3. Being a clear in property of the sort received, retained or disposed, acquires it for a consideration which he knows is far below its reasonable value.
  - 4. Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who buys, receives or obtains property shall require the seller or person delivering the property to certify, in writing, that he has the legal rights to sell the property. If the value given for the property exceeds \$20.00, the pawnbroker or person shall also require the seller or person delivering the property to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to his signature of any other positive form of identification:
    - a. Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who fails to comply with the requirements of paragraph 4 shall be presumed to have bought, received, or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.
    - b. When in a prosecution under this section it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee or representative of a pawnbroker or person, that the defendant bought, received, concealed or withheld the property without requiring the person from whom he bought, received, or obtained the property to sign the certificate required in paragraph 4 and in the event the transaction involves an amount exceeding \$20.00 also place his legible print, preferably the right thumb, on the certificate, then the burden shall be upon the defendant to show that the property bought, received or obtained was not stolen.
- C. As used in this section:
  - 1. "Receives" means acquiring possession, control, or title or lending on the security of the property;
  - 2. "Dealer" means a person in the business of buying or selling goods.

#### **2.60.230 Theft Of Services**

- A. A person commits theft if he obtains services which he knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment therefor.
- B. A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.
- C. As used in this section "services" includes, but is not necessarily limited to, labor, professional service, public utility, and transportation services, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam, and the like, admission to entertainment, exhibits, sporting events, or other events for which a charge is made.

#### **2.60.240 Theft By Person Having Custody Of Property Pursuant To Repair Or Rental Agreement**

A person is guilty of theft if:

- A. Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or
- B. Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

#### **2.60.250 Reserved**

#### **2.60.260 Theft-Classification Of Offenses**

Theft of property and services as provided in this chapter shall be punishable as a class B misdemeanor.

#### **2.60.270 Fraud**

#### **2.60.280 Forgery-"Writing" Defined**

- A. A person is guilty of forgery, if, with purpose to defraud anyone, or with knowledge that he is facilitating a fraud to be perpetrated by anyone, he:
  - 1. Alters any writing of another without his authority or utters any such altered writing; or
  - 2. Makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing, completion, execution, authentication, issuance, transference, publication, or utterance purports to be the act of another, whether the person is existent or nonexistent, or purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed.
- B. As used in this section "writing" includes printing or any other method of recording information, checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification.
- C. Forgery is a class B misdemeanor.

#### **2.60.290 Possession Of Forged Writing For Device For Writing**

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Any person who, with intent to defraud, knowingly possesses any writing that is a forgery as defined in section 2.60.280, or who with intent to defraud knowingly possesses any device for making any such writing, is guilty of a class B misdemeanor.

#### **2.60.300 Fraudulent Handling Of Recordable Writings**

Any person who with intent to deceive or injury anyone falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument, or other writing for which the law provides public recording is guilty of fraudulent handling or recordable writings is a class B misdemeanor.

#### **2.60.310 Tampering With Records**

- A. Any person who, having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing, other than the writings enumerated in section 2.60.300, or record, public or private, with intent to deceive or injury any person or to conceal any wrongdoing is guilty of tampering with records.
- B. Tampering with records is a class B misdemeanor.

#### **2.60.320 Issuing A Bank Check - Presumption**

- A. Any person who issues or passes a check for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check.
- B. For purposes of this section, a person who issues a check for which payment is refused by the drawee is presumed to know the check would not be paid if he had no accounts with the drawee at the time of issue.
- C. An offense of issuing a bad check shall be punished as a class B misdemeanor.

#### **2.60.330 Fraudulent Use Of Credit Card - "Credit Card" Defined**

Section 76-6-506 through 76-6-506.3 are hereby incorporated herein by reference.

#### **2.60.340 Deceptive Business Practices - Definitions - Defense**

- A. A person is guilty of a class B misdemeanor if, in the course of business, he:
  - 1. Uses or possess for use a false weight or measure, or any other device for falsely determining or recording any quality or quantify; or
  - 2. Sells or offers or exposes for sale or delivers less than the represented quantity or quality of any commodity or services; or
  - 3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
  - 4. Sells, offers or exposes for sale adulterated or mislabeled commodities.
    - a. "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage.
    - b. "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by our pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage.
  - 5. Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services.
  - 6. Officers, by advertising or other means of communication, to the public or a substantial number of persons, property, or services as part of the scheme or plan, with intent not to sell or provide the advertised property or services:
    - a. At the price which he offered them; or
    - b. IN a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
    - c. At all.
- B. It is affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

#### **2.60.350 Bribery Of Or Receiving Bribe By Person In The Business Of Selection, Appraisal, Or Criticism Of Goods Or Services**

- A. A person is guilty of a class B misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:
  - 1. He confers, offers, or agrees to confer upon the employee, agent, or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent, or fiduciary in relating to his employer's or principal's affairs; or
  - 2. He, as an employee, agent, or fiduciary of an employer or principal, solicits, accepts, or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs; provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent or fiduciary.
- B. A person is guilty of violation of this section if he holds himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services and he solicits, accepts, or agrees to accept any benefit to influence his selection, appraisal, or criticism.

#### **2.60.360 Reserved**

#### **2.60.370 Reserved**

#### **2.60.380 Defrauding Creditors**

- A. He destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or
- B. Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he:
  - 1. Destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

2. Presents to any creditor or to any assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

**2.60.390 Reserved**

**2.60.400 Reserved**

**2.60.410 Reserved**

**2.60.420 Using Or Making Slugs**

A. A person is guilty of a class B misdemeanor if:

1. With a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he inserts, deposits, or uses a slug in that machine; or
2. He makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.

B. As used in this section:

1. "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.
2. "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token.

**2.60.430 Reserved**

**2.60.440 Reserved**

**2.60.450 Criminal Simulation**

A. A person is guilty of criminal simulation if, with intent to defraud another:

1. He makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have; or
2. He sells, passes, or otherwise utters an object so made or altered; or
3. He possesses an object so made or altered with intent to sell, pass, or otherwise utter it; or
4. He authenticates or certifies an object so made or altered as genuine or as different from what it is.

B. Criminal simulation is punishable as a class B Misdemeanor.

**2.60.460 Reserved**

**2.60.470 Reserved**

**2.60.480 False Or Fraudulent Insurance Claim - Punishment As For Theft**

Every person who presents, or causes to be presented, any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss, or who prepares, makes or subscribes any account, certificate of survey, affidavit or proof of loss, or other book, paper or writing, with intent to present or use the same, or to allow it to be presented or used, in support of any such claim is punishable as in the manner prescribed for theft of property of like value.

**2.70 Offense Against The Family**

**2.70.010 Marital Violations**

**2.70.020 Reserved**

**2.70.030 Reserved**

**2.70.040 Reserved**

**2.70.050 Fornication**

**2.70.010 Marital Violations**

**2.70.020 Reserved**

**2.70.030 Reserved**

**2.70.040 Reserved**

**2.70.050 Fornication**

A. Any unmarried person who shall voluntarily engage in sexual intercourse with another is guilty of fornication.

B. Fornication is class B misdemeanor.

**2.80 Offenses Against Government**

**2.80.010 Corrupt Practices**

**2.80.020 Definitions**

**2.80.030 Campaign Contributions Not Prohibited**

**2.80.040 Bribery To Influence Official Or Political Actions**

**2.80.050 Threats To Influence Official Or Political Action**

**2.80.060 Receiving Bribe Or Bribery By Public Servant**

**2.80.070 Receiving Bribe Or Bribery For Endorsement Of Person As Public Servant**

**2.80.080 Alteration Of Proposed Ordinance Or Resolution**

**2.80.090 Alteration Of Engrossed Copy Of Ordinance Resolution**

**2.80.100 Failure Of Member Of Governing Body To Disclose Interest In Ordinance Or Resolution**

**2.80.110 Abuse Of Office**

**2.80.120 Official - Unauthorized Acts Or Failure Of Duty**

**2.80.130 Official Misconduct - Unlawful Acts Based On "inside"**



2.80.140 Unofficial Misconduct  
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## **2.80.010 Corrupt Practices**

### **2.80.020 Definitions**

For purposes of this chapter:

- A. "Public servant" means any officer or employee of the municipality, including judges, consultants, jurors, and persons otherwise performing a government function. A person is considered a public servant upon his election, appointment, or other designation as such, although he may not yet officially occupy that position.
- B. "Party official" means any person holding any post in a political party whether by election, appointment, or otherwise.

- C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increase prosperity generally.
- D. A person is a candidate for electoral office upon his filing or being nominated as a candidate for any municipal office.

#### **2.80.030 Campaign Contributions Not Prohibited**

Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of any offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

#### **2.80.040 Bribery To Influence Official Or Political Actions**

A person is guilty of a class B misdemeanor if:

- A. He promises, offers, or gives any pecuniary benefit to another with the purpose of influencing the other's action, decision, opinion, recommendation, vote, nomination, or other exercise of discretion as a public servant, party official, or voter; or
- B. Being a public servant, party official, candidate for electoral office, or voter, he solicits, accepts, or agrees to accept any pecuniary benefit from another, knowing the other person's purpose is as described above in paragraph A of this section.

#### **2.80.050 Threats To Influence Official Or Political Action**

- A. A person is guilty of a class B misdemeanor if he threatens any harm to a public servant, party official, or voter with a purpose of influencing his action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion.
- B. "Harm," as used in this section, means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official, or voter is interested.

#### **2.80.060 Receiving Bribe Or Bribery By Public Servant**

A person is guilty of a class B misdemeanor if:

- A. Being a public servant, he solicits, accepts, or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination, vote, otherwise exercised in his discretion, or for having violated his duty; or
- B. He promises, offers, or gives any pecuniary benefit, acceptance of which would be a violation of paragraph A.

#### **2.80.070 Receiving Bribe Or Bribery For Endorsement Of Person As Public Servant**

- A. He solicits, accepts, agrees to accept for himself, another person, or a political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant; or
- B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A.

#### **2.80.080 Alteration Of Proposed Ordinance Or Resolution**

Every person who fraudulently alters the draft of any ordinance or resolution which has been presented to the governing body of any municipality to be passed or adopted, with intent to procure it being passed or adopted by the governing body or signed by the mayor in language different from that intended by the governing body, is guilty of a class B misdemeanor.

#### **2.80.090 Alteration Of Engrossed Copy Of Ordinance Resolution**

Every person who fraudulently alters any ordinance or resolution which has been passed or adopted by the governing body with intent to have it printed or published as part of the ordinances or resolutions of this municipality in language different from that in which it was passed or adopted by the legislature, is guilty of a class B misdemeanor.

#### **2.80.100 Failure Of Member Of Governing Body To Disclose Interest In Ordinance Or Resolution**

Every member of the governing body who has a person or private interest in any measure, ordinance or resolution proposed or pending before the governing body and does not disclose the fact to the governing body and votes thereon is guilty of a class B misdemeanor.

#### **2.80.110 Abuse Of Office**

#### **2.80.120 Official - Unauthorized Acts Or Failure Of Duty**

A public servant is guilty of a class B misdemeanor if, with an intent to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

#### **2.80.130 Official Misconduct - Unlawful Acts Based On "inside"**

A public servant is guilty of a class B misdemeanor if, knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant which information has not been made public, he:

- A. Acquires or diverts himself of a pecuniary interest in any property, transaction, or enterprise which may be affected by such action or information; or
- B. Speculates or waters on the basis of such action or information; or
- C. Knowingly aids another to do any of the following.

#### **2.80.140 Unofficial Misconduct**

- A. A person is guilty of unofficial misconduct if he exercises or attempts to exercise any of the functions of a public office when:
  - 1. He has not taken and filed the required oath of office; or

2. He has failed to execute and file the required bond; or
3. He has not been elected or appointed to office; or
4. He exercises any of the functions of his office after his term has expired and the successor has been elected or appointed and has qualified, or after his office has been legally removed.
5. He knowingly withholds or retains from his successor in office or other person entitled to the official seal or any records, papers, documents, or other writings appertaining or belonging to his office or mutilates or destroys or takes away the same.

B. Unofficial misconduct is a class B misdemeanor.

#### **2.80.150 Obstructing Governmental Operations**

#### **2.80.160 Interference With Public Servant**

A person is guilty of a class B misdemeanor if he uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function.

#### **2.80.170 Picketing Or Parading In Or Near Court**

A person is guilty of a class B misdemeanor if he pickets or parades in or near a building which houses a court of this municipality with intent to obstruct access to that court or to affect the outcome of a case pending before that court.

#### **2.80.180 Prevention Of Governing Body Or Public Servant From Meeting Or Organizing**

A person is guilty of a class B misdemeanor if he intentionally and by force or fraud:

- A. Prevents the governing body of this municipality or any of the members thereof, from meeting or organizing; or
- B. Prevents any other public servant from meeting or organizing to perform a lawful governmental function.

#### **2.80.190 Disturbing Governing Body Or Official Meeting**

A. A person is guilty of a class B misdemeanor if:

1. He intentionally disturbs the governing body while in session; or
2. He intentionally commits any disorderly conduct in the immediate view and presence of the governing body of this municipality which tends to interrupt its proceedings or impair the respect of its authority; or
3. Intentionally disturbs an official meeting or commits any disorderly conduct in an official meeting which tends to interrupt its proceedings.

B. "Official meeting," as used in this section, means any lawful meeting of municipal officials for the purposes of carrying on governmental functions.

#### **2.80.200 Interference In Arrest By Law Enforcement Official Reserved**

#### **2.80.210 Obstructing Justice**

A. A person is guilty of an offense if, with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction or punishment of another for the commission of a crime, he:

1. Knowing an offense has been committed, conceals it from a magistrate; or
2. Harbors or conceals the offender; or
3. Provides the offender a weapon, transportation, disguise, or other means for avoiding discovery or apprehension; or
4. Warns such offender of impending discovery or apprehension; or
5. Conceals, destroys, or alters any physical evidence that might aid in the discovery, apprehension, or conviction of such person; or
6. Obstructs by force, intimidation, or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person.

B. An offense under this section is a class B misdemeanor.

#### **2.80.220 Failure To Aid Peace Officer**

A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him as such, he unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

#### **2.80.230 Acceptance Of Bribe Or Bribery To Prevent Criminal Prosecution - Defense**

A. A person is guilty of a class B misdemeanor if he:

1. Solicits, accepts, or agrees to accept any benefit as consideration for his refraining from initiating or aiding in a criminal prosecution; or
2. Confers, offers, or agrees to confer any benefit upon another as consideration for the person refraining from initiating or aiding in a criminal prosecution;

B. It is an affirmative defense that the value of the benefit did not exceed an amount which the actor believed to be due as restitution or indemnification for the loss caused or to be caused by the offense.

#### **2.80.240 Escape - Term For Escape From Municipal Jail**

A. A person is guilty of a class B misdemeanor if he escapes from official custody.

B. "Official custody," for the purpose of this section, means arrest, custody in the municipal jail, or any other institution for confinement to which an offender has been confined pursuant to an order of the municipal court. For purposes of this section a person is deemed to be confined in the municipal jail if he has been sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole.

C. The terms imposed upon a person escaping confinement in the municipal jail shall commence from the time the actor would otherwise have been discharged from the

jail on the term or terms which he was serving.

**2.80.250 Reserved**

**2.80.260 Reserved**

**2.80.270 Bail - Jumping**

- A. A person is guilty of an offense when having been released on bail or on his own recognizance by court order or by other lawful authority upon condition that he subsequently appear personally upon a charge of an offense, he fails without just cause to appear at the time and place which have been lawfully designated for his appearance.
- B. Jail-jumping is an infraction.

**2.80.280 Offense Against Public Property**

**2.80.290 "Public Moneys" Defined**

As used in this part, "public moneys" includes all bonds and evidences of indebtedness and all money belonging to the municipality and all money, bonds, and evidences of indebtedness received or held by municipal officials in their official capacity.

**2.80.300 Misusing Public Moneys**

- A. Every officer of this municipality and every other person charged with the receipt, safekeeping, transfer or disbursement of moneys of this municipality commits an offense if he:
  - 1. Without authority of law appropriates the money or any portion thereof to his own use, or to the use of another; or
  - 2. Loans the money or any portion thereof without authority of law; or
  - 3. Fails to keep the money in his possession until disbursed or paid out by authority of law; or
  - 4. Unlawfully deposits the money or any portion in any bank or with any other person; or
  - 5. Knowingly keeps any false account, or makes any false entry of erasure in any account of or relating to the money; or
  - 6. Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or
  - 7. Willfully refuses or omits to pay over, on demand, any public moneys in this hands, upon the presentation of a draft, order, or warrant drawn upon such moneys by competent authority; or
  - 8. Willfully omits to transfer the money when the transfer is required by law; or
  - 9. Willfully omits or refuses to pay over, to any officer or person authorized by law to receive it, any money received by him under any duty imposed by law so to pay over the same.
- B. A violation of this section is a class B misdemeanor.

**2.80.310 Failure To Keep And Pay Over Public Moneys**

Every officer charged with the receipt, safekeeping, or disbursement of public moneys who neglects or fails to keep and pay over the money, in the manner prescribed by law, is guilty of a class B misdemeanor.

**2.80.320 Making Profit Out Of, Or Misusing Public Moneys**

Any public officer who shall make a profit out of public moneys, or shall use the same for a purpose not authorized by law, is guilty of a class B misdemeanor.

**2.80.330 Failure To Pay Over Fine, Forfeiture Or Fee**

Every public officer who receives any fine, forfeiture, or fee and refuses or neglects to pay it over within the time prescribed by law is guilty of a class B misdemeanor.

**2.80.340 Obstructing Collection Of Revenue**

Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which the people of this municipality have an interest and which such officer is by law empowered to collect, is guilty of a class B misdemeanor.

**2.80.350 Refusing To Give Tax Assessment Information, Or Giving False Information**

Every person who unlawfully refuses, upon demand, to give to any county assessor or deputy county assessor or the municipal assessor a list of his property subject to taxation, or to swear to such list, or who gives a false name, or fraudulently refuses to give his true name when demanded by the assessor in the discharge of his official duties, is guilty of a class B misdemeanor.

**2.80.360 Giving False Tax Receipt Or Failing To Give Receipt**

Every person who uses or gives any receipt, except that prescribed by the ordinances, resolutions or rules of this municipality, as evidence of the payment for the tax or license of any kind, or who receives payment for the tax or license without delivering the receipt prescribed, is guilty of a class B misdemeanor.

**2.80.370 Refusing To Give Tax Assessor Or Tax Or License Collector List Of, Or Denying Access To Employees**

Every person who, when requested by the assessor collector of taxes or license fees, refuses to give to any assessor or collector the name and residence of each man in his employ, or to give the assessor collector access to the building or place where such men are employed, is guilty of a class B misdemeanor.

**2.80.380 Doing Business Without License**

Every person who commences or carries on any business, trade, profession, or calling, for the transaction or carrying on of which a license is required by any ordinance of this municipality, without taking out the license required is guilty of a class B misdemeanor.

#### **2.80.390 Trafficking In Warrants**

No officer or this municipality shall, either directly or indirectly, contract for or purchase any warrant or order issued by this municipality at any discount whatever upon the sum due on the warrant or order, and, if any officer of this municipality shall so contract for or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor.

#### **2.80.400 Stealing, Destroying Or Mutilating Public Records By Custodian**

Every officer having the custody of any record, map, or book, or any paper or proceedings of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing, or secreting the whole or any part thereof, or who permits any other person so to do, is guilty of a class B misdemeanor

#### **2.80.410 Stealing, Destroying Or Mutilating Public Records By One Not Custodian**

Every person, not an officer such as is referred to in the proceeding section, who has committed any of the acts specified in that section is guilty of a class B misdemeanor.

#### **2.80.420 Recording False Or Forged Instruments**

Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any office of this municipality, which instrument, if genuine, might be filed or registered or recorded under any law or ordinance of this state or municipality or of the United States, is guilty of a class B misdemeanor.

#### **2.80.430 Injuring Or Removing Monuments Of Official Surveys**

Every person who willfully injures, defaces, or removes any signal, monument, building, or appurtenance thereto, placed, erected or used by persons engaged in the United States or state survey or survey of this municipality is guilty of a class B misdemeanor.

#### **2.80.440 Taking Toll Or Maintaining Road, Bridge, Or Ferry Without Authority - Refusal To Pay Lawful Toll**

Any person who demands or receives compensation for use of any bridge or ferry, or who sets up or keeps any road, bridge, or ferry, or constructed ford, for the purpose of receiving remuneration for its use without authority of law; and any person who refuses to pay on demand the compensation or free authorized to be collected for use of a licensed toll road, bridge, ferry, or constructed ford after having used it is guilty of a class B misdemeanor.

#### **2.80.450 Tampering With Official Notice Or Proclamation**

Every person who intentionally defaces, obliterates, tears down or destroys any copy or transcript or extract from or of any law of the United States or state of Utah, or this municipality, or any proclamation, advertisement, notice, resolution or ordinance, set up at any place in this municipality by authority of any law of the United States or of the state of Utah or of this municipality, or by order of any court or of any public officer, before the expiration of the time for which the same was to remain, is guilty of an infraction.

#### **2.80.460 Injuring Jails**

Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any public jail or other place of confinement, is guilty of a class B misdemeanor.

#### **2.80.470 Injuring Highways Or Bridges**

Every person who maliciously digs up, removes, displaces, breaks, or otherwise injures or destroys any public highway, or any private way laid out by authority of law, or any bridge upon such highway or private way, is guilty of a class B misdemeanor.

#### **2.80.480 Removing Or Injuring Road Signs**

Every person who maliciously removes or injures any milepost, milestone or guidepost or any inscription on them, erected upon any highway, street, road or alley is guilty of a class B misdemeanor.

#### **2.80.490 Falsification In Official Matters**

##### **2.80.500 Definitions**

For the purposes of this part:

- A. "Official proceedings" means any proceeding before the governing body, court or administrative body of this municipality authorized by any state or ordinance of the governing body to take evidence under oath or affirmation, including a notary or other person taking evidence in connection with any of these proceedings.
- B. "Material" means capable of affecting the course or outcome of the proceeding. A statement is not material if it is retracted in the course of the official proceeding in which it was made before it became manifest that the falsification was or would be exposed and before it substantially affect the proceeding. Whether a statement is material is a question of law to be determined by the court.

#### **2.80.510 False Or Inconsistent Material Statements**

A person is guilty of a class B misdemeanor if in any official proceeding of any proceeding conducted by this municipality or pursuant to its ordinances:

- A. He makes a false material statement under oath or affirmation or swears or affirms the truth of a material statement previously made and he does not believe the statement to be true; or
- B. He makes inconsistent material statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements if false by only that one or the other was false and not believed by the defendant to be true.

#### **2.80.520 False Or Inconsistent Statements**

In any proceeding conducted by this municipality or pursuant to its ordinances a person is guilty of a class B misdemeanor if:

- A. He makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and he does not believe the statement to be true if:
  - 1. The falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing his official functions; or
  - 2. The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or
- B. He makes inconsistent statements under oath or affirmation, both within the period of limitations, on of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false by only that one or the other was false and not believed by the defendant to be true.
- C. No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

#### **2.80.530 Written False Statement**

A person is guilty of a class B misdemeanor if:

- A. He makes a written false statement which he does not believe to be true on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or
- B. With intent to deceive a public servant in the performance of his official function, he:
  - 1. Makes any written false statement which he does not believe to be true; or
  - 2. Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or
  - 3. Submits or invites reliance on any writing which he knows to be lacking in authenticity; or
  - 4. Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false.
- C. No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

#### **2.80.540 Perjury Or False Swearing - Proof Of Falsity Of Statements - Denial Or Criminal Guilty**

- A. On any prosecution for perjury or false swearing, except a prosecution upon inconsistent statements pursuant to 13-850-2 (b) falsity of a statement may not be established solely through contradiction by the testimony of a single witness.
- B. No prosecution shall be brought under this part when the substance of the defendant's false statement is his denial of guilty in a previous criminal trial.

#### **2.80.550 False Reports Of Offenses To Law Enforcement Officer**

- A. Knowingly gives or causes to be given false information to any law enforcement officer with a purpose of inducing the officer to believe that another has committed an offense; or
- B. Knowingly gives or causes to be given information to any law enforcement officer concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

#### **2.80.560 False Name Or Address To Law Enforcement Officer**

A person commits a class C misdemeanor if, with intent of misleading a law enforcement officer as to his identity, he knowingly gives a false name or address to a law enforcement officer in the lawful discharge of his official duties.

#### **2.80.570 Tampering With Witness - Retaliation Against Witness Or Information - Bribery**

- A. Believing that an official proceeding or investigation is pending or about to be instituted, he attempts to induce or otherwise cause a person to:
  - 1. Testify or inform falsely; or
  - 2. Withhold any testimony information, document or things; or
  - 3. Elude legal process summoning him to provide evidence; or
  - 4. Absent himself from any proceeding or investigation to which he has been summoned; or
- B. He commits any unlawful act in retaliation for anything done by another in his capacity as a witness or informant; or
- C. He solicits, accepts, or agrees to accept any benefit in consideration of his doing any of the things specific in paragraph A.

#### **2.80.580 Extortion Or Bribery To Dismiss Criminal Proceeding**

- A. A person is guilty of a class B misdemeanor if by the use of force or by any threat which would constitute a means of committing the crime of theft by extortion under this title, if the treat were employed to obtain property, or by promise of any reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the dismissal of or to prevent the filing of a criminal complaint or summons.
- B. "Victim," as used in this section, includes a child or other person under the care or custody of a parent or guardian.

#### **2.80.590 Tampering With Evidence**

A person commits a class B misdemeanor if, believing that an official proceeding or investigation is pending or about to be instituted by the municipality, he:

- A. Alters, destroys, conceals, or removes anything with a purpose to impair its verity or availability in the proceeding or investigation; or
- B. Makes, presents or uses anything which he knows to be false with a purpose to deceive a public servant who is or may be engaged in a proceeding or investigation.

#### **2.80.600 Falsification Or Alteration Of Government Record**



A person is guilty of a class B misdemeanor if he:

- A. Knowingly makes a false entry in or false alteration of anything belonging to, received, or kept by this municipality for information or record, or required by law to be kept for information of this municipality; or
- B. Presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or records referred to in A; or
- C. Intentionally and unlawfully destroys, conceals or otherwise impairs the verity or availability of any such thing.

#### **2.80.610 Impersonation Of Officer**

A person is guilty of a class B misdemeanor if he impersonates a public servant or a peace officer of this municipality with intent to deceive another or with intent to induce another to submit to his pretended official authority or to rely upon his pretended official act.

#### **2.80.620 False Judicial Or Official Notice**

A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal, or printed form of any official of this municipality, or is otherwise calculated to induce to belief that it does have a judicial or other official sanction.

#### **2.80.630 Reserved**

#### **2.80.640 Abuse Of Process**

#### **2.80.650 Wrongful Commencement Of Action In Justices' Court**

Any party to any suit or proceedings, and any attorney or agent for the party, who knowingly commences, prosecutes, or maintains any action, or proceeding in the court of this municipality, other than as provided by section 78-8-5 is guilty of a class B misdemeanor.

#### **2.80.660 Assuming Liability For Conferring Jurisdiction Upon Justice**

Any person who binds himself, or voluntarily becomes liable jointly or jointly and severally with any other person, for the purpose of conferring jurisdiction of any cause upon the court of this municipality which otherwise would be without jurisdiction except for the liability of the joint obligor, and any person who induces a person to assume the liability for the purpose of conferring jurisdiction upon the court, is guilty of a class B misdemeanor.

#### **2.80.670 Wrongful Attachment By Justice - Liability**

It is unlawful for the justice of the peace of this municipality to issue any writ of attachment, and for any party, agent or attorney of the party, to advise, induce, or procure the issuance thereof, in any action, suit, or proceeding before the affidavit therefore is filed, or where the affidavit filed therefore does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure. Any person violating any of the provisions of this section is guilty of a class B misdemeanor.

#### **2.80.680 Reserved**

#### **2.80.690 Sabotage Prevention**

#### **2.80.700 Definitions**

For the purpose of this part:

- A. "Highway" includes any private or public street, way or other place used for travel to or from property within this municipality.
- B. "Public utility" includes any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation communication or other system by whomsoever owned or operated for public use.

#### **2.80.710 Posting Of Signs At War Or Defense Facilities - Entering Posted Premises Without Permission**

- A. Any individual, partnership, association, corporation or political subdivision of the State of Utah engaged in, or preparing to engage in, the manufacture, transportation or storage of any produce to be used in the preparation of the United States or of any of the states for defense or for war or in the prosecution of war by the United States, or the manufacture, transportation, distribution of storage or gas, oil, coal, electricity or water, or any natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons, or things is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock, or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also designate a point of entrance or place where application may be made for permission to enter, and permission shall not be denied to any loyal citizen who has a valid right to enter.
- B. Any person willfully entering property enumerated in A, without permission of the owner, shall be guilty of a class C misdemeanor.

#### **2.80.720 Closing Or Restricting Use Of Highways Abutting Defense Or War Facilities - Posting Of Notices**

- A. Any individual partnership, association, corporation, or any political subdivision of the state engaged in or preparing to engage in the manufacture, transportation or storage of any produce to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the governing body of this municipality to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof. Upon receipt of the petition, the governing body shall by resolution set a date for hearing and give notice thereof by publication in a newspaper having general circulation in this municipality, which publication shall be made at least seven days prior to the date set for hearing. If, after hearing, the governing body determines that the public safety and the safety of the property of the petitioner so require, they shall be suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof; provided the governing body may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under conditions and in a form as the governing body may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The governing body may at any time revoke or modify any order so made.



B. Any person who violates any order made under this section shall be guilty of a class C misdemeanor.

#### **2.80.730 Bargaining Rights Of Employees Not Impaired By Sabotage Prevention Laws**

Nothing in this part shall be construed to impair, curtail, or destroy the rights of employees and their representatives to self organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection as provided by state or federal laws.

#### **2.80.740 Reserved**

#### **2.90 Offenses Against Public Order And Decency**

##### 2.90.010 Breaches Of The Peace And Related Offenses

##### 2.90.020 Riot

##### 2.90.030 Disorderly Conduct

##### 2.90.040 Disrupting A Meeting Or Processions

##### 2.90.050 Failure To Disperse

##### 2.90.060 Giving A False Alarm

##### 2.90.070 Telephone Abuse

##### 2.90.080 Telephone Harassment

##### 2.90.090 Emergency Telephone Abuse

##### 2.90.100 Cruelty To Animals

##### 2.90.110 Cruelty To Animals

##### 2.90.120 Spectator At Organized Animal Fight

##### 2.90.130 Reserved

##### 2.90.140 Reserved

##### 2.90.150 Allowing Vicious Animal To Go At Large

##### 2.90.160 Officers' Authority To Take Possession Of Animals - Lien For Care

##### 2.90.170 Offenses Against Privacy

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##### 2.90.270 Miscellaneous Provisions

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##### 2.90.290 Lewdness

##### 2.90.300 Loitering

##### 2.90.310 Abuse Of A Corpse

#### **2.90.010 Breaches Of The Peace And Related Offenses**

#### **2.90.020 Riot**

A. A person is guilty of riot if:

1. Simultaneously with two or more other persons he engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk if causing public alarm; or
2. He assembles with two or more other persons with the purpose of engaging, soon thereafter, in tumultuous or violence conduct, knowing that two or more other persons in the assembly have the same purpose; or
3. He assembles with two or more other persons with the purpose of committing an offense against a person or property of another who he supposes to be guilty of a violation of law, believing that two or more in the assembly have the same purpose.

B. Any person who refuses to comply with a lawful order to withdraw given to him immediately prior to, during, or immediately following a violation of paragraph A is guilty of riot. It is no defense to a prosecution under this paragraph that withdrawal must take place over private property; provided, however, that no persons so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.

C. Riot is a class B misdemeanor.

#### **2.90.030 Disorderly Conduct**

A. A person is guilty of disorderly conduct if:

1. He refuses to comply with the lawful order of the police to move from a public place or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or
2. Intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof:
  - a. He engages in fighting or in violent, tumultuous, or threatening behavior; or
  - b. He makes unreasonable noises in a public place; or
  - c. He makes unreasonable noises in a private place which can be heard in a public place; or
  - d. He engages in abusive or obscene language or makes obscene gestures in a public place; or
  - e. He obstructs vehicular or pedestrian traffic.

- B. "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
- C. Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

#### **2.90.040 Disrupting A Meeting Or Processions**

- A. A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, processing or gathering, he obstructs or interferes with the meeting, processing, or gathering by physical action, verbal utterance, or any other means.
- B. Disrupting a meeting or procession is a class B misdemeanor.

#### **2.90.050 Failure To Disperse**

- A. A person is guilty of failure to disperse when he remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been ordered to disperse by a peace officer.
- B. This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.
- C. Failure to disperse is a class C misdemeanor.

#### **2.90.060 Giving A False Alarm**

- A. A person is guilty of giving a false alarm if he initiates or circulates a report or warning of any fire, impending bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly, or facility of public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.
- B. Giving a false alarm is a class B misdemeanor.

#### **2.90.070 Telephone Abuse**

#### **2.90.080 Telephone Harassment**

- A. A person is guilty of telephone harassment and subject to prosecution if, with intent to annoy or alarm another, he:
  - 1. Makes a telephone call, whether or not a conversation ensues, without purpose of lawful communication; or
  - 2. Makes repeated telephone calls at extremely inconvenience hours or in offensively coarse language; or
  - 3. Insults, taunts, or challenges another in a manner likely to provoke a violence or disorderly response.
- B. Telephone harassment is a class B misdemeanor.

#### **2.90.090 Emergency Telephone Abuse**

- A. A person is guilty of emergency telephone abuse if he:
  - 1. Intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call; or
  - 2. Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.
- B. Emergency telephone abuse is a class C misdemeanor.
- C. For the purposes of this section (1) "party line" means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.
- D. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

#### **2.90.100 Cruelty To Animals**

#### **2.90.110 Cruelty To Animals**

- A. A person commits cruelty to animals if he intentionally or knowingly:
  - 1. Tortures or seriously overworks an animal; or
  - 2. Fails to provide necessary food, care, or shelter for an animal in his custody; or
  - 3. Abandons an animal in his custody; or
  - 4. Transports or confines an animal in a cruel manner; or
  - 5. Kills, injures or administers poison to an animal without legal privilege; or
  - 6. Causes one animal to fight with another.
- B. It is a defense to the prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using accepted veterinary practice or directly related to a bona fide experimentation for scientific research not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.
- C. Cruelty to animals is a class B misdemeanor.

#### **2.90.120 Spectator At Organized Animal Fight**

- A. It is unlawful for any person to be a spectator at an organized animal fight.
- B. For the purposes of this section only, an organized animal fight means a fight between animals for the benefit of spectators. There is no requirement that an admission fee be charged.
- C. A violation of this section is a class C misdemeanor.

#### **2.90.130 Reserved**

#### **2.90.140 Reserved**

#### **2.90.150 Allowing Vicious Animal To Go At Large**

Any owner of a vicious animal, knowing its propensities, who willfully allows it to go at large or who keeps it without ordinary care, and any animal, while at large or while not kept with ordinary care, causes injury to another animal or to any human being who has taken reasonable precaution which the circumstances permitted is guilty of a class B misdemeanor.

#### **2.90.160 Officers' Authority To Take Possession Of Animals - Lien For Care**

Section 76-9-305, Utah Code Annotated, 1953, is incorporated herein by reference.

#### **2.90.170 Offenses Against Privacy**

##### **2.90.180 Definitions**

For purposes of this part:

- A. "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.
- B. "Eavesdrop" means to overheard, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.
- C. "Public" includes any professional or social group of which the victim of a defamation is a member.

##### **2.90.190 Privacy Violation**

- A. A person is guilty of privacy violation if, except as authorized by law, he:
  - 1. Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
  - 2. Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing photographic, recording, amplifying, or broadcasting sounds or events in the place or uses any such unauthorized installation; or
  - 3. Installs or uses outside of a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.
- B. Privacy violation is a class B misdemeanor.

##### **2.90.200 Communication Abuse**

- A. A person commits communication abuse if, except as authorized by law, he:
  - 1. Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, or other means of communicating privately; this paragraph does not extend to:
    - a. Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or
    - b. Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or
  - 2. Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he learned of the message in the course of employment with an agency engaged in transmitting it.
- B. Communication abuse is a class B misdemeanor.

##### **2.90.210 Criminal Defamation**

- A. A person is guilty of criminal defamation if he knowingly communicates to any person orally or in writing any information which he knows to be false and knows will tend to expose any other living person to public hatred, contempt, or ridicule.
- B. Criminal defamation is a class B misdemeanor.

##### **2.90.220 Abuse Of Personal Identity**

- A. A person is guilty of abuse of personal identify it, for the purpose of advertising any articles of merchandise for purposes of trade or for any other advertising purposes, he uses the name, picture, or portrait of any individual or uses the name or picture of any public institution of this state, the official title of any public officer of this state, or of any person who is living, without first having obtained the written consent of the person or, if the person be a minor, the written consent of his parent or guardian, or, if the person is dead, without the written consent of his heirs or personal representatives.
- B. Abuse of personal identity is a class B misdemeanor.

##### **2.90.230 Libel And Slander**

##### **2.90.240 Conveying False Or Libelous Material To Newspaper Or Broadcasting Stations**

Any person who willfully states, conveys, delivers, or transmits, by any means whatsoever, to the manager, editor, publisher, reporter, or agent of any radio station, television station, newspaper, magazine, periodical, or serial for publication therein, any false or libelous statement concerning any person, and thereby secures actual publication of the same, is guilty of a class B misdemeanor.

##### **2.90.250 Offense Against The Flag**

##### **2.90.260 Abuse Of A Flag**

- A. A person is guilty of abuse of a flag if he:
  - 1. Intentionally places any unauthorized inscription or other things upon any flag of the United States or of any state of the United States; or
  - 2. Knowingly exhibits any such flag, knowing the inscription or other thing to be unauthorized; or

3. For purposes of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United State or of a state of the United States to the produce or on any display whereon the product or service is advertised; or
4. Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it.

B. Abuse of a flag is a class B misdemeanor.

#### **2.90.270 Miscellaneous Provisions**

#### **2.90.280 Intoxication - Release Of Arrested Person**

- A. A person is guilty of intoxication if he is under the influence of intoxicating liquor, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another, in a public place or in a private place where he unreasonably disturbs other persons.
- B. A peace officer or a magistrate may release from custody an individual arrested under this section if he believes imprisonment is unnecessary for the protection of the individual or another.
- C. An offense under this section is a class C misdemeanor.

#### **2.90.290 Lewdness**

- A. A person is guilty of lewdness if he fornicates, exposes his genitals or private parts, or performs any other act of gross lewdness under circumstances which he should know will likely cause affront or alarm or does any such act in a public place.
- B. Lewdness is a class B misdemeanor.

#### **2.90.300 Loitering**

- A. A person is guilty of loitering if he appears at a place or at a time under circumstances that warrant alarm for the safety of persons or property in the vicinity, and upon inquiry by a law enforcement official, he fails to give a reasonably credible account of his identity, conduct, or purposes.
- B. No person shall be convicted under this section if the explanation he gave of his conduct and purposes was true and, if believed by the law enforcement official at the time, would have dispelled the alarm.
- C. Loitering is a class C misdemeanor.

#### **2.90.310 Abuse Of A Corpse**

- A. A person is guilty of abuse of a corpse if he intentionally and unlawfully:
  1. Removes, conceals, dissects, or destroys a corpse or any part thereof; or
  2. Disinters a corpse that has been buried or otherwise interred.
- B. An offense under this section is a class B misdemeanor.

### **2.100 Offenses Against Public Health, Safety, Welfare And Morals**

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**2.100.010 Cigarettes And Tobacco And Psychotoxic Chemical Solvents**

**2.100.020 "Place Of Business" And "encloses Public Place" Defined**

- A. "Place of business" means any and all such places such as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, poolrooms, cafes, cafeterias, cabarets, restaurants, hotels, lodging houses, streetcars, buses, interurban and railway passenger coaches and waiting rooms.
- B. "Enclosed public place" means the dining rooms in hotels, restaurants, cafes and cafeterias, theaters, arenas, passenger elevators, streetcars, buses, interurban and railway passenger coaches, motor and other passenger vehicles used by common carriers, railway station waiting rooms, and state, county and city buildings; but the owner or proprietor of any hotel dining room, restaurant, café, or cafeteria may designate the same as a public smoking room by a conspicuous sign at or near the entrance, and in any state, county, or city building any public officer who has a private office separate and apart from his public office may, if he so desires, designate the private office as a place where smoking may be permitted, and, so long as the private office is so designated, smoking therein shall not be considered in violation of this section.

#### **2.100.030 Cigarettes And Tobacco-Advertising Restrictions**

It is a class B misdemeanor for any person to display on any billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of display, any advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this municipality.

#### **2.100.040 Permitting Minors To Use Tobacco In Place Of Business**

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit persons under age nineteen to frequent a place of business while they are using tobacco.

#### **2.100.050 Furnishing Cigars, Cigarettes Or Tobacco To Minors**

Any person who sells, gives, or furnishes any cigars, cigarette or tobacco in any form, to any person under nineteen years of age, is guilty of a class C misdemeanor.

#### **2.100.060 Buying Or Possessing Cigars, Cigarettes Or Tobacco By Minors**

Any person under the age of nineteen years, who buys, accepts, or who has in his possession any cigar, cigarette or tobacco in any form is guilty of a class C misdemeanor, or may be classified as a delinquent child and referred to the juvenile courts.

#### **2.100.070 Use Of Cigars, Cigarettes Or Tobacco In Enclosed Public Place**

Section 76-10-106, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

#### **2.100.080 Abuse Of Psychotoxic Chemical Solvents**

A. A person is guilty of abuse of psychotoxic chemical solvents if:

1. For the purposes of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, he intentionally:

- a. Smells or inhales the fumes of any psychotoxic chemical solvent; or
- b. Possesses, purchases, or attempts to possess or purchase any psychotoxic chemical solvent.

2. Knowing or believing that a purchase or another intends to use a psychotoxic chemical in violation of subsection (A) (1) or (A) (2), sells or offers to sell any psychotoxic chemical solvent.

B. This section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

C. Abuse of psychotoxic chemical solvents is a class B misdemeanor.

D. As used in this section, psychotoxic chemical solvent includes any glue, cement or other substance containing one or more of the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substances. Nothing in this section shall be construed to include any controlled substance regulated by the provisions of Utah Code Annotated section 58-37-1 et seq.

#### **2.100.090 Designated Smoking Areas**

Section 76-10-108, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

Smoking or carrying lighted cigarettes, pipes, cigars, and other tobacco products on all publicly owned or leased areas where playground equipment has been installed for public use by children, play pits, play structures, bleachers, backstops, sports fields, ball diamonds, basketball courts, tennis or volleyball courts, concession stands, skateboard areas, BMX areas, boweries, and pathways for walking, is prohibited.

*Adopted by Ord. 2005-03 Tobacco product prohibited in parks on 2/15/2005*

#### **2.100.100 Duties Of Proprietor Of Public Place**

Section 76-10-109, Utah Code Annotated, 1953, as amended, is incorporated hereby by reference.

#### **2.100.110 Violations**

Section 76-10-110, Utah code Annotated, 1953, as amended, is incorporated herein by reference.

#### **2.100.120 Waters**

#### **2.100.130 Interference With Control Of Water Commissioner**

Every person who in any way interferes with or alters the flow of water in any stream, ditch, or lateral while under the control or management of the water commissioner or superintendent is guilty of a class B misdemeanor.

#### **2.100.140 Taking Water Out Of Turn Or Excess Amount-Injuring Facilities**

Every person who, in violation of any right of any other person, willfully turns or uses the water, or any part thereof, of any canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly distributed to the person or willfully uses any greater quantity of water than has been duly distributed to him, or in any way changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or willfully and maliciously breaks or injures any dam, canal, pipeline, Watergate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes, is guilty of a class B misdemeanor.

#### **2.100.150 Obstructing Of Watergates By Logs**

Every person who rafts or floats logs, timber, or wood down any river or stream and allows the logs, timber, or wood to accumulate at or obstruct the Watergates owned by any person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes is guilty of class B misdemeanor.

#### **2.100.160 Injuring Bridge, Dam, Canal Or Other Water-Related Structure**

Every person who willfully and maliciously cuts, breaks, injures, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed or marsh land, or to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of municipality; or willfully or maliciously makes or causes to be made any aperture in any such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure with intent to injury or destroy it; or draws up, cuts or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty, or lock is guilty of a class B misdemeanor.

#### **2.100.170 Explosives**

#### **2.100.180 Unlawful Handling Of Explosives**

- A. Every person who makes or keeps nitroglycerin or other high explosive substances of five or more pounds of gunpowder within this municipality, or who carries it through the streets hereof, without first obtaining a permit therefore from the recorder/clerk, shall be guilty of a class B misdemeanor.
- B. The recorder/clerk may impose as a condition of receiving and keeping a permit under this section, that the person comply with reasonable safety standards as the chief of police may require.

#### **2.100.190 Marking Of Containers Of Explosives Before Transportation Or Storage**

Every person who knowingly leaves with or delivers to another, or to any express or railway company or other common carrier, or to any warehouse or storehouse, any package containing nitroglycerin, dynamite, guncotton, gunpowder, or other highly explosive compound, or any benzene, gasoline, phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped, or transported, without plainly marking and indicating on such package the name and nature of the contents thereof, is guilty of a class B misdemeanor.

#### **2.100.200 Powder Houses**

Every person who builds, constructs, or uses within 300 feet of any residence or traveled county road any powder house, magazine, or building in which more than five pounds of gunpowder, dynamite or other explosive is kept in quantities exceeding 500 pounds is guilty of a class B misdemeanor

#### **2.100.210 Marking Of Containers Of Explosives Held For Sale Or Use**

It shall be a class B misdemeanor to sell or offer for sale or take or solicit orders of sale, or purchase or use, or have on hand or in store for the purpose of sale or use, any giant, Hercules, atlas, venture or any other high explosive containing nitroglycerin, unless on each box or package and wrapper containing any such high explosive there shall be plainly stamped or printed the name and place of business of the person, partnership, or corporation by whom or by which it was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

#### **2.100.220 Different Dates On Containers Of Explosive Prohibited - Reuse Of Container Prohibited**

It shall be a class B misdemeanor for any person or person, partnership, or corporation to have two or more different dates on any box or package containing giant, Hercules, atlas, or venture, or any other high explosive containing nitroglycerin. It shall further be unlawful to use any box, package, or wrapper formerly used by any other person or persons, partnership, or corporation in the packing of such giant, Hercules, atlas, venture, or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, Hercules, atlas, venture, or other explosive containing nitroglycerin.

#### **2.100.230 "Infernal Machine" Defined**

An infernal machine is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, or knife, loaded pistol, or gun, or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened, or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb, or property.

#### **2.100.240 Infernal Machine-Delivery To Common Carrier, Mailing, Or Placement On Premises**

Every person who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person, any infernal machine, knowing it to be such, without informing the common carrier or person of the nature thereof, or sends it through the mail, or throws or places it on or about the premises or property of another, or in any place where another may be injured thereby in his person or property, is guilty of a class B misdemeanor.

#### **2.100.250 Infernal Machine-Construction Or Possession**

Every person who knowingly constructs or contrives any infernal machine or with intent to injure another in his person or property, has any infernal machine in this possession is guilty of a class B misdemeanor.

#### **2.100.260 Fences**

#### **2.100.270 Fencing Of Shafts And Wells**



Any person who has sunk or shall sink a shaft or well for any purpose shall enclose it with a substantial curb or fence, which shall be at least four and one-half feet high. Any person violating the provisions of this section is guilty of a class B misdemeanor.

#### **2.100.280 Weapons**

#### **2.100.290 Definitions**

For the purpose of this part:

- A. "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In construing whether an item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the instrument, object, or thing; the character of the wound produced, if any; and the manner in which the instrument, object, or thing was used shall be determinative.
- B. "Firearms" means pistols, revolvers, sawed-off shotguns, or sawed-off rifles, and/or any device which could be used as a weapon from which is expelled a projectile by any force.
- C. "Sawed-off shot gun" means a shotgun having a barrel or barrels of less than eighteen inches in length, or in the case of a rifle, having a barrel or barrels of less than sixteen inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise) if the weapon as modified has an overall length of less than 26 inches.
- D. "Prohibited area" means any place where it is unlawful to discharge a weapon.
- E. "Crime of violence" means murder, voluntary manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, or an attempt to commit any of the foregoing offenses.
- F. "Bureau" means the Utah State Bureau of Criminal Identification.

#### **2.100.300 When Weapon Deemed Loaded**

For the purpose of this part, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position, except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell, or projectile is in a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired; and a muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

#### **2.100.310 Possession Or Dangerous Weapon By Convicted Person, Drug Addict, Or Mentally Incompetent Person Prohibited**

Any person who is not a citizen of the United States or any person who has been convicted of any crime of violence under the laws of the United States, the State of Utah, or any other state, government, or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent shall not own or have in his possession or under his custody or control any dangerous weapon as defined in this part. Any person who violates this section is guilty of a class B misdemeanor.

#### **2.100.320 Carrying Concealed Dangerous Weapon**

Any person carrying a concealed dangerous weapon as defined in this part is guilty of a class B misdemeanor.

#### **2.100.330 Carrying Loaded Firearm In Vehicle Or On Street**

Every person who carries a loaded firearm in a vehicle or on any public street or in a prohibited area is guilty of a class B misdemeanor.

#### **2.100.340 Threatening With Or Using Dangerous Weapon In Fight Or Quarrel**

Every person who, not in necessary self defense in the presence of two or more persons, draws or exhibits any dangerous weapon in an angry and threatening manner or unlawfully uses the same in any fight or quarrel is guilty of a class B misdemeanor.

#### **2.100.350 Possession Of Deadly Weapon With Intent To Assault**

Every person having upon his person any dangerous weapon with intent to unlawfully assault another is guilty of a class B misdemeanor.

#### **2.100.360 Discharge Of Firearm From Vehicle Or Near Highway**

It shall be a class B misdemeanor for any person to discharge any kind of firearm from an automobile or other vehicle or to discharge a firearm from, upon, or across any highway.

#### **2.100.370 Possession Of Dangerous Weapon By Minor**

A minor under the age of eighteen may not possess a dangerous weapon as defined herein unless he has the permission of his parent or guardian to have such weapon or is accompanied by parent or guardian while he has such weapon in his possession. In any event, any minor who is under the age of fourteen years must be accompanied by a responsible adult.

#### **2.100.380 Possession Of Weapon Authorized-Permit Or License Not Required**

Nothing in this part shall be construed to prohibit a citizen of the United States over the age of eighteen years who resides or is temporarily within this municipality and who is not within the accepted classes as prescribed by section 2.100.310 from owning, possessing, or keeping within his place of residence or place of business or any vehicle under his control any pistol, revolver, or other firearm or dangerous weapon capable of being concealed upon the person, and no permit or license to purchase, own, possess or to keep any such firearm or weapon at his place or residence, or place of business, or any vehicle under his control, shall be required of him.

#### **2.100.390 Possession Of Loaded Weapon At Residence Authorized**

Nothing in this part shall prevent any person, except persons described in section 2.100.310, from having a loaded weapon at his place of residence including any temporary residence or camp.

**2.100.400 Target Concessions, Trap Fields, Shooting Ranges, And Hunting Excepted From Prohibitions**

The provisions of sections 2.100.310 and 2.100.370 shall not apply to any of the following:

- A. Patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters.
- B. Patrons of commercial trap or skeet fields or shooting ranges during regular business hours.

**2.100.410 License To Carry Concealed Weapon-Requirements For Issuance**

The chief of police (town marshal, or other head of the police department), upon proof that the person applying is of good character, and upon showing that good cause exists for the issuance, may issue to such person a license to carry a concealed weapon for a period of one year from the issuance date of the license.

**2.100.420 License-Application Form**

The application for license must be in substantially the following form:

State of Utah

County of \_\_\_\_\_ Name of municipality \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Present occupation \_\_\_\_\_ Address of Employer \_\_\_\_\_

Age \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Color eyes \_\_\_\_\_ Color of Hair \_\_\_\_\_

Have you ever been convicted of any felony? Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer to the above question is yes, state where and when and what the charge was \_\_\_\_\_

Are you addicted to any narcotics or other habit-forming drugs? Yes \_\_\_\_\_ No \_\_\_\_\_

Have you ever been declared mentally incompetent? Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer to the above question is yes, state where and when \_\_\_\_\_

Reason or reasons for issuance of license \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

Residing in \_\_\_\_\_ County.

My commission expires:

\_\_\_\_\_

**2.100.430 Reserved**

**2.100.440 License-Fee-Amount And Disposition**

Each application for a license shall pay a fee of \$3.00 at the time of filing the application. The officer receiving the application shall also receive the \$3.00 fee and shall transmit one-half of the fee together with the fingerprints of the individual to the State Bureau of Criminal Identification. The remaining half of the fee shall be transmitted to the city or town treasurer.

**2.100.450 License-Records-Copies Transmitted To Bureau**

When any license is issued, a record shall be maintained in the office of the city recorder/town clerk which shall be open to public inspection. Copies of each license issued shall be filed immediately the chief of police with the State Bureau of Criminal Identification.

#### **2.100.460 Reserved**

#### **2.100.470 Handgun Dealers' Records Repealed**

#### **2.100.480 Reserved**

#### **2.100.490 Unlawful Marking Of Pistol Or Revolver**

Any person who places or stamps on any pistol or revolver any number except one assigned to it by the bureau of guilty of a class B misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the bureau, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

#### **2.100.500 Alteration Of Number Or Make On Pistol Or Revolver**

Any person who changes, alters, removes, or obliterates the name of the maker, model, manufacturer's number, or other marks of identification, including any distinguishing number or mark assigned by the bureau, on any pistol or revolver, without first having secured written permission from the bureau to make the change, alteration or removal, shall be guilty of a class B misdemeanor.

#### **2.100.510 Persons Exempt From Weapons Laws**

The provisions of this part shall not apply to any of the following:

- A. United States marshals while engaged in the performance of their duties.
- B. Federal officials required to carry firearms while engaged in the performance of their official duties.
- C. Law enforcement officials of this or any other jurisdiction while engaged in the performance of their official duties.
- D. Common carriers while engaged in the regular and ordinary transport of firearms as merchandise.
- E. Nonresidents traveling in or through this municipality, provided that any firearm is unloaded and enclosed in a case, gun box, or securely tied package or held securely in a gun rack or locked in the trunk of an automobile in which the nonresident is transporting the firearm.

#### **2.100.520 Purchase Of Firearms In Contiguous States Pursuant To Federal Law**

This part will allow purchases of firearms and ammunition by residents in contiguous states pursuant to the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B, no. 3.

#### **2.100.530 Disposition Of Weapons After Use For Court**

The police departments which has in its possession a weapon after it has been used for court purposes shall determine the true owner of the weapon and return it to him; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used as evidence, the department shall confiscate it and shall revert to the department for their use and/or disposal as the chief of police shall determine.

#### **2.100.540 Charity Drives**

#### **2.100.550 Definitions**

- A. "Person" means any individual, organization, group, association, partnership, corporation, or any combination of them;
- B. "Professional fund raiser" means any person who for compensation or any other consideration plans, conducts, or manages the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization.
- C. "Professional solicitor" means any person who is employed or retained for compensation by a professional fund raiser to solicit contributions in this municipality for charitable purposes.
- D. "Charitable organization" means any organization that is benevolent, philanthropic, patriotic, or eleemosynary or one purporting to be such.
- E. "Contribution" means the promise or grant of any money or property of any kind or value.

#### **2.100.560 Use Of Person's Name Without Consent For Soliciting Contributions Prohibited-Exception**

No charitable organization, professional fund raiser, or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions without the written consent of the person; provided that this section shall not apply to religious corporations or organizations, charities, agencies, and organizations operated, supervised or controlled by or in connection with a religious corporation or organization.

#### **2.100.570 Use Of Name Without Consent On Stationery Or As One Who Contributed To Organization Prohibited**

It shall be deemed to be a violation of this part to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed on any stationery, advertisement, brochure, or correspondence or a charitable organization, or his name is listed or referred to as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

#### **2.100.580 Violations - Classification Of Offense**

Any person who violates the provision of this part is guilty of a class B misdemeanor.

#### **2.100.590 Corporation Frauds**

#### **2.100.600 Definitions**

As used in this part:

- A. "Bona fide shareholder of record" means a shareholder of record who has acquired shares in good faith and is acting for a proper purpose reasonably related to his

interests as a shareholder.

- B. "Director" means any of the persons having by law the direction or management of the affairs of a corporation, by whatever name the persons are described in its charter or known by law.

#### **2.100.610 Fraudulent Signing Of Share Subscriptions**

Every person who signs the name of a fictitious person to any subscription for, or agreement to take, shares in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that the person has no means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of the subscription or agreement are not to be complied with or enforced, is guilty of a class B misdemeanor.

#### **2.100.620 Reserved**

#### **2.100.630 Misrepresenting Person As Officer, Agent, Member Or Promoter**

Every person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in, any prospectus, circular, or other advertisement or announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit it to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association, is guilty of a class B misdemeanor.

#### **2.100.640 Concurrence By Director In Dividend Or Division Of Capital In Violation Of Law**

Every director or any corporation issuing shares, except savings and loan or building and loan associations who concurs in any vote or act of the directors of the corporation or any of the, by which it is intended either:

- A. To make any dividend except as permitted by the Utah Business Corporation Act; or  
B. To divide, withdraw, or in any manner pay to the shareholders, or any of them, any part of the stated capital of the corporation except as permitted by the Utah Business Corporation Act is guilty of a class B misdemeanor.

#### **2.100.650 Reserved**

#### **2.100.660 False Reports**

Every director, officer, or agent of any corporation or joint stock association who knowingly makes or concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false is guilty of a class B misdemeanor.

#### **2.100.670 Refusing Inspection Of Books**

Every officer or agent of any corporation having or keeping an office, who has in his custody or control the books of such corporation, and who refuses to give a bona fide shareholder of record or member of the corporation, lawfully demanding during office hours, the right to inspect or take a copy of it or of any part thereof, is guilty of a class B misdemeanor.

#### **2.100.680 Presumption Of Director's Knowledge Of Affairs**

Every director of a corporation or joint stock association is deemed to possess a knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding, or omission of its directors is a violation of this part.

#### **2.100.690 Presumption Of Director's Concurrent In Action If Present At Meeting - Written Dissent Required**

Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding, or omission of the directors in violation of this part occurs is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors or forwards his dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting.

#### **2.100.700 Foreign Corporations Subject To Ordinances**

It is no defense to a prosecution for any violation of any of the provisions of this part that the corporation was one created by the laws of another state, government, or country if it was one carrying on business or keeping an office therefor within this municipality.

#### **2.100.710 Nuisances**

#### **2.100.720 "Nuisance" Defined - Violation - Classification Of Offense**

- A. A nuisance is any item, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.  
B. Any person, whether as owner, agent, or occupant who creates, aids in creating, or contributes to a nuisance, or who supports, continues or retains a nuisance, is guilty of a class B misdemeanor.

#### **2.100.730 Befouling Waters**

A person is guilty of a class B misdemeanor if he:

- A. Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well, or spring of water used for domestic purposes; or  
B. Deposits, piles, unloads, or leaves any manure heap, offensive rubbish, or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well, or spring of water used for domestic purposes; or  
C. Dips or washes sheep in any stream, or constructs, maintains, or uses any pool or dipping vat for dipping or washing sheep in such close proximity to any stream located within this municipality or over which this municipality may exercise its jurisdiction and used by the inhabitants of this municipality for domestic purposes as to make the waters thereof impure or unwholesome; or  
D. Constructs or maintains any corral, yard, or vat to be used for the purpose of shearing or dipping sheep within twelve miles of the municipality, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of this municipality for domestic purposes; or

- E. Establishes and maintains any corral, camp, or bedding place for the purpose of herding, holding, or keeping any cattle, horses, sheep, goats, or hogs, within seven miles of this municipality, where the refuse or filth from the corral, camp, or bedding place will naturally find its way into any stream or water used by the inhabitants of this municipality for domestic purposes.

#### **2.100.740 "Public Nuisance" Defined**

- A. A public nuisance is a crime against the public order and economy of this municipality and consists in unlawfully doing any act or omitting to perform any duty, which act or omission, either:
1. Annoys, injures, or endangers the comfort, repose, health or safety of three or more persons; or
  2. Offends public decency; or
  3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street or highway; or
  4. In any way renders three or more persons insecure in life or the use of property.
- B. An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of whether the extent of annoyance or damage inflicted on individuals is unequal.

#### **2.100.750 Maintaining, Committing Or Failing To Remove Public Nuisance - Classification Of Offense**

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class B misdemeanor.

#### **2.100.760 Carcass Or Offal - Prohibitions Relating To Disposal - Classification Of Offense**

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral, or butcher shop into any river, creek, pond, street, alley, or public highway, or road in common use or who attempts to destroy it by fire, within one-fourth of a mile of this municipality is guilty of a class B misdemeanor.

#### **2.100.770 Not To Affect Other Provisions Of Municipal Ordinances**

Nothing contained in this Municipal Criminal Code shall affect any other provisions of this municipalities ordinances, rules or regulations which regulate, prohibit or effect nuisances or public nuisances.

#### **2.100.780 Action For Abatement Of Public Nuisances**

The municipal attorney is empowered to institute an action in the name of this municipality to abate a public nuisance.

#### **2.100.790 Trade And Commerce**

#### **2.100.800 "Junk Dealer" Defined**

For the purpose of this part "junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand, or castoff material of any kind, such as old iron, copper, brass, lead, zinc, tin, steel, aluminum, and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials.

#### **2.100.810 Fraudulent Practices To Affect Market Price**

Every person who willfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device, with intent to affect the market price of any kind of property, is guilty of a class B misdemeanor.

#### **2.100.820 Reserved**

#### **2.100.830 Reserved**

#### **2.100.840 Reserved**

#### **2.100.850 Reserved**

#### **2.100.860 Junk Dealer's Record Of Sales And Purchases**

Every junk dealer shall keep a book in which shall be written, in ink in the English language, at the time of each and every purchase and sale a listing of the weight and metallic description of the sale or purchase, together with the full name and residence of the person or persons selling the junk, together with the full name and residence of the person or persons selling the junk, together with the date and place of the purchase and sale. No entry in the book shall be erased, mutilated, or changed. The book and entries shall at all times be open to inspection by the sheriff of the county or any of his deputies and by any member of the police force of this municipality, and any constable or other state, municipal, or county officials in this county, provided this part shall not apply to any sale of less than twenty pounds.

#### **2.100.870 Violation By Junk Dealer - Classification Of Offense**

Any junk dealer who shall be found guilty of a violation of any of the provisions of this part shall be guilty of a class B misdemeanor; provided that this part shall not be construed to in any way affect any tax, license or regulation otherwise imposed on any junk dealer.

#### **2.100.880 Junk Dealer To Obtain Statement From Sellers**

At the time of purchase by any junk dealer of any copper wire, pig, or pigs of metal or of any junk, as defined in this part, he shall obtain a signed and dated statement from the person or persons selling it as to when, where, and from whom the property was obtained and also the residence, address, and place of employment of the seller or sellers. The statement shall be retained for five years by the junk dealer and shall be subject to the provisions of section 2.100.860 relating to erasure, mutilation, or change and also to inspection.

#### **2.100.890 Falsification Or Seller's Statement To Junk Dealer**

Any seller who, in the making of his statement as required by this part in selling, offering, or trying to sell junk willfully makes a false statement or gives untrue information, shall be guilty of a class B misdemeanor.

## **2.110 Trademarks, Trade Names And Devices**

### **2.110.010 Definitions**

#### **2.110.020 Forging Or Counterfeiting Trademark, Trade Name Or Trade Device**

#### **2.110.030 Selling Goods Under Counterfeited Trademark, Trade Name Or Trade Device**

#### **2.110.040 Sales In Containers Bearing Registered Trademark Of Substituted Articles**

#### **2.110.050 Using, Destroying, Concealing Or Possessing Articles With Registered Trademark Or Service Mark To Deprive Owner Of Use Or Possession - Exception**

#### **2.110.060 Selling Or Dealing With Articles Bearing Registered Trademark Or Service Mark With Intent To Defraud**

#### **2.110.070 Use Of Registered Trademark Without Consent**

#### **2.110.080 Gambling**

#### **2.110.090 Definitions**

#### **2.110.100 Gambling**

#### **2.110.110 Gambling Fraud**

#### **2.110.120 Gambling Promotion**

#### **2.110.130 Possessing A Gambling Device Or Record**

#### **2.110.140 Failure Of Prosecuting Attorney Or Law Enforcement Officer To Prosecute Offenses**

#### **2.110.150 Seizure And Sale Of Devices Or Equipment Used For Gambling**

#### **2.110.160 Seizure And Disposition Of Gambling Debts Or Proceeds**

#### **2.110.170 Confidence Game - Punishment As For Theft - Description In Charge**

### **2.110.010 Definitions**

For the purpose of this part:

- A. "Forged trademark," "forged trade name," "forged trade device," and "counterfeited trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents, as used in this part, include every alteration or limitation of any trademark, trade name, or trade device so resembling the original as to be likely to deceive.
- B. "Trademark" or "trade name" or "trade device," as used in this part, includes every trademark registrable with the secretary of state.

### **2.110.020 Forging Or Counterfeiting Trademark, Trade Name Or Trade Device**

Every person who willfully forges or counterfeits, or procures to be forged or counterfeited any trademark, trade name, or trade device, usually affixed by any person, or by any association or union of workmen, to his or its goods, which has been filed in the office of the secretary of state, with intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed or intended to be affixed, as the goods of the person or association or union of workmen, is guilty of a class B misdemeanor.

### **2.110.030 Selling Goods Under Counterfeited Trademark, Trade Name Or Trade Device**

Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after it has been filed in the office of the secretary of state, intending to represent the goods as the genuine goods of another, knowing it be counterfeited, is guilty of a class B misdemeanor.

### **2.110.040 Sales In Containers Bearing Registered Trademark Of Substituted Articles**

Every person who has or uses any container or similar article bearing or having in any way connected with it the registered trademark of another for the purpose of disposing, with intent to deceive or defraud any article or substance other than the which the container of similar article originally contained or was connected with by the owner of such trademark is guilty of a class B misdemeanor.

### **2.110.050 Using, Destroying, Concealing Or Possessing Articles With Registered Trademark Or Service Mark To Deprive Owner Of Use Or Possession - Exception**

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, uses, destroys, conceals, or possess the article or who defaces or otherwise conceals the trademark or service mark upon the article with intent to deprive the owner of the use or possession of that article is guilty of a class B misdemeanor; provided, however, that nothing contained in this part shall be construed to apply to or restrict the transfer or use of wooden boxes or the reuse of burlap or cotton bags or sacks when those bags or sacks have been reversed inside out or the markings thereon have been concealed or obliterated to effectively demonstrate that the produce contained therein do not purport to be the products of the owner of the registered trademark or service mark theretofore put upon those bags.

### **2.110.060 Selling Or Dealing With Articles Bearing Registered Trademark Or Service Mark With Intent To Defraud**

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, knowingly sells or traffics in the articles or who withholds the articles from the owner thereof with intent to defraud the owner thereof, is guilty of a class B misdemeanor.

### **2.110.070 Use Of Registered Trademark Without Consent**

Every person who adopts or in any way uses the registered trademark of another, without the consent of the owner thereof, is guilty of a class B misdemeanor.

### **2.110.080 Gambling**

### **2.110.090 Definitions**

For the purpose of this part:

- A. "Gambling" means risking anything of value for a return of risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the

return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, and gambling includes a lottery; gambling does not include:

1. A lawful business transaction; or
  2. Playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.
- B. "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property or portion of it, or for any share or any interest in property upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it may be known.
- C. "Gambling bet" means money, checks credit, or any other representation of value.
- D. "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.
- E. "Gambling proceeds" means anything of value used in gambling.

#### **2.110.100 Gambling**

- A. A person is guilty of gambling if he:
1. Participates in gambling, or
  2. Knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented or under the control of the actor, whether in whole or in part.
- B. Gambling is a class B misdemeanor.

#### **2.110.110 Gambling Fraud**

- A. A person is guilty of gambling fraud if he participates in gambling and wins or acquires to himself or another any gambling proceeds when he knows he has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all participants.
- B. A person convicted of gambling fraud shall be punished as in the case of theft of property of like value, provided that the penalty shall not exceed a class B misdemeanor.

#### **2.110.120 Gambling Promotion**

- A. A person is guilty of gambling promotion if he derives or intends to derive an economic benefit other than personal winnings from gambling and:
1. He induces or aids another to engage in gambling; or
  2. He knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling.
- B. Gambling promotion is a class B misdemeanor.

#### **2.110.130 Possessing A Gambling Device Or Record**

- A. A person is guilty of possessing a gambling device or record if he knowingly possesses it with intent to use it in gambling.
- B. Possession of a gambling device or record is a class B misdemeanor.

#### **2.110.140 Failure Of Prosecuting Attorney Or Law Enforcement Officer To Prosecute Offenses**

Any prosecuting attorney or police officer who has reasonable cause to believe that any person has violated any provision of this part and shall thereafter fail or refuse to diligently prosecute such persons is guilty of a class B misdemeanor.

#### **2.110.150 Seizure And Sale Of Devices Or Equipment Used For Gambling**

- A. Whenever the justice of the peace shall determine that any devices or equipment is used or kept for the purpose of being used for gambling, he may notify the governing body and/or the chief of police and may authorize the chief of police to seize such devices and to hold them for sale at the best price obtainable pending a hearing before the justice of the peace. After the hearing has been properly scheduled and all parties having an interest in the devices have been notified of the hearing, the justice of the peace may order the devices seized and declare them to be the property of this municipality. The Court may then order the devices sold for the best price obtainable. The sale shall be made to a person of good character and repute who is a bona fide resident of the state wherein it is lawful to use such equipment. The officials conducting the sale shall place the equipment on a public carrier, properly co-signed to the purchaser at his place of residence.
- B. The proceeds of any sale shall be paid to the municipal treasury.
- C. If no sale is consummated within ninety (90) days after authorization therefore, the devices or equipment shall be destroyed under the direction of the justice of the peace.

#### **2.110.160 Seizure And Disposition Of Gambling Debts Or Proceeds**

- A. At the commencement of any prosecution for a violation of this part any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized and they shall be held pending the disposition of the proceedings. At the conclusion of the proceedings, any person who is found guilty of a violation of this part shall forfeit any sums held by the Court which were acquired or being used in violation of this part. Any sums not identifiable, or in the event the individual is found not guilty, the sums shall be returned to him.
- B. A commencement of prosecution shall occur upon arrest, or issuance of a compliant, or citation, which ever occurs first.
- C. All sums forfeited under this section shall be paid into the treasury of the municipality conducting the prosecution.

#### **2.110.170 Confidence Game - Punishment As For Theft - Description In Charge**

- A. Any person who obtains or attempts to obtain from any other person any money or property by any means, instrument or device commonly called a confidence game shall be punished as in the case of theft of property of like value.
- B. In every complaint or citation under this section, it shall be deemed and held a sufficient description of the offense to charge that the accused did, on \_\_\_\_\_



(insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from \_\_\_\_\_ (insert name of the person or persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and by use of a confidence game.

## **2.120 Pornographic And Harmful Materials And Performances**

### **2.120.010 Definitions**

#### **2.120.020 Material Harmful To Minors - No Expert Witness Required**

#### **2.120.030 Pornographic Material Or Performance - Determination Of Predominant Appeal To Prurient Interest - Expert Testimony Not Required**

#### **2.120.040 Distributing Pornographic Material**

#### **2.120.050 Including Acceptance Of Pornographic Material**

#### **2.120.060 Dealing In Harmful Material To A Minor**

#### **2.120.070 Allowing Property Or Land To Be Used For Lewdness Or Obscenity**

#### **2.120.080 Affirmative Defenses**

#### **2.120.090 Seizure And Disposition Of Prohibited Materials - Injunctive Relief Against Sale And Distribution Of Material Or Performances Reserved**

### **2.120.010 Definitions**

For the purpose of this part:

- A. "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statute or other figure, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.
- B. "Performance" means any physical human bodily activity, whether engaged in along or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming.
- C. "Distribute" means to transfer possession of materials whether with or without consideration.
- D. "Knowingly" means an awareness, whether actual or constructive, of the character of material or of a performance. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is for the purpose of avoiding the disclosure or is criminally negligent.
- E. "Exhibit" means to show.
- F. "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks, with less than a full, opaque covering, or the showing of a female breast with less than a full, opaque covering, or any portion thereof below the top of the nipple or the depiction of covered male genitals in a discernibly turgid state.
- G. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.
- H. "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.
- I. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask, or in a revealing or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
- J. "Minor" means any person less than 18 years of age.
- K. "Harmful to minors" means the quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:
  - 1. Taken as a whole, appeals to the prurient interest in sex of minors;
  - 2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
  - 3. Taken as a whole, does not have serious value for minors. Serious value includes only serious literary, artistic, political or scientific value for minors.
  - 4. "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this act has occurred, is occurring, or will occur.
  - 5. "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

### **2.120.020 Material Harmful To Minors - No Expert Witness Required**

- A. In any prosecution dealing with an offense relating to harmful material to minors, the question whether the predominant appeal of the material is to prurient interest shall be determined with reference to average minors.
- B. Neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the harmful character of the material or performance which is the subject of a prosecution.

### **2.120.030 Pornographic Material Or Performance - Determination Of Predominant Appeal To Prurient Interest - Expert Testimony Not Required**

- A. Any material or performance is pornographic if:
  - 1. The average person, applying contemporary community standards finds that, taken as a whole, it appeals to prurient interest in sex;
  - 2. It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and
  - 3. Taken as a whole it does not have serious literary, artistic, political or scientific value.
- B. In prosecutions under this part, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.
- C. Neither the prosecution nor the defense shall be required to introduce expert witness testimony as to whether the material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

### **2.120.040 Distributing Pornographic Material**

- A. A person is guilty of distributing pornographic material when he knowingly:

1. Sends or brings any pornographic material into this municipality with intent to distribute or exhibit to others; or
  2. Prepares, publishes, prints, or possesses any pornographic material with intent to distribute or exhibit it to others; or
  3. Distributes or offers to distribute, exhibits or offers to exhibit, any pornographic material to others; or
  4. Writes, creates, or solicits the publication or advertising of pornographic material; or
  5. Promotes the distribution or exhibition of material which he represents to be pornographic; or
  6. Presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion thereof which makes it pornographic.
- B. Each distributing of pornographic material, as defined in this subsection A is a separate offense under this section. A separate offense shall be regarded as having been committed for each day's exhibition of any pornographic motion picture film and for each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.
- C. Each separate offense under this section is a class B misdemeanor punishable mandatory fine of not less than \$100 plus \$10.00 for each article exhibited up to a maximum of \$299.00 and by incarceration, without suspension of sentence in any way, for a term of not less than seven days.

#### **2.120.050 Including Acceptance Of Pornographic Material**

- A. A person is guilty of inducing acceptance of pornographic material when he knowingly:
1. Requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or
  2. Denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.
- B. A violation of this section is a class B misdemeanor punishable by a fine of not less than \$25.00 and by incarceration, without suspension of sentence in any way, for a term of not less than 14 days.

#### **2.120.060 Dealing In Harmful Material To A Minor**

- A. A person is guilty of dealing in harmful material when, knowing that a person is a minor, or having failed to exercise reasonable care in ascertaining the proper age of a minor, he:
1. Knowingly distributes or offers to distribute, exhibits or offers to exhibit, any harmful to a minor; or
  2. Produces, presents, or directs any performance before a minor, harmful to minors, or participates in any performance before a minor, harmful to minors; or
  3. Falsely pretends to be the parent or legal guardian of a minor and thereby causes the minor to be admitted to an exhibition of any harmful material.
- B. This section does not prohibit any parent or legal guardian from distributing any harmful material to his minor child or ward or for permitting his minor child or ward to attend an exhibition of any harmful material if the minor child or ward is accompanied by him. This section does not prohibit a person from exhibiting any harmful material to a minor child who is accompanied by his parent or legal guardian or by any person whom he reasonably believes to be the parent or legal guardian of that child.
- C. Each separate offense under this section is a class B misdemeanor punishable by a minimum mandatory fine of not less than \$25.00 plus \$10 for each article exhibited up to a maximum \$299.00 and by incarceration without suspension of sentence in any way, for a term of not less than 14 days.

#### **2.120.070 Allowing Property Or Land To Be Used For Lewdness Or Obscenity**

It shall be unlawful for a landlord or landowner to willfully or knowingly allow his property, or land to be used for the commercial exploitation of lewdness or obscenity.

- A. If a tenant or occupant of real property uses this property for an activity for which he or his employee is convicted under any provision of this part, the conviction makes void the lease or other title under which he holds at the option of the fee owner of any intermediate lessor; and ten days after the fee owner or any intermediate lessor gives notice in writing to the tenant or occupant that he is exercising the option, the right of possession to the property reverts to the person exercising the option. This option does not arise until all avenues of direct appeal from the conviction have been exhausted or abandoned by the tenant or occupants, or his employee.
- B. It shall be unlawful for a fee owner or intermediate lessor of real property to knowingly allow this property to be used for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances, by a tenant or occupant if the tenant or occupant, or his employee, has been convicted under any provision of this part of an offense occurring on the same property and all avenues of direct appeal from the conviction have been exhausted or abandoned.
1. "Allow" under this subsection B means a failure to exercise the option arising under subsection A within ten days after the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited by this subsection B.
  2. A willful violation of this subsection B is a class A misdemeanor and any fine assessed, if not paid within 30 days after judgment, shall become a lien upon the property.
- C. Any tenant or occupant who receives a notice in writing that the fee owner or intermediate lessor is exercising the option provided by subsection A and who does not quit the premises within ten days after the giving of that notice is guilty of a class A misdemeanor.

#### **2.120.080 Affirmative Defenses**

The following shall be affirmative defenses to prosecution under this part:

- A. It is an affirmative defense to prosecution under this part that the distribution of pornographic material was restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possession pornographic material.
- B. It is not a defense to prosecution under this part that the actor was a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise was required to violate any provision of this part incident to his employment.

#### **2.120.090 Seizure And Disposition Of Prohibited Materials - Injunctive Relief Against Sale And Distribution Of Material Or Performances Reserved**

#### **2.130 Prostitution**

2.130.010 Definitions  
2.130.020 Prostitution  
2.130.030 Patronizing A Prostitute  
2.130.040 Aiding Prostitution  
2.130.050 Exploiting Prostitution  
2.130.060 Reserved  
2.130.070 Perversion

#### **2.130.010 Definitions**

For the purposes of this part:

- A. "Sexual activity" means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.
- B. "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.
- C. "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.
- D. "Public place" means any place to which the public or any substantial group thereof has access.

#### **2.130.020 Prostitution**

- A. A person is guilty of prostitution when:
  - 1. He engages or offers or agrees to engage in any sexual activity with another person for a fee; or
  - 2. Is an inmate of a house of prostitution; or
  - 3. Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.
- B. Prostitution is a class B misdemeanor.

#### **2.130.030 Patronizing A Prostitute**

- A. A person is guilty of patronizing a prostitute when:
  - 1. He pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or
  - 2. He enters or remains in a house of prostitution for the purpose of engaging in sexual activity.
- B. Patronizing a prostitute is a class C misdemeanor.

#### **2.130.040 Aiding Prostitution**

- A. A person is guilty of aiding prostitution if he:
  - 1. Solicits a person to patronize a prostitute; or
  - 2. Procures or attempts to procure a prostitute for a patron; or
  - 3. Leases or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or
  - 4. Solicits, receives, or agrees to receive any benefit for doing any of the acts prohibited by this subsection.
- B. Aiding prostitution is a class B misdemeanor.

#### **2.130.050 Exploiting Prostitution**

- A. A person is guilty of exploiting prostitution if he:
  - 1. Procures an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate; or
  - 2. Encourages, induces or otherwise purposely causes another to become or remain a prostitute; or
  - 3. Transports a person into or within this municipality with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose; or
  - 4. Not being a child or legal dependent of a prostitute, shares the proceeds of prostitution with a prostitute pursuant to their understanding that he is to share therein.
  - 5. Owns, controls, manages, supervises, or otherwise keeps alone or in association with another a house of prostitution or a prostitute business.
- B. Exploiting prostitution is a class B misdemeanor.

#### **2.130.060 Reserved**

#### **2.130.070 Perversion**

It shall be a class B misdemeanor for any person to:

- A. Commit or offer or agree to commit a lewd act or an act of moral perversion.
- B. Secure or offer another for the purpose of committing a lewd act or an act of moral perversion.
- C. Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing, or procuring another to commit a lewd act or an act of prostitution or moral perversion.
- D. Make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view.
- E. Knowingly transport any person to any place for the purpose of committing a lewd act or an act of moral perversion.
- F. Knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.

- G. Direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.
- H. Aid, abet, allow, permit, or participate in the commission of any of the acts prohibited in sub-sections (a) through (g) above.

### **3 Municipal Procedures (Reserved)**

#### **3.10 Constitutional Takings**

#### **3.10 Constitutional Takings**

##### **3.10.010 Purpose**

##### **3.10.020 Definitions**

##### **3.10.030 Guidelines**

##### **3.10.040 Analysis**

##### **3.10.050 Appeals**

##### **3.10.060 Limitations**

#### **3.10.010 Purpose**

The Purpose of this section is to provide advisory guidelines for the city to assist the city in identifying actions that involve physical taking or exaction of private real property that may have constitutional taking issues.

#### **3.10.020 Definitions**

As used herein:

- A. Constitutional taking issues – this means action involving the physical or regulatory taking of private property by the city that might require compensation to a private real property owner under:
  - 1. The Fifth or Fourteenth Amendment of the constitution of the United States;
  - 2. Article I, Section 22 of the Utah Constitution; or
  - 3. Any recent court ruling governing the physical or regulatory taking of private real property by a governmental entity.

#### **3.10.030 Guidelines**

The following guidelines shall be considered by the city when determining any action that might result in the physical or regulatory taking of private real property.

- A. Identification. The city should review the following to determine and identify whether a proposed governmental action raises constitutional taking issues.
- B. Does the action result in a permanent physical occupation of private property?
- C. Does the action require a property owner to dedicate property or grant an easement to the city?
- D. Does the action deprive the property owner of all economically viable uses of the property?
- E. Does the action have a severe impact on the property owner's economic interest.
- F. Does the action deny a fundamental attribute of ownership?

#### **3.10.040 Analysis**

If the city determines that a governmental action involves constitutional taking issues, the proposed action should be reviewed by the city to analyze the possible taking and to determine the action to be pursued. In reviewing the proposed action, the following factors may be analyzed.

- A. The affect the potential taking would have on the use or value of the private property;
- B. The likelihood that the action may result in a constitutional taking;
- C. Any alternative to the proposed action that would fulfill the city's lawful objectives and reduce the risk of a constitutional taking;
- D. The cost to the city for payment of compensation if a taking is determined;
- E. The governmental interest involved and its nexus to the potential taking; and
- F. If the action is roughly proportionate or reasonable related to the impact of any proposed development.

#### **3.10.050 Appeals**

Any owner of private property whose interest in the property is subject to a physical or regulatory taking by the city, pursuant to a final and authoritative decision or action of the city, may appeal the city's decision or action by filing a written notice of appeal and statement of the grounds for the appeal in the city recorder's office within thirty (30) days from the date of the city's decision of action. The city council or its designee shall hear all evidence regarding the appeal and render its decision and findings in writing within fourteen (14) days from the date the appeal was filed. If the city fails to hear and decide the appeal within fourteen (14) days, the city's decision or action is presumed to be approved.

#### **3.10.060 Limitations**

The guidelines set forth herein are advisory and shall not be construed to expand not limit the scope of the city's liability for a constitutional taking. The city shall have no legal liability to any person, firm or entity of any nature whatsoever and a court may not impose liability upon the city for failure to comply with the provisions of this chapter.

## **4 Business Licensing**

[4.10 Construction Contractors](#)

[4.40 Home Occupation Ordinance](#)

[4.50 Businesses Engaged In The Sale Of Alcoholic Beverages](#)

[4.60 Sexually Oriented Businesses](#)

### **4.10 Construction Contractors**

[4.10.310 Purpose](#)

[4.10.320 Definitions](#)

[4.10.330 Doing Business Without Registration And A License Unlawful](#)

[4.10.340 Registration](#)

[4.10.350 Job License For Each Contract](#)

[4.10.360 Job License Fee](#)

[4.10.370 Records - Inspection](#)

[4.10.380 Regulations](#)

[4.10.400 Public Dances And Cabarets \(Reserved\)](#)

[4.10.500 Solicitors, Canvassers, Peddlers And Itinerant Merchants](#)

[4.10.510 License Required](#)

[4.10.520 Definitions](#)

[4.10.530 Application For License](#)

[4.10.540 Investigation And Issuance Of License](#)

[4.10.550 Fees](#)

[4.10.560 Licenses, Badges, Revocation, Expiration, Appeal](#)

[4.10.570 Additional Requirements](#)

[4.10.580 Exceptions](#)

#### **4.10.310 Purpose**

The purpose of this part is to establish a system of imposing license fees upon persons engaging in business within the limits of the municipality as contractors. The licenses are designed to be determined upon the basis of each contract or job being performed. It is the opinion of the governing body that this method of determining the amount of fee will result in fair taxation and will not discriminate against the contractor who performs only a few jobs within the municipal limits as distinguished from the contractor who performs many.

#### **4.10.320 Definitions**

- A. "Contractor" means any person, firm, co-partnership, corporation, association, or other organization, or any combination thereof, who for a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes any building, highway, road, railroad, excavation or other structure, project, development, or improvement, other than to personality, or any part thereof; provided, that the term contractor, as used in this part, shall include anyone who builds more than one structure on his own property during any one year for the purpose of sale and shall include subcontractors, but shall not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractors as herein defined.
- B. Types of Contractors: As an illustrative list of contractors subject to the provisions of this part, but not in limitation thereof, the following occupations are subject to this part: general contractors, specialty contractors of all kinds, such as, but not limited to those engaged in the business of installing, repairing or otherwise performing services in connection with: acoustical tile and roof decking; awnings, storm doors, and windows; air conditioning, dry-heating, sheet metal; boilers, steam fitting; carpentry; cement and concrete; ceramic tile; cabinet and millwork; composition floor, countertops, tile; carpet; drywall; elevator installation; electrical; excavating and grading; fencing; floor coverings; fire prevention (structural); furnaces and burners; glazing; industrial piping; iron and bronze (ornamental); insulation; landscaping; lathing; lawn sprinklers; masonry; mosaic tile and terrazzo; overhead doors; painting and paper hanging; pest control (structural); plastering; plumbing and wet heating; roofing and siding; swimming pool; signs, stone masonry; sewer installation; steel reinforcing and erection; tanks (structural); waterproofing; weather stripping; welding; wrecking and demolition; wood floor laying and finishing.

#### **4.10.330 Doing Business Without Registration And A License Unlawful**

Any person desiring to engage in business as a contractor within the corporate limits of this municipality must comply with the following requirement: Prior to engaging in any subject business activity during any calendar year, he must register for the calendar year as a contractor by completing and filing a registration form in the office of the recorder/clerk.

#### **4.10.340 Registration**

- A. Any person desiring to engage in business as a contractor shall complete and file in the office of the recorder/clerk a registration form provided to him by the municipality which shall show:
  - 1. The name of the contractor.
  - 2. The address and telephone number of the contractor.
  - 3. The type of organization, e.g., corporation, partnership, or sole proprietor.
  - 4. If a partnership or a corporation or other artificial person, the name, address, and telephone number of the person responsible for the functions of the organization:
    - a. Whether or not licensed under the contractor's license law of the state of Utah; if so, the license number of the contractor.
    - b. Type of business in which registrant seeks to engage, e.g., general contractor or one of the specialty contractors.
    - c. Such other information as the governing body may by regulation require.
- B. Any person seeking to register for the privilege of doing business as a contractor within the limits of this municipality for any calendar year, or any part thereof, shall pay an annual registration fee of \$5.00.

#### **4.10.350 Job License For Each Contract**

- A. Any person desiring to perform services as a contractor shall, in addition to registering, as above required, secure a job license granting to him the privilege of performing the services required of him for each contract or job which he proposes to complete.
- B. Any person seeking said job license for a contract or job shall complete an application thereof, on forms provided him by the municipality. The application shall set forth:
  1. The name and address of the contractor.
  2. His municipal registration number.
  3. The number of his state contractor's license.
  4. The person by whom he is engaged to perform services as a contractor.
  5. The address of said person.
  6. The location at which the said contractor's services are to be performed.
  7. The type of services that are to be performed, e.g., as a general contractor, as one of the specialty contractors.
  8. The contract amount.

#### **4.10.360 Job License Fee**

Every contractor, for the privilege of engaging in the business of performing said services, shall pay the amount set forth in the appropriate appendix to this code.

#### **4.10.370 Records - Inspection**

All persons registered pursuant to this part for the privilege of doing business as contractors, and all persons who engage in doing business as contractors, shall maintain records of all services performed by them as contractors within the corporate limits of this municipality. The records shall disclose the person from whom the services are performed and the contract price or charge made for the services and such other information as the governing body may, by regulation, require. The persons shall maintain such records at their office or principal place of business and shall permit officials or agents of the municipality to inspect said records for the purpose of determining whether or not said persons have complied with the requirements of this license part.

#### **4.10.380 Regulations**

The governing body may adopt such regulations as in its opinion are necessary to implement this part and the objectives thereof.

#### **4.10.400 Public Dances And Cabarets (Reserved)**

#### **4.10.500 Solicitors, Canvassers, Peddlers And Itinerant Merchants**

##### **4.10.510 License Required**

- A. A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefore in compliance with the provisions of this part.
- B. Any person to engage in the business of peddler without first obtaining a permit and license therefore as provided in this part.
- C. Any solicitor or canvasser to engage in such business without first obtaining a permit and license therefore in compliance with the provisions of this part.

##### **4.10.520 Definitions**

- A. "Transient merchant," "itinerant merchant" or "itinerant vendor" is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the municipality, who engages in a temporary business of selling and delivering goods, wares and merchandise within the municipality, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this part merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.
- B. "Peddler" as used in this part shall include any person, whether or not a resident of the municipality, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this part shall be deemed a peddler subject to the provisions of this part. The word "peddler" shall include the words "hawker" and "huckster".
- C. "Canvasser" or "solicitor" means any individual whether or not a resident of the municipality, traveling either by foot, wagon, motor vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future deliver, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales, provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the municipality for the sole purpose of exhibiting samples and taking orders for future delivery.

##### **4.10.530 Application For License**

- A. Applicants for permits and licenses under this part, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the recorder/clerk which shall give the following information:
  1. The name of the applicant, and if the applicant is an employee or agent of a corporation, the name of the corporation.
  2. The address of the applicant, and if the applicant is an agent or employee of a corporation, the address of the corporation.
  3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
  4. If the applicant is employed by an agent of another person, the name and permanent address of such other person or persons.



5. The length of time for which the applicant desires to engage in business within the municipality.
6. The place or places within the municipality where the applicant proposes to carry on his or her business.
7. A list of the other municipalities in which the applicant has engaged in business within the six month period preceding the date of the application.
8. A photograph of the applicant, taken within six months immediately prior to the date of filing the application, which photograph shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
9. A statement as to whether or not the applicant, or any of his employers have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.
10. If the applicant desires to sell fresh vegetables, fruits, meats, or other foodstuffs, a statement by a reputable physician of the state of Utah, dated not more than ten days prior to submission of the application, certifying the applicant to be free of infectious, contagious, communicable diseases.
11. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the state of Utah.

B. At the time of filing the application, a fee of \$15.00, which shall be deposited with the recorder / clerk, is required.

#### **4.10.540 Investigation And Issuance Of License**

- A. On receiving the application, the recorder / clerk shall refer it to the chief of police who shall cause such investigation of the applicant's business and moral character to be made as he deems reasonable and necessary for the protection of the public good.
- B. If as a result of the investigation the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse such upon the application together with a statement of his reasons therefore and return the application to the recorder / clerk who shall notify the applicant that his application has been disapproved and that no permit and license will be issued.
- C. If as a result of such investigation, the character and business responsibility of the applicant is found to be satisfactory, the chief of police shall endorse such upon the application and return it to the recorder / clerk who shall upon payment of the prescribed license fee deliver to the applicant his permit and issue a license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee and the kind of goods to be sold pursuant to the application together with expiration date.

#### **4.10.550 Fees**

- A. The license fee which shall be charged by the recorder / clerk for any license issued pursuant to this part shall be \$1.00 per day, \$5.00 per week, \$10.00 per month, or \$30 per year.
- B. None of the license fees provided for by this part shall be applied so as to engage an undue burden upon interstate commerce. In any case where a license fee is believed by the licensee or applicant for license to place an undue burden upon interstate commerce, he or she may apply to the mayor for an adjustment of the fee so that it will not be discriminatory, unreasonable, or unfair to interstate commerce. Such application may be made before, at or within six months after paying the prescribed license fee.

#### **4.10.560 Licenses, Badges, Revocation, Expiration, Appeal**

- A. A recorder / clerk shall issue to each license at the time of delivery of his license a badge which shall contain the words "License Solicitor," "Licensed Transient Merchant," or "Licensed Peddler" as the case may be, for which the application was made and the license issued, and the number of the license, in letters and figures easily discernible from a distance of five feet. Such badge shall, during the time peddlers and solicitors are engaged in the business for which they are licensed, be worn constantly by them on the front of their outer garment in such a way as to be conspicuous.
- B. Any person licensed pursuant to this part shall exhibit their license at the request of any citizen of the municipality.
- C. It shall be the duty of any police officer of this municipality to require any person seen soliciting, canvassing or peddling, and who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this part.
- D. Revocation of license.
  1. Permits and licenses issued pursuant to this part may be revoked by the chief of police or the recorder / clerk, after notice and hearing, for any of the following causes:
    - a. Fraud, misrepresentation or a false statement contained in the application for the license.
    - b. Fraud, misrepresentation for false statement made in the course of carrying on his business as solicitor or canvasser.
    - c. Any violation of this part.
    - d. Conviction of any crime or misdemeanor involving moral turpitude.
    - e. Conducting the business of soliciting, or of canvassing in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public
  2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage paid, to the license at his last known address or at the address shown on his application. The hearing and notice shall in all other aspects substantially comply with Chapter 1.40.
- E. Any person aggrieved by the action of the chief of police or the recorder / clerk in the denial of a permit or a license issued pursuant to this part, or by the action of the city council of the municipality. Such appeal shall be taken by filing with the council within 14 days after notice of the action complained of has been mailed to such person's last known address or address on this business application, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as above provided in section D.
- F. All licenses issued pursuant to this part shall expire on the date specified on the license.

#### **4.10.570 Additional Requirements**

This part shall not be construed so as to waive the provisions and requirements of any other ordinance of this municipality and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of this municipality.

#### **4.10.580 Exceptions**

The provisions of this part shall not apply to any individual who is at the time he is engaged in any activity which would otherwise require licensing by this part, engaged in any

activity which is authorized by any church or charity which has a permanent structure located within the state of Utah, provided such church or charity has had such permanent for at least six months prior to the date when the individuals engaged in the activity which would otherwise require licensing by this part.

#### **4.40 Home Occupation Ordinance**

4.40.010 Purpose

4.40.020 Home Occupations Permitted

4.40.030 Standards For Permitted Occupations

4.40.040 Home Occupations Permitted By Conditional Use Permit Only

4.40.050 Standards For The Conditional Use Occupation

4.40.060 Home Occupations Prohibited

4.40.070 Application

4.40.080 Home Occupation Business License Review

4.40.090 Loss Of Home Occupation Use

4.40.100 Appeals

4.40.110 Existing Home Occupation Licenses

4.40.120 Non-Transferability

#### **4.40.010 Purpose**

The Hyde Park City Council has determined that the following amendments to Chapters 11, A-1;12, RE-20; and 13, R-1; dealing with the residential zones of the City need to be made to permit the establishment of Home Occupations in these residential zones of the City and to ensure that the Home Occupations are compatible with the zone in which they are located. The Home Occupation will be in keeping with the character and appearance of the residential neighborhood and will not adversely affect the desirability or stability of the neighborhood.

#### **4.40.020 Home Occupations Permitted**

Subject to compliance with the standards specified in Section 2.1 of this Ordinance, the following occupations shall be permitted as Home Occupations subject only to approval by the Land Use Authority.

- A. Activities where the work of the business requires only limited clientele to come to the home for services.
- B. Activities where the entire work for the business, except for record keeping and telephone are conducted off of the premises.

#### **4.40.030 Standards For Permitted Occupations**

All Home Occupations allowed, as a Permitted Use, shall comply with the following standards:

- A. The Home Occupation must be clearly incidental and secondary to the primary use of the dwelling for residential purposes.
- B. The Home Occupation shall not be conducted in, or in any way use the carport or any portion of the yard.
- C. The Home Occupation work conducted at the residence shall not involve any employees other than persons lawfully living in the residence.
- D. The residence must be the principal residence of the applicant.
- E. Other than the applicant's personal transportation they may have one company vehicle (car or truck) and one company trailer (open or enclosed) in their driveway or on a parking pad.
- F. Tools, items, equipment or occupations, which are offensive or noxious by reason of the emission of odor, smoke, gas, vibration, magnetic interference or noise, are prohibited.
- G. Stock in trade, inventory, or other merchandise shall be allowed to be kept only in one room of the dwelling and limited to one hundred (100) square feet of floor space.
- H. Clients or customers coming to the home shall not generate any unusual vehicular traffic or parking needs.
- I. The Home Occupation shall not require any internal alterations or any external alterations to the residence, nor provide any visible evidence from the exterior that the building is being used for any other purpose than that of a residence.
- J. No signs will be allowed.

#### **4.40.040 Home Occupations Permitted By Conditional Use Permit Only**

Home occupations that require a client to come to the home for sales or personal or professional services, and anyone listed under 2.0 Permitted, but does not meet the Standards 2.1; may be authorized by the Land Use Authority as an accessory use only by Conditional Use Permit pursuant to the provisions of this Ordinance.

A public hearing will be required for home occupations requiring a conditional use permit. The Land Use Authority will hold the public hearing.

#### **4.40.050 Standards For The Conditional Use Occupation**

The Land Use Authority shall issue a conditional use permit and business license for a Home Occupation if it is found that:

- A. The provisions of Section 2.1 are satisfied; unless superceded by 3.1;
- B. The Home Occupation shall be conducted completely within the walls of the residence and/or accessory building(s) or an area enclosed by a privacy fence (chain link and slats is not an appropriate screen for a residential zone) as approved by the Land Use Authority. The purpose of the fence is to obscure from view items within the enclosure. A written plan including a site plan shall be provided to the City by the applicant showing the intent to comply with the said ordinance including but not limited to, where specific equipment will be located, the portion of the yard to be fenced, and other items pertinent to the particular business.
- C. The Home Occupation will be in keeping with the character and appearance of the residential neighborhood and will not adversely affect the desirability or stability of the neighborhood.
- D. The Home Occupation does not diminish the use and enjoyment of adjacent properties or create an adverse parking or traffic impact on adjacent streets or properties. There shall be no display outside the home or accessory building(s). Outside storage of materials, machinery and/or equipment used in the conduct of the business is prohibited with the exception of one vehicle and one trailer, (open or closed) associated with the business, (unless they are kept within an enclosed building or

screened area). The vehicle must be parked on the business property, not overlapping or infringing on adjoining property. Items on or in trailers shall be contained or restrained so as to not create a nuisance, i.e., materials, debris, smells, hazards etc. No overnight parking of trailers or large equipment on the street is allowed. No vehicle shall block the view or impede traffic flow on the street.

- E. The Home Occupation will not negatively impact the future use of the property as a residence;
- F. The Home Occupation will not adversely affect the public health, safety or welfare. All materials, waste products, etc. must be stored either within the residence or in an accessory building(s). Any hazardous materials associated with a home-based business shall require an inspection of the premises by the city fire marshal and /or building inspector to ensure compliance with building code requirements and applicable state and federal requirements. A written disclosure statement shall be provided to the city specifying what type of chemicals will be stored, quantities stored and location of storage.
- G. The Home Occupation will conform with all local, state and federal employment laws, fire, building, plumbing, electrical and health codes.
- H. The Home Occupation owner shall be required to sign the conditional use permit agreeing to the conditions set by the Land Use Authority.

#### **4.40.060 Home Occupations Prohibited**

The following businesses, regardless of their conformance with the standards in Section 2.1 or Section 3.1 of this Ordinance are prohibited as Home Occupations:

- A. Auto repairs
- B. Kennels
- C. Welding or Machine shops
- D. Major appliance or equipment repair or service
- E. Cabinet making
- F. Stables
- G. Taxidermy

#### **4.40.070 Application**

Applications for a Home Occupation business license shall be filed with the Hyde Park City Office for review by appropriate personnel. The applications shall include the following information:

- A. Description of the type of business proposed
- B. A listing of the individuals at the home who will be working on the business
- C. The expected hours of operation of the business
- D. Portion of the residence to be used for business

#### **4.40.080 Home Occupation Business License Review**

All home occupation business licenses are subject to review at any time, at the City's discretion for compliance with all sections of this Ordinance. Complaints regarding the home occupation business may cause a review and possible revocation of the license and/or conditional use permit.

#### **4.40.090 Loss Of Home Occupation Use**

The City Council or its authorized representative may terminate any Home Occupation use upon making findings that support any of the following conclusions:

- A. Any of the required license or permits necessary for the operation of the business have been revoked or suspended; or
- B. Any of the provisions of this Zoning Ordinance have been violated.
- C. The Home Occupation has outgrown its location by material or equipment not being enclosed or reasonably screened as per 3.1-D.

#### **4.40.100 Appeals**

Any person adversely affected by the denial or issuance of a permit for a Home Occupation business license may appeal that decision to the Appeal Authority.

#### **4.40.110 Existing Home Occupation Licenses**

Existing licenses for Home Occupations which were legal under the prior Zoning Ordinance regulating Home Occupations, but which are not permitted under this Zoning Ordinance may be kept and reissued to the original licensee for the subsequent year. Any existing licenses for Home Occupations, which were not legal under prior Zoning Ordinance regulations governing Home Occupations, shall not be reissued. Any change to existing home occupations will require conformance to the current ordinance. Existing home occupations must meet the requirements of the current ordinance within one year.

#### **4.40.120 Non-Transferability**

Permits for Home Occupations are personal to the applicant, non-transferable and do not run with the land.

### **4.50 Businesses Engaged In The Sale Of Alcoholic Beverages**

4.50.010 License To Sell Alcoholic Beverage At Retail

4.50.020 Definitions

4.50.030 Retail Licenses

4.50.040 Alcoholic Beverages License Fees

4.50.050 License Fees To Accompany Application

4.50.060 Purchase Of Alcoholic Beverages For Resale

4.50.070 Application Determination By Land Use Authority Level 4

4.50.080 Applications Referred To Chief Of Police

4.50.090 Renewals

4.50.100 Qualifications

4.50.110 Bond Required

4.50.120 Department Of Health Permit

4.50.130 Transfer Of License  
4.50.140 Other Restrictions  
4.50.150 Resolution  
4.50.160 Inspection  
4.50.170 Current Status Of Other Charges  
4.50.180 Revocation Of Suspension  
4.50.190 Application For Licenses  
4.50.200 Alcohol License Schedule

#### **4.50.010 License To Sell Alcoholic Beverage At Retail**

With respect to the issuance of any licenses to sell alcoholic beverages within Hyde Park City, it is the policy of the City to neither promote nor encourage the sale or consumption of alcoholic beverages, but to license, tax, and regulate the sale or other distribution of alcoholic beverages in such a way as to protect the public interest, including the rights of citizens who do not wish to be involved in any substantive way with alcoholic beverages. It is the general policy of the city that businesses whose primary focus is the sale of alcoholic beverages shall not be allowed in the City; and businesses selling beer for consumption off-premises, shall be restricted in number. Restaurant liquor licenses will only be issued to business establishments where the consumption of alcoholic beverages is controlled by trained managers of the business and trained servers at the table, where complete meals are prepared and served to the general public. It is the intent of this ordinance that restaurants that are permitted to sell and serve alcoholic products only do so in conjunction with meals and in restaurants that are of a type and character that bring to this community a commitment to providing high quality dining opportunities for residents and visitors to this City. The number of licenses allowed in the City as described herein, are to be determined by the City, after a public hearing. Said licensees, if any, shall be controlled by this ordinance, but the number of such licenses and related fees shall be separately regulated from this ordinance that shall control said licenses.

- A. It shall be a Class B Misdemeanor for any person to engage in the business of selling alcoholic beverages without first having procured a license therefor from the governing body and paid the license fee required by this part.
- B. It shall be a Class B Misdemeanor for any person to sell alcoholic beverages after the revocation of the license issued pursuant to this part.
- C. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the Utah Alcoholic Beverage Control Act and the rules of the Alcoholic Beverage Control Commission.

#### **4.50.020 Definitions**

The words and phrases used in this part shall have the meanings specified in the Utah Alcoholic Beverage Control Act unless a different meaning is clearly evident.

#### **4.50.030 Retail Licenses**

Retail licenses issued hereunder shall be of the following five classes and shall carry the following privileges and be known as:

- A. Consumption Off Premises Beer License shall entitle the licensee to sell beer on the licensed premises in the original containers for consumption off the premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality.
- B. On Premise Beer Retailer License shall entitle the licensee to sell beer in the original containers or on draft on the licensed premises for consumption on the premises; or sell beer on the licensed premises in sealed containers for consumption off-premises in accordance with the Utah Alcoholic Beverage Control Act. Total sales from beer is not to exceed thirty (30) percent of the business's gross sales. Sale of beer to patrons is contingent upon ordering food with any beer purchased.
- C. Limited Restaurant License shall entitle the licensee to sell beer, heavy beer, or wine on the licensed premises for consumption on the premises in accordance with the Utah Alcoholic Beverage Control Act. Sale of any alcoholic beverage to patrons is contingent upon ordering food with any alcoholic beverage purchased. Total sales from alcoholic beverages is not to exceed thirty (30) percent of the business's gross sales. Further, no more than thirty (30) percent of the retail floor area of the licensee's restaurant may be utilized as a bar.
- D. On Premise Banquet License shall entitle the licensee to sell alcoholic beverages (beer, wines and liquors) for consumption in connection with the licensee's banquet and room service activities on the licensed premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality.
- E. Restaurant Liquor License shall entitle the licensee to sell alcoholic beverages (beer, wines and liquors) for consumption on the licensed premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of this municipality. Total sales from alcohol shall not exceed thirty (30) percent of restaurant's gross sales.

#### **4.50.040 Alcoholic Beverages License Fees**

In addition to any other business license fees which any person or place of business may be required to pay, there is hereby imposed on any business location of every person engaged in the sale or dispensing of alcoholic beverages an annual license fee for each of the above listed licenses. Amount of license fee is to be specified by resolution adopted by the City Council.

#### **4.50.050 License Fees To Accompany Application**

Applications provided for in this part shall be accompanied by the fees provided in this part. The fee shall be returned to the applicant if the application is denied.

#### **4.50.060 Purchase Of Alcoholic Beverages For Resale**

It is a Class B Misdemeanor for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution any alcoholic beverages except that which he shall have lawfully purchased from the State or from a brewer or wholesaler licensed under the provisions of the Utah Alcoholic Beverage Control Act.

#### **4.50.070 Application Determination By Land Use Authority Level 4**

- A. The Land Use Authority is hereby delegated the authority to process, grant or deny all alcoholic beverage license applications, subject to the total number of licenses allowed and other provisions of this Chapter, and state and federal law and regulations.
- B. Whenever the Land Use Authority shall determine that an application for an alcoholic beverage license, transfer renewal is complete the LUA shall approve or deny such application.
- C. Whenever the LUA shall deny any application, the LUA shall specify in writing

1. The statutes, ordinances and standards used in evaluating the application;
2. The reasons for denial; and
3. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

D. Any applicant denied a license or refused a renewal of a license may request a hearing before the City Council pursuant to Section 9-418 of this Chapter. Any action to revoke or suspend a license must be taken by the governing body pursuant to Section 9-418 of this Chapter.

#### **4.50.080 Applications Referred To Chief Of Police**

- A. All applications filed in accordance with the provisions of this part shall be referred to the Chief of Police for inspection and report.
- B. The Chief of Police shall when possible within 30 days after receiving such application make report to the governing body of the general reputation and character of the applicant and all persons named in the application as partners, officers, shareholders, directors and their criminal records, if any, and to the proximity of such premises to any public or private school; church; public library; or public playground /park.
- C. The Chief of Police shall also add to such report his recommendation as to whether or not the application should be granted.

#### **4.50.090 Renewals**

- A. All applications for renewal licenses filed by the holders of existing licenses shall be filed with the recorder/clerk at least thirty days prior to the expiration date of the then issued license and shall be accompanied by the fees required by this chapter.
- B. Any person who fails to file such application within the stated time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed and/or discontinue the sale of alcoholic beverages, if the business can continue without the sale of alcoholic beverages, until the date his new license is issued by the governing body.

#### **4.50.100 Qualifications**

No license shall be granted to any applicant or business to sell alcoholic beverages within the municipality unless the applicant shall meet the qualifications as set forth in the Utah Alcoholic Beverage Control Act.

#### **4.50.110 Bond Required**

No license required by this part shall be granted by the governing body until the applicant therefor shall post a cash or corporate surety bond in the penal sum of \$1,000 payable to the City, which the licensee has procured and must maintain for so long as the licensee continues to operate as a business selling alcoholic beverages. The bond shall be in a form approved by the City, conditioned upon the licensee's faithful compliance with this title and the Utah Alcoholic Beverage Control Act. If the \$1,000 surety bond is canceled due to the licensee's negligence, a \$300 reinstatement fee may be assessed. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by a licensee may be forfeited if the license is finally revoked. All licensees shall procure and maintain such bonds as are required by the Utah Alcoholic Beverage Control Act.

#### **4.50.120 Department Of Health Permit**

No license under this part shall be issued until the applicant therefor shall have first procured from the Department of Health of the State and/or County a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution or sale of alcoholic beverages complies with all the health regulations of this municipality and the State of Utah.

#### **4.50.130 Transfer Of License**

Licenses issued pursuant to this part shall not be transferable, and if revoked by the governing body, the fee paid by the licensee to the municipality for the license shall be forfeited to the municipality.

#### **4.50.140 Other Restrictions**

Hyde Park alcohol restrictions will follow the Utah Alcohol Beverage Control Act, unless it is determined to implement a stricter policy. All restrictions will be determined by the City Council after holding a public hearing. Restrictions are specified in the "Hyde Park City Alcohol Schedule".

- A. Time of Day When Alcohol May be Sold. The licensee shall only be permitted to sell alcoholic beverages during the times of the day consistent with the Utah Alcoholic Beverage Control Act.
- B. Restrictions on the Number of licenses, Days and/or times of sale will be enumerated in the accompanying document passed by resolution of the Hyde Park City Council.  
In the event this section affects the right of any person to continue in business by reason of the annexation of that person's property into the municipality, the governing body may grant consent and authorize On Premise Beer Retailer Licenses, Limited Restaurant Licenses, On Premise Banquet Licenses, Private Club with Liquor License or Restaurant With Liquor Licenses to be issued to such person in addition to the number of licenses (grants for local consent) permitted by this section.
- C. Proximity. No licenses shall be issued to any person to sell alcoholic beverages where the licensed premises would be located closer to any public or private school; church; public library; or public playground /park than that which is permitted by the Utah Alcoholic Beverage Control Act.
- D. Storage of Alcoholic Beverages to be Out Of Sight: Any facility in which alcoholic beverages are allowed to be consumed on premises shall store the alcoholic beverages in such a manner that they are kept substantially out of sight from the public. Bottles or other containers meant for holding alcoholic beverages (even if such containers are empty) shall not be used as decorations or otherwise displayed to the public, particularly in the lobby or general waiting areas of the premises. The display and storage of bottles or other containers for holding alcoholic beverages in other areas of the licensed premises shall be limited to such display as is reasonably necessary to properly store said containers, while having them available for the preparation and service of alcoholic beverages, as allowed by law.
- E. Sign Restrictions for Restaurants and other Retail Locations with Liquor Licenses: Any person seeking a Liquor License shall submit a signed agreement with the person's application agreeing that the Licensee shall not have any signs in the windows or on the exterior of the licensed premises, which advertise or promote the sale of alcoholic beverages, whether by brand or generally. All information regarding alcohol product availability, price and factual information regarding product qualities shall only be provided on menus and price lists, as allowed by Alcohol Beverage Control Commission Rules and Regulations, provided that product-related signs may be placed in the areas of the restaurant where alcoholic beverages are prepared.

- F. Restriction on Alcohol-Related Promotional Activities or Events: Any person seeking a Restaurant with Liquor License shall submit a signed agreement with the person's application agreeing that no promotional or advertising events or activities will be conducted on the licensed premises using any alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or any equipment to promote the use of alcoholic products or the increased consumption of alcoholic products inasmuch as Restaurants with Liquor Licenses are frequented by patrons under the age of 21 years. Such promotions and advertising are not in keeping with the City's stated intent to encourage Restaurants of a type and character that bring a commitment to high quality to the community.
- G. Attire and Conduct Restrictions. Any person seeking a Restaurant with Liquor License, shall submit a signed agreement with the person's application agreeing to strictly comply with Section 32A-1-601 through 604, Utah Court Annotated, 1953, as amended, and as it may be amended in the future, which is entitled the "Attire, Conduct and Entertainment Act." In addition to the state-imposed requirements of said Act, all employees and agents of the Licensee shall at all times be tastefully and fully-clothed, in furtherance of the City's stated intent to encourage Restaurants of a type and character that brings a commitment to high quality to the community.

#### **4.50.150 Resolution**

All restrictions, including but not limited to, the number of licenses available, days and hours alcohol may be sold shall be determined by resolution of the City Council, after holding a public hearing and shall be included in the "Hyde Park City Alcohol Schedule".

#### **4.50.160 Inspection**

- A. All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the municipality or the Alcoholic Beverage Control Commission, or the Board of Health, and every licensee shall, at the request of the Board of Health furnish to it samples of alcoholic beverages which the licensee shall have for sale.
- B. Any license granted pursuant to this part may be revoked on a finding by the governing body that the licensee has had ten days or more notice from the Board of Health that the licensee is violating one or more health ordinances, rules or regulations of this municipality or of the Utah Division of Health and has failed to comply with such health ordinance, rule or regulation.

#### **4.50.170 Current Status Of Other Charges**

No license provided in this chapter shall be issued to or renewed for any applicant who is delinquent in payment to the City for his business license fees, or who is otherwise delinquent in the payment of amounts due to the City. Failure to pay business license fees, annual alcoholic beverage license fees or other charges properly assessed by the City for any reason promptly when due shall be the basis for suspension or revocation of a license issued under this chapter.

#### **4.50.180 Revocation Of Suspension**

- A. The governing body may, after notice and a hearing, revoke, suspend or affirm or reverse the Land Use Authority's refusal to renew any license issued under this chapter. Such action shall be taken in accordance with the following guidelines:
1. Such action may be taken by the council on a finding by it that the licensee or one or more of his/its partners, managers, officers, directors, shareholders as specified in this chapter, agents or employees, or any one of them have violated any of the provisions of this chapter or any ordinance of the City or law of the state whether now or hereafter enacted.
  2. A license shall be permanently revoked if the licensee knowingly submits false or fraudulent material information on any application or document filed with the City as a part of obtaining the license.
  3. The license of a licensee shall be permanently revoked if the licensee or any of his partners, managers, officers, directors, shareholders as specified in this chapter, agents or employees are convicted of a felony, with the exception that if said convicted person is an employee and said employee is immediately terminated and not re-hired by the licensee and the licensee was in no way associated with the felony for which the employee was convicted and further provided the felony was in no way associated with the sale of alcoholic beverages pursuant to the license granted under this chapter, the license may be retained in good standing by the licensee.
  4. Any license issued shall be suspended, revoked or not renewed if the applicant or licensee or any of his/its managers, officers, directors, partners, shareholders, agents or employees fail to satisfactorily maintain or shall cease to possess or meet all of the qualifications required by the Utah Alcoholic Beverage Control Act, and the ordinances of Hyde Park City, specifically including this chapter.  
The same sanction may be imposed upon the licensee should he attempt to assign, transfer or sell his license in violation of this chapter.
  5. Any license issued pursuant to this chapter may be revoked, suspended or not renewed if the licensee or any of his/its managers, officers, directors, partners, shareholders, agents or employees shall be found in violation of any law of the state or provisions of the ordinances of this City relating to alcoholic beverages, drugs or keeping a gambling or disorderly house whether such violation is established by a conviction, a guilty plea or the forfeiture of bail on such a charge and the same does not constitute a felony.
  6. Except where these provisions require the permanent revocation of a license, a licensee who is found to have violated any of the provisions of this chapter may have his license suspended for a minimum of six months for a first offense, for a minimum of twelve (12) months for a second offense, and the license shall be permanently revoked for a third offense. If a period of five years passes between the date of the first offense and the next offense, then the succeeding offense shall be considered a first offense for purposes of this chapter. Provided, however, should any licensee accrue a total of four such violations, then his license shall be permanently revoked. If five years have passed since the last alleged offense, not requiring permanent revocation, at the time the ordinance codified in this chapter is adopted, then such licensee shall be currently deemed as having no such offenses. Any such offense(s) committed within five years prior to the adoption of the ordinance codified in this chapter shall be considered a first offense. The City Council retains full discretion; however, to suspend a license for a longer period of time than the minimum stated in this section or to revoke a license permanently, even though not specifically required by the provisions of this chapter, should the circumstances of any particular violation, in its judgment, warrant such action.
- B. The Land Use Authority shall receive all complaints of alleged violation of this chapter and shall refer the same to the City Council which shall be responsible for investigating, through and with the assistance of the City's Police Department or the Cache County Sheriff's Office, all allegations of a violation of or noncompliance with this chapter, the Utah Alcoholic Beverage Control Act or any other condition imposed upon the licensee by the license or the City. As deemed necessary, the City Council may cause a notice of violation and a hearing to be directed to the licensee which shall set forth the date and place of the hearing and the alleged violations and shall direct that the licensee, within ten days after service of the notice, appear before the City Council at the named hearing. Failure of the licensee to appear shall be deemed an admission by him of his commission of the violations set forth in the notice and the City Council may proceed immediately to take such action as allowed by this chapter. The City Council shall conduct any hearing and may accept any relevant and material evidence and testimony. Such hearings shall be open to the public and shall be conducted informally with technical rules of evidence not applying to the proceedings. The licensee involved or any other person requesting such a hearing may be present and cross examine witnesses and give evidence before the Council and may be represented by an attorney if so desired. The council shall issue a



decision either at the conclusion of the hearing or within fourteen (14) days following the same, and all such decisions shall be in writing. The notice required by this chapter shall be sufficient if served personally upon the licensee or a partner, officer, director or legally constituted agent of the licensee or if sent to one of the named individuals by registered or certified mail not less than ten days in advance of the hearing to the principal place of business of the licensee.

C. A hearing may also be requested by any person:

1. Who is denied or refused a license to sell alcoholic beverages by any officer, agent or employee of this municipality; or
2. Whose license to sell alcoholic beverages is revoked, restricted, qualified or limited from that for which it was first issued.

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

E. Following receipt of a request for hearing, the governing body shall inform the person requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of his contention. The governing body shall, within fourteen (14) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council.

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

#### **4.50.190 Application For Licenses**

An applicant for any available alcoholic beverage license may submit an application to the City for such license 1) at the time they are ready to operate the business, or 2) if the applicant is requesting a license but for legitimate reasons the applicant is not ready to operate the business at the time of application. Such legitimate reasons may include but not necessarily limited to: construction of the facility, obtaining state required licenses of other licenses, or to resolve zoning or other land-use issues. An application will be held by the City until a business is ready to begin operation at which time the license would be issued. The license fee and the required bond will be paid at the time of application.

- A. If the application is being held awaiting construction of the facility in which the business will operate, the application shall become void if the applicant has not submitted a building permit for the facility within one year of the date of the application.
- B. The application may be voided by the City if the applicant fails to show reasonable continuing progress towards completing the facility, obtaining other required licenses, of resolving any other zoning or land-use issues.
- C. The application may be voided by the City if any of the conditions for license revocation are met as outlined in HPC Code 9-418.
- D. An application for an alcoholic beverage license is not transferable and shall be voided if the applicant changes prior to the issuance of the license.
- E. If for any reason the City voids an application for an alcoholic beverage license, the license fee paid with the application shall be forfeited to the City. Any bond paid shall be returned to the applicant.

#### **4.50.200 Alcohol License Schedule**

##### **Hyde Park City Alcohol License Schedule**

License Type	Number Allowed	Day Restrictions	Time Restrictions	Annual License Fee	Distance from Church, School, Park, Playground or Library	Business Name
Class A	1		No sales between 9:00 p.m. and 6:30 a.m.	\$100 (NL)	No sales East of the proposed CMPO road.	Maverik
Class B	0					
Class C	0					
Class D	0					

#### **4.60 Sexually Oriented Businesses**

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[4.60.200 Hours Of Operation](#)

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[4.60.230 Distribution Of Sexual Devices](#)  
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[4.60.250 Criminal Penalties And Additional Relief](#)  
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[4.60.270 Immunity From Prosecution](#)

#### **4.60.010 Statutory Authority**

The statutory authority for enacting this chapter is Utah Code Annotated sections 10-9a-102 and 10-3-702 as amended.

#### **4.60.020 Purpose And Intent**

It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

#### **4.60.030 Definitions**

For the purposes of this chapter, the following terms and words are defined as follows:

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

**EMPLOYEE:** A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

**ESTABLISHMENT:** Means and includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business.

**LICENSEE:** Person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

**NUDITY, NUDE OR A STATE OF NUDITY:**

- A. The appearance of human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- B. A state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

**OPERATOR:** Means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

**PERMITTED PREMISES OR LICENSED PREMISES:** Any premises that requires a license and/or permit and that is classified as a sexually oriented business.

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

**PUBLIC BUILDING:** Any building owned, leased or held by the United States, the state, the county, a city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

**PUBLIC PARK:** Public land which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas, or similar public land within the City, which is under the control, operation or management of the City.

**RELIGIOUS INSTITUTION:** Any church, synagogue, mosque, temple or building, which is used primarily for religious worship and related religious activities.

**RESIDENTIAL DISTRICT OR RESIDENTIAL USE:** Any residential uses or zones as defined under City ordinances.

**SCHOOL:** Any public or private educational facility, including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges and universities. "School" includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

**SEMINUDE:** A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**SEXUALLY ORIENTED BUSINESSES:** Those businesses defined as follows:

**Adult Arcade:** Any place to which the public is permitted or invited, for any form of consideration, where one or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, videocassettes, compact discs, DVDs, slides, animations, electronic media, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

**Adult Bookstore, Adult Novelty Store Or Adult Video Store:** A commercial establishment which has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising for the sale or rental, for any form of consideration, of any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, DVDs, slides, animation, electronic media, or other visual representations which are characterized by their emphasis upon the exhibition or display of "specified sexual activities" or "specified anatomical areas";
- B. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the purchasers or others;
- C. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas", and still be categorized as an "adult bookstore, adult novelty store or adult video store". Such other business purposes will not serve to exempt such establishments from being categorized as an "adult bookstore, adult novelty store or adult video store" so long as one of its principal business purposes is offering for sale, rental, or viewing, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities".

**Adult Cabaret:** A nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- A. Persons who appear nude or in a state of nudity or semi nudity;
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- C. Films, motion pictures, videocassettes, compact discs, DVDs, slides, animation, electronic media or other photographic reproductions which are characterized by the depiction or display of "specified sexual activities" or "specified anatomical areas".

**Adult Motel:** A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration, which provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, compact discs, DVDs, slides, animation, electronic media, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", and which advertises the availability of this sexually oriented type of material by means of sign visible from the public right of way, or by means of any off premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;
- B. Offers sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

**Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, compact discs, DVDs, slides, animation, electronic media, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

**Adult Theater:** A theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or semi nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

**Escort:** A person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Massage Parlor:** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation or service related thereto exposes his or her "specified anatomical areas". The definition of "sexually oriented businesses" shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor, osteopath, physical therapist or massage therapist not engaged in the above, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor, osteopath or physical therapist, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

**Miscellaneous Sexually Oriented Business:** Any other business not described in this definition that has a dominant or principal theme that is sexually oriented.

**Seminude Model Studio:** Any place where a person, who regularly appears seminude, is provided for money or any form of consideration, to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

**Sexual Encounter Establishment:** A business or commercial establishment which, as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of "specified sexual activities" or activities when one or more of the persons is seminude. The definition of "sexually oriented businesses" shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

**SPECIFIED ANATOMICAL AREAS:** Means and includes any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED CRIMINAL ACTIVITY:** Any of the following offenses: prostitution, patronizing a prostitute, aiding prostitution or exploiting prostitution; distributing pornographic material, dealing in material harmful to a minor, or possession or distribution of child pornography; sexual abuse of a child or minor, or unlawful sexual activity with a minor; public lewdness; indecent exposure; engaging in organized criminal activity relating to a sexually oriented business; sexual assault or forcible sexual abuse; molestation of a child; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state, or other states or countries.

**SPECIFIED SEXUAL ACTIVITIES:** Means and includes any of the following:

- A. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- C. Masturbation, actual or simulated;
- D. Human genitals in a state of sexual stimulation, arousal or tumescence; or
- E. Excretory functions as part of or in connection with any of the activities set forth in subsections A through D of this definition.

**SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS:** The increase in floor areas occupied by the business by more than ten percent (10%), or one hundred (100) square feet, whichever is less, when compared to the floor area approved by the City, or in existence on the date the license was issued by the City.

**TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS:** Means and includes any of the following:

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

#### **4.60.040 Classifications Of Businesses Regulated**

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores, adult novelty stores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Live entertainment;
- H. Massage parlors;
- I. Escort agencies;
- J. Seminude model studios;
- K. Sexual encounter centers; and
- L. Miscellaneous sexually oriented businesses.

#### **4.60.050 License Required**

- A. **Businesses:** No sexually oriented business shall be permitted to operate without a valid sexually oriented business license issued by the City for the particular type of business. It is unlawful for a person to operate or cause to be operated a sexually oriented business without said license.
- B. **Employees:**
  - 1. It is unlawful for any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this chapter.
  - 2. It is unlawful for any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.
- C. **Administrative Responsibility Of City Officials:**
  - 1. The Land Use Authority Level 2 is responsible for granting; denying, revoking, renewing, suspending and canceling sexually oriented business licenses for proposed or existing sexually oriented businesses. The Planning Commission is also responsible for ascertaining whether a proposed sexually oriented business, for which an application for a license has been received, complies with all requirements of this chapter, all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date hereof by the City and in the City general plan.
  - 2. The North Park Police Department is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.
  - 3. The building inspector is responsible for inspecting a proposed, permitted or unpermitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.
- D. **Application Required:** Any person desiring to operate a sexually oriented business shall file an application to the planning department on a form to be provided by the City. All applicants must sign the application and affirm the truthfulness of the contents of the application before a notary public. All applicants must be qualified according to the provisions of this chapter.
- E. **Information And Documents:** The completed application shall contain the following information and shall be accompanied by the following documents:
  - 1. If the applicant is:
    - a. An individual, the individual shall state his/her legal name, and any aliases, and submit satisfactory proof that he/she is at least eighteen (18) years of age.
    - b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.
    - c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the state, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the

address of the registered office for service of process.

2. If the applicant intends to operate the sexually oriented business under an assumed name, the applicant must identify the assumed name and register the assumed name with the state.
  3. Whether the applicant or any of the other individuals listed pursuant to this section have, within two (2) or five (5) year periods as specified in section 8 of this chapter immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date of conviction and the place of conviction.
  4. Whether the applicant or any of the other individuals listed pursuant to this section have had a previous license under this chapter or any other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to this section have been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the license was denied, suspended or revoked and the date of denial, suspension or revocation.
  5. Whether the applicant or any other individual listed pursuant to this section holds any other permits and/or licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
  6. The single classification of license for which the applicant is filing.
  7. The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number, if any.
  8. The applicant's mailing address (must be a street address and not a post office box) and residential address.
  9. A recent color photograph of the applicant, clearly showing the applicant's face, and the applicant's fingerprints on a form provided the City. Any fees for the photographs and fingerprints shall be paid by the applicant.
  10. The applicant's driver's license number, social security number, and state or federally issued tax identification number.
  11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").
  12. A current certificate and straight line drawing prepared by a Utah registered land surveyor within thirty (30) days prior to the date the application is submitted to the City depicting the property lines and the structures containing any established existing uses regulated by this chapter within one thousand five hundred feet (1,500') of the property to be certified; the property lines of any public or private elementary or secondary school, a preschool, childcare facility; public park, amusement park, arcade, recreation center, church, synagogue, or any established religious institution, boys' club, girls' club or similar youth organization; or public building within one thousand five hundred feet (1,500') of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
  13. If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.
  14. If a person wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises closed circuit television transmissions, films, motion pictures, videocassettes, compact discs, DVDs, slides, animation, electronic media, or other video reproductions which depict specified sexual activities or specified anatomical areas, then said person shall, at the time of application for a license, also comply with the requirements in section 17 of this chapter.
- F. Reporting Changes in Information: Applicants for a license under this section shall have a continuing duty to promptly supplement all application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change shall be grounds for suspension of a license.
- G. Improperly Completed Application; Notification: In the event that the City determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.
- H. Qualified Applicant; Premises Compliance: The applicant must be qualified according to the provisions of this chapter, and the premises must be inspected and found to be in compliance with health, fire and building codes and other applicable laws.
- I. Application Fee: At the time of filing an application under this section, the applicant shall be required to pay a nonrefundable application fee in an amount which shall be set by the City Council. Said fee is to cover the reasonable administrative costs of the licensing application process.
- J. Certification Of Compliance With Location Requirements: Prior to obtaining a license to operate any "sexually oriented business", defined in section 3 of this chapter, and as part of any application for a license under this section, the applicant shall obtain from the City, or its designee, a certification that the proposed location of such business complies with the location requirements of this chapter.
- K. Application Deemed Consent: By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the City, the North Park Police Department and all other City agencies charged with enforcing the laws, ordinances and codes applicable in the City of their respective responsibilities under this chapter.
- L. Employee Information Continuously Required: The applicant shall be required to provide the City with the names of any and all employees who are required to be licensed pursuant to this chapter. This shall be a continuing requirement even after a license is granted or renewed.
- M. Sexually Oriented Business License Additional: A person who possesses a valid business license is not exempt from the requirement of obtaining any required sexually oriented business license. A person who operates a sexually oriented business and possesses a business license shall comply with the requirements and provisions of this section, where applicable.

#### **4.60.060 Investigation Of Applicant**

- A. Required: Upon receipt of an application properly filed within the City and upon payment of the nonrefundable application fee, the City clerk shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the North Park Police Department and any other City agencies responsible for enforcement of health, fire and building codes and other applicable laws. Each department or agency shall promptly conduct an investigation of the applicant, the application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this chapter. The City shall complete such investigations within twenty (20) days of receipt of the application. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and in the event it disapproves, state the reasons therefore. The North Park Police Department shall not be required to approve or disapprove applications. The applicant, and each employee, shall be required to obtain a Utah criminal history,

as well as any other NCIC records checks from the Utah Bureau of Criminal Identification, and provide a copy of his/her criminal history and any respective paperwork with the application.

- B. Disapproval Upon Finding Of Violation: A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the City.
- C. Submission To City: After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the City.

#### **4.60.070 Fees**

- A. Businesses: The annual fee for a sexually oriented business license shall be set by the City Council. The nonrefundable initial license fee and the annual fee for a sexually oriented business license may be adjusted by the City Council at an amount determined to be sufficient to pay the cost of administering the license application and implementing the provisions of this chapter.
- B. Employees: The annual fee for a license for an employee of a sexually oriented business shall be set by the City Council. The nonrefundable initial license fee and the annual fee for an employee of a sexually oriented business may be adjusted by the City Council at an amount determined to be sufficient to pay the cost of administering the license application and implementing the provisions of this chapter.

#### **4.60.080 Issuance Or Denial Of License**

- A. Time Limit: If the requirements of this chapter are met, the City shall grant an application for a license within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth day, unless the City requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the license is sought, unless and until the City or its designee notifies the applicant of a denial of the application and states the reasons for the denial.
  - B. Grant of Application; Information Specified; Posting: The City shall grant the application unless one or more of the criteria set forth in subsection C of this section is present. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall also indicate that the sexually oriented business is subject to prohibitions against public nudity and indecency pursuant to the United States supreme court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991) and as stated by the Utah Supreme Court in *American Bush v. City of South Jordan*, 140 P.3d 1235 (UT 2006). The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.
  - C. Reasons For Denial: The City shall deny the application for any of the following reasons:
    - 1. An applicant is less than eighteen (18) years of age.
    - 2. An applicant is delinquent in the payment to the city of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.
    - 3. An applicant has failed to provide information required by section 5 of this chapter or the application for the issuance of the license, or has falsely answered a question or request for information on the application form.
    - 4. The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes, and other applicable laws by the department or agency responsible under law for investigating said compliance.
    - 5. The license application fee required by this chapter has not been paid.
    - 6. An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this chapter, including, but not limited to, the zoning location requirements for a sexually oriented business under this chapter.
    - 7. The granting of the application would violate a statute, ordinance or court order.
    - 8. The applicant has a license under this chapter which has been suspended or revoked.
    - 9. An applicant has been convicted of a "specified criminal act" for which:
      - a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for "specified criminal acts", which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering or tax violations.
      - b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for "specified criminal acts", which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering or tax violations.
      - c. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses occurring within any twenty four (24) month period for "specified criminal acts", which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations.The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.  
An applicant who has been convicted of the above described "specific criminal acts" may qualify for a sexually oriented business license only when the time period required above has elapsed.
  - 10. An applicant knowingly has in his or her employ an employee who does not have a valid license as required in this chapter.
- D. Notification of Denial: If the City denies the application, he/she shall notify the applicant of the denial and state the reasons for the denial.
- E. Reapplication: If a person applies for a license for a particular location within a period of twelve (12) months from the date of denial of a previous application for a license at that location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

#### **4.60.090 Expiration; Renewal**

- A. Expiration; Renewal Application: Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 5 of this chapter. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- B. Denial of Renewal; Corrections: When the City denies renewal of a license; the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date denial became final.

#### **4.60.100 Transfer Of License**

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

#### **4.60.110 Inspection Of Premises**

- A. Authority: An applicant, operator or licensee shall permit law enforcement officers, and any other federal, state, City or City agency in the performance of any function connected with the enforcement of this chapter, normally and regularly conducted by such agencies, to inspect those portions of the premises of a sexually oriented business where patrons or customers are permitted to occupy for the purpose of ensuring compliance with this section, at any time the business is occupied or open for business.
- B. Exception for Adult Motel: The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
- C. Refusal Prohibited: It shall be unlawful for a person who operates a sexually oriented business, regardless of whether or not a license has been issued for said business under this chapter, or his/her agent or employee, to refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business.

#### **4.60.120 Suspension**

- A. Written Intent; Conditions: The Land Use Authority Level 2 shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if he/she determines that a licensee, or an employee of a licensee, has:
  - 1. Violated or is not in compliance with any section of this chapter; or
  - 2. Been under the influence of a controlled substance without a valid prescription, or alcoholic beverages while working on the premises of a sexually oriented business; or
  - 3. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or
  - 4. Knowingly permitted gambling by any person on the sexually oriented business premises; or
  - 5. Operated the sexually oriented business in violation of a building, fire, health, zoning or other applicable statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the City shall promptly notify the licensee by personal delivery, or by certified mail, of the violation and shall allow the licensee a seven (7) day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven (7) day period, the City shall forthwith suspend the license and shall notify the licensee of the suspension; or
  - 6. Engaged in license transfer contrary to section 10 of this chapter. In the event that the City suspends a license on the grounds that a licensee engaged in a license transfer contrary to section 10 of this chapter, the City shall forthwith notify the licensee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied; or
  - 7. Operated the sexually oriented business in violation of the hours of operation as set forth in section 20 of this chapter; or
  - 8. Knowingly employs a person who does not have a valid license as required under section 15 of this chapter.
- B. Effect of Suspension: The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected, including a period of more than thirty (30) days.

#### **4.60.130 Revocation**

- A. Statement of Intent: The Land Use Authority Level 2 shall issue a written statement of intent to revoke a sexually oriented business license if a cause of suspension in section 12 of this chapter occurs and the license has been suspended within the preceding twelve (12) months.
- B. Conditions: The Land Use Authority Level 2 shall issue a written statement of intent to revoke a sexually oriented business license upon determining that:
  - 1. A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or
  - 2. A licensee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises; or
  - 3. A licensee or an employee has knowingly allowed prostitution on the premises; or
  - 4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or
  - 5. A licensee has been convicted of a "specified criminal act" for which the time period required in section 8 of this chapter has not elapsed; or
  - 6. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the licensed premises, constituting a "specified criminal act" for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business, or individuals with an ownership interest in the sexually oriented business, at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or
  - 7. A licensee is convicted of tax violations for any taxes or fees related to a sexually oriented business; or
  - 8. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises. This subsection B8 will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either: a) in exchange for money; or b) in a public place or within public view; or
  - 9. A licensee has been operating more than one sexually oriented business under a single roof.
- C. Effect Of Revocation: When after the notice and hearing procedure described in section 14 of this chapter, the City Council revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective; provided, that if the conditions of subsection 14B of this chapter are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the City Council finds that the basis for the revocation has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

#### **4.60.140 Hearing On Denial, Suspension Or Revocation; Appeal**

- A. Notification Hearing:
  - 1. If the Land Use Authority Level 2 determines that facts exist for denial, suspension or revocation of a license under this chapter, the Land Use Authority Level 2 shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend or revoke the license, including the grounds therefore, by personal delivery or by certified mail. The notification shall be directed to the most current business address on file with the City. Within ten (10) working days of receipt



of such notice, the respondent may provide to the Land Use Authority Level 2 in writing a response that shall include a statement of reasons why the license or permit should not be denied, suspended or revoked. Within three (3) days of the receipt of respondent's written response, the Land Use Authority Level 2 shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding.

2. Within ten (10) working days of the receipt of respondent's written response, the City Council shall conduct a hearing at which respondent shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. If a response is not received by the Land Use Authority Level 2, in the time stated, or if, after the hearing, the City Council finds that grounds, as specified in this chapter, exist for denial, suspension or revocation, then such denial, suspension or revocation shall become final five (5) days after the Land Use Authority Level 2 sends, by certified mail, written notice that the license has been denied, suspended or revoked. Such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to the City Appeal Authority, and, if there affirmed, appeal to a court of competent jurisdiction. The notice of appeal must indicate the decision appealed from and identify the parties making the appeal. Any appeal must include a list containing the names and addresses of adjoining property owners. Adjoining property owners include all owners of property within one thousand five hundred feet (1,500') of the sexually oriented business.
3. If the City Council finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) days after the hearing, the Land Use Authority Level 2 shall withdraw the intent to deny, suspend or revoke the license and shall so notify the respondent in writing by certified mail of such action and shall contemporaneously therewith issue the license.

- B. Appeal: When a decision to deny, suspend or revoke a license becomes final, the applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to the City Appeal Authority, within thirty (30) days of the date that the decision to deny, suspend or revoke a license became final, and, if there affirmed, appeal to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the City's enforcement of the denial, suspension or revocation, the Land Use Authority Level 2 shall immediately issue the aggrieved party a provisional license, unless the City seeks injunctive relief from the court to prohibit the operation of the sexually oriented business pending final action by the court, in which case, issuance or denial of a provisional license shall be subject to the court's order. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's action to appeal, challenge, restrain or otherwise enjoin the City's enforcement.

#### **4.60.150 Employee License**

- A. License Required; Application Fee: Each individual to be employed in a sexually oriented business shall be required to obtain a sexually oriented business employee license. At the time of filing an application under this section, each applicant shall pay a nonrefundable application fee in an amount to be set by the City Council. Said fee is to cover the reasonable administrative costs of the licensing application process.
- B. Information Required: Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit an application to the City on a form to be provided by the City. All applicants must sign the application and affirm the truthfulness of the contents of the application before a notary public. The application shall contain the following information:

1. The applicant's name and any other names (including "stage" names) or aliases used by the individual;
2. Age, date and place of birth;
3. Height, weight, hair and eye color;
4. Current residence address (must be a street address and not a post office box) and telephone number;
5. Current business address (must be a street address and not a post office box) and telephone number;
6. State driver's license or identification number;
7. Social security number;
8. Acceptable written proof that the individual is at least eighteen (18) years of age;
9. Attached to the application form a color photograph of the applicant, clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the City. Any fees for the photographs and fingerprints shall be paid by the applicant;
10. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or sought to operate, in this or any other county, city, state or country, any sexually oriented business, and if so, whether the applicant has ever had a license, permit or authorization to operate such business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, the applicant shall state the date and the name of the issuing or denying jurisdiction, and shall describe in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application; and
11. Whether the applicant has been convicted of a "specified criminal act" as defined in section 8 of this chapter. This information shall include the date, place and nature of each conviction or plea of nolo contendere and identify the convicting jurisdiction.

- C. Investigation Of Applicant: The City shall refer the sexually oriented business employee license application to the North Park Police Department for an investigation to be made of such information as is contained on the application. The investigation shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the City shall issue a license unless one or more of the following findings is true:

1. The applicant has knowingly made a false, misleading or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the North Park Police Department or other department of the City;
2. The applicant is under eighteen (18) years of age;
3. The applicant has been convicted of a "specified criminal act" as defined in section 8 of this chapter;
4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this chapter;
5. The applicant has had a sexually oriented business employee license revoked by the City, or any licensing body of a sexually oriented business, within two (2) years of the date of the current application.

- D. Renewal Of License:

1. A license granted pursuant to this section shall expire one year from the date of issuance and may be renewed only by making application as provided in this section. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected. Renewal shall be subject to review by the City and the North Park Police Department that the applicant has not been convicted of any "specified criminal act" as defined in section 8 of this chapter and has not committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.
2. The renewal of the license shall be subject to payment of a fee as set by the City council.



- E. Appeal: Procedure for appeal to the City Council, is as follows: Any person adversely affected by an administrative decision applying the provisions of this chapter may appeal that decision by alleging that there is error in any requirement, decision or determination made by a City official. Such appeal must be commenced within thirty (30) calendar days of the adverse requirement, decision or determination by filing a written notice of appeal with the City Recorder. A copy of the notice of appeal must be provided to the City Council. The notice of appeal must indicate the decision appealed from and identify the parties making the appeal. Any appeal must include a list containing the names and addresses of adjoining property owners. Adjoining property owners include all owners of property within one thousand five hundred feet (1,500') of the sexually oriented business.

#### **4.60.160 Location Of Sexually Oriented Businesses**

The establishment of a sexually oriented business shall be permitted only in a Planned Industrial, IP Zone, as described in the zoning ordinance. Licenses for sexually oriented businesses shall be required and governed by the procedures and policies specified in this chapter. In addition, any sexually oriented business shall be subject to the following restrictions:

- A. It is unlawful for a person to operate or cause to be operated a sexually oriented business except as provided in this chapter.
- B. It is unlawful for a person to operate or cause to be operated a sexually oriented business within one thousand five hundred feet (1,500') of:
1. Any church, synagogue, or any established religious institution;
  2. Any public or private elementary or secondary school;
  3. A boys' club, girls' club, or similar youth organization;
  4. A preschool or children's daycare facility;
  5. A public park, amusement park, arcade or recreation center;
  6. A public building;
  7. An entertainment business which is oriented primarily towards children or family entertainment;
  8. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state;
  9. A property line of a lot devoted to residential use or any residential use, regardless of zoning classification, and any residential zone boundary.
- C. It is unlawful for a person to operate or cause to be operated a sexually oriented business within six hundred sixty feet (660') of any other sexually oriented business.
- D. It is unlawful for a person to operate or cause to be operated a sexually oriented business within six hundred sixty feet (660') of any agricultural zone boundary or gateway corridor, as identified in the City's General Plan (sometimes also referred to as the Master Plan). The distance shall be measured from the edge of the right-of-way. For purposes of this section, the gateways to the City are defined as the following points or intersections: US Highway 91 and 3100 North, US Highway 91 and 3700 North (Hyde Park Lane), US Highway 91 and 4200 North, and 200 West county addressing from Highway 91.
- E. For the purpose of subsection B of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection B of this section. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
- F. For purposes of subsection C of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
- G. For the purpose of subsection D of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the right of way boundary.
- H. It is unlawful for a person to cause or permit the operation, establishment or maintenance of more than one sexually oriented business within the same building, structure, or portion thereof, or to cause the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
- I. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection B of this section within one thousand five hundred feet (1,500') of the originally conforming sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked.

#### **4.60.170 Exhibitions In Viewing Rooms**

- A. Requirements: A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette, compact disc, DVD, slides, animation, electronic media, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty two (32) square feet of floor area, with no dimension greater than eight feet (8'). The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (.6"). The City may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  2. The application shall be sworn to be true and correct by the applicant.
  3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City, or its designee.
  4. It is the duty of the owner and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
  5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection A5 must be by direct line of sight from the manager's station.
  6. It shall be the duty of the owner and operator of the premises, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection A5 of this section remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other

materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this chapter.

7. No viewing room may be occupied by more than one person at a time.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than three (3) foot-candles as measured at the floor level.
9. It shall be the duty of the owner and operator of the premises to ensure that the illumination described in subsection A8 of this section is maintained at all times that any patron is present in the premises.
10. No owner or operator of the premises shall allow openings of any kind to exist between viewing rooms or booths.
11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
12. The owner and operator of the premises shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
13. The owner and operator of the premises shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
14. The owner and operator of the premises shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight inches (48") of the floor.

B. Failure To Comply Unlawful: It is unlawful for a person to knowingly fail to fulfill any duty set forth under this section.

#### **4.60.180 Minors And Sexually Oriented Businesses**

It is unlawful for a person to operate or cause to be operated a sexually oriented business, regardless of whether or not a license has been issued for such business under this chapter, and knowingly, or with reasonable cause to know, to permit, suffer or allow:

- A. Admittance: Admittance of a person under eighteen (18) years of age to the business premises unless accompanied by a parent or legal guardian;
- B. Purchases: A person under eighteen (18) years of age to purchase goods or services at the business premises without the specific consent of a parent or legal guardian; or
- C. Employees: A person under eighteen (18) years of age to work at the business premises as an employee or independent contractor.

#### **4.60.190 Advertising And Lighting**

- A. Prohibited Advertising: It shall be unlawful for a person to operate or cause to be operated a sexually oriented business, regardless of whether or not a license has been issued for such business under this chapter, and advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.
- B. Displays: It shall be unlawful for a person to operate or cause to be operated a sexually oriented business, regardless of whether or not a license has been issued for such business under this chapter, and display or otherwise exhibit the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.
- C. Visibility From Outside Premises: The owner or operator of the premises shall not allow any portion of the interior premises to be visible from outside the premises.
- D. Illumination Of Parking Areas And Walkways: All off street parking areas and premises entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average range of maintained horizontal illumination of not less than two (2) and not more than ten (10) foot-candles of light on the parking surface and walkways. All lights which illuminate off street parking areas and premises entries of the sexually oriented business shall be directed inward from the property line of the sexually oriented business to prevent the rays from said lights to penetrate beyond the property on which such light is located. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees, to reduce the incidence of vandalism and criminal conduct, and to prevent a nuisance from the lighting to neighboring property owners or tenants. The lighting shall be shown on the required sketch or diagram of the premises.
- E. Direction Of Exterior Lighting: All exterior lights, lights on signs, and electrically lit signs shall not be directed vertically. This lighting restriction is established in order to prevent a nuisance to neighboring property owners or tenants, and to preserve the safety of air traffic in the area of the sexually oriented business.
- F. Subsequently Enacted Legislation: Nothing contained in this section shall relieve the owner and operator of a sexually oriented business from complying with the requirements of any subsequently enacted City ordinances or regulations.

#### **4.60.200 Hours Of Operation**

- A. Businesses: It shall be unlawful for a person to operate or cause to be operated a sexually oriented business, except for an adult motel, regardless of whether or not a license has been issued for said business under this chapter, and allow such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of twelve o'clock (12:00) midnight and nine o'clock (9:00) A.M. of any particular day.
- B. Employees: It shall be unlawful for a person to work as an employee of a sexually oriented business, except for an adult motel, regardless of whether or not a license has been issued for said business under this chapter, and engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of twelve o'clock (12:00) midnight and nine o'clock (9:00) A.M. of any particular day.

#### **4.60.210 Nudity Prohibited**

The United States supreme court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), which upheld the rights of municipalities to prohibit live public exposure of a person's private parts, and the Utah Supreme Court decision in *American Bush v. City of South Jordan*, 140 P.3d 1235 (UT 2006), which upheld the right of municipalities to prohibit nude dancing, specifically apply to any sexually oriented business, regardless of whether or not a license has been issued to said business under this chapter, including such businesses where no alcoholic beverages are sold, served or consumed at the premises. Public nudity is prohibited within the City, including in any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its license revoked pursuant to the provisions of section 13 of this chapter.

#### **4.60.220 Live Entertainment**

- A. Defined: For purposes of this section, "live entertainment" is defined as a person who appears semi nude, or a performance which is characterized by "specified sexual activities".
- B. Stage Requirements: No person shall perform live entertainment for patrons of a sexually oriented business establishment, except on a stage or at least eighteen inches (18") above the level of the floor, which is separated by a distance of at least ten feet (10') from the nearest area occupied by patrons. No patron shall be permitted

within ten feet (10') of the stage while a performer occupies the stage.

- C. Dressing Rooms: The sexually oriented business establishment shall provide separate dressing room facilities for female and male performers, which shall not be occupied or used in any way by anyone other than performers.
- D. Separate Access To Stage: The sexually oriented business establishment shall provide access for performers between the stage and the dressing rooms, which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum six foot (6') wide walk aisle for performers between the dressing room area and the stage with a fixed railing which has a top rail and another horizontal rail equidistant between the top rail and the floor, fence or other similar barrier separating the patrons and the performers, the height of which shall be at least thirty six inches (36") and which prevents any physical contact between patrons and performers.
- E. Physical Contact Between Entertainer And Patron Prohibited: No entertainer, before, during or after a performance, shall have physical contact with any patron, and no patron shall have physical contact with any entertainer before, during or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.
- F. Gratuities: No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and performer. No performer shall solicit any gratuity from any patron.
- G. Specified Acts With Patrons Prohibited: No operator of a sexually oriented business establishment shall cause or allow a performer to contract or engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the establishment premises. No performer shall contract to or engage in a "couch" or "straddle" dance with a patron while in or on the establishment premises. For the purposes of this subsection, "couch or straddle dance" is defined as an employee of the establishment intentionally touching or coming within ten feet (10') of any patron while engaged in the display or exposure of a "specified anatomical area", or any "specified sexual activity".

Exceptions: This section shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess or bartender, comes within ten feet (10') of a patron. No employee shall engage in any "specified sexual activity" or display or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess or bartender.

#### H. Compliance With This Section:

- 1. No establishment shall be in compliance with this section until the City's designated agent has inspected and approved of the establishment's compliance. The City shall have ten (10) days from the date it receives written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by this section. Failure to approve or disapprove of compliance within ten (10) days shall constitute a finding of compliance under this section.
- 2. A license for a sexually oriented business providing live entertainment shall not be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this chapter.
- 3. The applicant for a license to operate a new establishment, who wishes to provide live entertainment, shall apply for and receive a sexually oriented business license for the operation of an establishment providing live entertainment before any live entertainment is provided. No live entertainment license shall be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this chapter.

#### **4.60.230 Distribution Of Sexual Devices**

- A. Prohibited: Other than medically prescribed devices, it is unlawful for anyone to distribute, for commercial purposes, to sell or offer for sale, any device, instrument or paraphernalia designed or marketed primarily for the stimulation of human genital organs or for sadomasochistic use or abuse of oneself or others.
- B. Included Devices: Such devices, instruments or paraphernalia include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, leather restraints, racks, non medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sadomasochistic abuse.

#### **4.60.240 Operating Without Valid License**

- A. Injunction: A person who operates or causes to be operated a sexually oriented business without having a valid license is subject to a suit for injunction as well as prosecution for the criminal violation.
- B. Additional Criminal Prohibitions: In addition to the criminal provisions found in other sections of this chapter, it shall be unlawful for a person to operate or cause to be operated a sexually oriented business, regardless of whether or not a license has been issued for said business under this chapter, and such person knows or should know that:
  - 1. The business does not have a sexually oriented business license under this chapter for any applicable classification;
  - 2. The business has a license which is under suspension;
  - 3. The business has a license which has been revoked; or
  - 4. The business has a license which has expired.

#### **4.60.250 Criminal Penalties And Additional Relief**

- A. Misdemeanor: In addition to whatever penalties are applicable under City ordinances, or the Utah criminal code, if any person (other than a corporation, association or partnership) fails or refuses to obey or comply with or violates any of the criminal provisions of this chapter, such person, upon conviction of such offense, shall be guilty of a class B misdemeanor. A corporation, association or partnership, which fails or refuses to obey or comply with or violates any of the criminal provisions of this chapter, shall be guilty of a class B misdemeanor. Violators shall be subject to penalty as provided by the Utah code for a class B misdemeanor. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered as a separate offense.
- B. Other Lawful Action Authorized: Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.
- C. Cumulative: All remedies and penalties provided for in this section shall be cumulative and independently available to the City, and the City shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

#### **4.60.260 Defenses To Prosecution**

- A. Modeling Class: It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity did so in a modeling class operated:
1. By a proprietary school licensed by the state, or a college, junior college or university supported entirely or partly by taxation;
  2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
  3. In a structure:
    - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    - b. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
    - c. Where no more than one nude model is on the premises at any one time.
- B. Employee's Use Of Restroom Or Dressing Room: It is a defense to prosecution for a violation of this chapter that an employee of a sexually oriented business, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room which is accessible only to employees.

#### **4.60.270 Immunity From Prosecution**

The City, and its designees, the North Park Police Department, and all other departments and agencies, and all other City officers, agents and employees, charged with enforcement of state and local laws and codes, shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this chapter.

## **5 Criminal Code**

[5.10 State Criminal Code](#)

[5.50 Graffiti Ordinance](#)

[5.60 Truancy Of Minors](#)

### **5.10 State Criminal Code**

[5.10.010 Adoption And General Provisions](#)

#### **5.10.010 Adoption And General Provisions**

- A. Adoption by reference. The following provisions of state code, as applicable to municipal government, are hereby adopted and incorporated by reference herein as part of the municipal code.
  1. Title 41, Chapter 6a, Utah Code Annotated, 1953, as amended.
  2. Title 76, Utah Code Annotated, 1953, as amended.
- B. Citation. The title, chapter, and section numbers of the Utah Code Annotated, 1953, as amended, for the above provisions are adopted as the corresponding title, chapter and section numbers of the municipal code.
- C. Exceptions. Those provisions of Title 41 and Title 76, Utah Code Annotated, 1953, as amended, which are reserved exclusively to the state of Utah, counties of the state of Utah, or cities of a different class than the city are not adopted.
- D. Justice court. The city shall designate a justice court, as provided by law, to have jurisdiction in the city, by agreement, or otherwise as provided by the Administrative Office of the Courts.
- E. Substitution. Hyde Park City shall be substituted for other governmental entities named in said provisions as may be applicable. Failure to make such substitution does not invalidate any charge or violation pursuant to the municipal code.

### **5.50 Graffiti Ordinance**

[5.50.010 Finding And Purpose](#)

[5.50.020 Definitions](#)

[5.50.030 Graffiti Prohibited](#)

[5.50.040 Declaration Of Public Nuisance](#)

[5.50.050 Sale Of Graffiti Implements](#)

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[5.50.090 Graffiti Removal Restitution Fund](#)

#### **5.50.010 Finding And Purpose**

The City Council of Hyde Park is enacting this Ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal process for abatement of graffiti from public and private property to reduce blight and deterioration caused by graffiti, protect public safety, and expedite removal of graffiti.; and

The City Council finds:

- A. Graffiti on buildings, structures and natural features within the city is a public nuisance and a blight adversely affecting aesthetics of the city and the public's health, safety, and general welfare;
- B. Graffiti is often related to criminal activity and the continued existence of graffiti contributes to criminal activity because graffiti is used to mark gang territory which incites retaliation, and
- C. The graffiti enforcement program established by this ordinance will help quickly remove graffiti and will reduce the burden on individual property owners, particularly any owner whose property is subject to repeated graffiti tagging.

The Council does not intend for this Ordinance to conflict with any existing anti-graffiti state laws.

#### **5.50.020 Definitions**

- A. Aerosol paint container means any aerosol container adapted or made for the purpose of spraying paint.
- B. Broad tip marker means any marker or similar implement with a writing surface of three-eighths (3/8) inch or greater.
- C. Graffiti means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.
- D. Graffiti Implement means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of marking, scarring or leaving a visible mark on any natural or manmade surface.
- E. Graffiti Implement means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, bleeder market, brush or any other device capable of marking, scarring or leaving a visible mark on any natural or manmade surface.
- F. Legal Guardian means a person who, under Court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a Court.
- G. Minor means any person under eighteen (18) years of age.
- H. Paint stick, graffiti stick, or bleeder means an implement containing paint, wax, epoxy, or other similar substance.
- I. Parent means a person who is a natural parent, adoptive parent, foster parent or stepparent of another person or a person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- J. Responsible Party means the owner or an occupant, lessor, lessee, manager, licensee, or other person having the right to control a particular property.

#### **5.50.030 Graffiti Prohibited**

- A. It is unlawful for any person to apply graffiti to any public or privately-owned structure, real property, fixture, equipment, or personal property within the City. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any public property or, without the permission of the owner, on any private property.
- B. It is unlawful for a person to possess a graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or while within fifty (50) feet of any underpass, bridge, bridge abutment, storm drain, or road sign with the intent to violate the provisions of this Section, except as authorized by the responsible party or as expressly authorized by law.
- C. It is unlawful for any minor to possess any graffiti implement in Hyde Park City limits except:
  - 1. When the minor possesses such implements for the purpose of school-sanctioned activities or legitimate projects.
  - 2. When the minor is under the supervision of a parent or legal guardian.
  - 3. When minors are involved in a church or community project which is supervised by a responsible party.
- D. It is unlawful and a violation of this Ordinance for a parent or legal guardian of a minor to knowingly permit their minor child or ward, or by failing to make a reasonable effort to supervise and direct their minor child or ward, or by exercising insufficient control of their minor child or ward, to allow their minor or ward to commit a violation of this Ordinance. It shall also be unlawful and a violation of this Ordinance for a parent or legal guardian to fail to make a reasonable effort to restrain a minor, in the event the parent or legal guardian knew or should have known in advance, of the possible violation of this Ordinance by their minor child or ward.

#### **5.50.040 Declaration Of Public Nuisance**

Graffiti is hereby declared detrimental to public health, safety, and welfare and is a public nuisance which may be abated as provided in Chapter XX, Hyde Park City Code. Chapter 10-300 of the Hyde Park City Ordinances.

#### **5.50.050 Sale Of Graffiti Implements**

Every person who owns, conducts, operates, or manages a business which sells aerosol paint containers or broad tip markers shall place in clear public view a sign, readable at a distance of five (5) feet, at or near the display of such products which states: "Graffiti is against the law. Any person who defaces real or personal property with paint or other liquid or device is guilty of a crime punishable by a fine of up to \$1,000 and/or imprisonment for up to 6 months."

#### **5.50.060 Penalties**

- A. Violation of this Section is a class B misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the County jail for a period of time not exceeding six (6) months, or by any combination of such fine or imprisonment.
- B. In the case of a violation by a minor, the parents or legal guardians minor shall be jointly and severally liable with the minor for payment of all fines, costs and restitution.
- C. Failure of the minor, parents or legal guardians to make payment of all fines, costs and restitution expenses, when so ordered, will result in enforcement of the judgment rendered by the filing of a lien on the parents' or legal guardians' property and the pursuit of all other remedies allowed by law to enforce full payment.
- D. Upon an application and finding of indigency, the Court may decline to order fines against the minor, parents or guardians.
- E. In lieu of, or as part of, the penalties specified in this Ordinance, a violator may be required to perform community service as prescribed by the Court:
  - 1. For a first offense, the minor or adult convicted may be ordered to perform at least seventy-five (75) hours of community service.
  - 2. For a first offense by a parent or legal guardian, the convicted parent or legal guardian of the minor shall be ordered to be in attendance for a minimum of fifty percent (50%) of the period of assigned community service and assist in its completion.
  - 3. The entire period of community service shall be performed under the supervision of a community service provider approved by the Chief of Police.
  - 4. Reasonable effort shall be made to assign the minor or adult, and parent or legal guardian, when applicable, to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, and parent or legal guardian when applicable, including community service that involves graffiti removal.

#### **5.50.070 Graffiti Removal**

The Mayor shall establish:

- A. A program to educate the public, particularly minors, about the detrimental effects of graffiti and methods to reduce its proliferation; and
- B. A procedure whereby city personnel will, at least ninety-five (95) percent of the time, remove graffiti located in the city within forty-eight (48) hours or sooner after the city receives a report thereof if:
  - 1. The responsible party does not do it sooner, and
  - 2. The responsible party has consented to city cleanup of the graffiti. Consent may be granted on a per incident basis or calendar year basis.
- C. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the city or responsible party. Such removal shall be done in a manner prescribed by the responsible party.

#### **5.50.080 Costs Of Cleanup**

In any case in which the city removes graffiti, the city shall be entitled to recover from the perpetrator reimbursement for all costs associated with such removal. The Mayor may undertake any lawful action necessary to secure such reimbursement.

Any parent or legal guardian having legal or physical custody or control of a minor who violates any provision of this Chapter shall be personally liable for all costs incurred by the city in connection with such violation to the extent authorized by law, including but not limited to graffiti removal and subsequent prevention measures taken in connection with graffiti caused by such minor. Such costs shall include court costs and attorneys' fees payable as a result of civil, criminal, or other enforcement actions undertaken in connection with the acts of the minor. Liability for these costs shall be in addition to any other costs payable by a person responsible for graffiti cleanup.

#### **5.50.090 Graffiti Removal Restitution Fund**



The city council hereby creates the City of Hyde Park Graffiti Removal Restitution Trust Fund. Municipal funds received by reason of fines, restitution and other amounts paid for violations of this Ordinance and general fund allocations approved by the city council shall be placed in the Fund, together with any monetary donations received from persons wishing to contribute to the Fund. The city council shall direct the expenditures of monies in the Fund. Such expenditures shall be limited to the payment for the cost of graffiti removal, paint over or similar actions, the payment, at the discretion of the City Administrator, of rewards for information leading to the conviction of persons guilty of violations of this Ordinance, the costs of administering the Ordinance, and such other public purposes as may be approved by the city council by resolution.

## **5.60 Truancy Of Minors**

### 5.60.010 Definitions

### 5.60.020 Enforcement

### 5.60.030 Penalties

## **5.60.010 Definitions**

For the purposes of this chapter:

**COMPULSORY SCHOOL AGE MINOR:** A person between the ages of six (6) who is enrolled in school and eighteen (18) years of age who is not exempted, and must be attending public school or regularly established private school during the school year of the district in which the minor resides pursuant to Utah compulsory education requirements, Utah Code Annotated 53A-11-101 to 53A-11-106.

**EMERGENCY:** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident or any situation requiring immediate action to prevent bodily injury or loss of life.

**ESTABLISHMENT:** Any privately owned place of business, whether nonprofit or operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

**GUARDIAN:**

1. A person who, under court order, is the guardian of the person of minor, or
2. A public or private agency with whom a minor has been placed by a court.

**HOME-SCHOOLED MINOR:** A school age minor that is in an educational program outside of established schools, whose parent has filed a signed affidavit with the school district that the minor will attend a home school (Utah Code Annotated 53A-11-102(2)(a)).

**MINOR:** Any person under eighteen (18) years of age.

**OPEN CAMPUS:** When a compulsory school age minor is allowed by school officials to leave school for lunch purposes.

**OPERATOR:** Any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes members or partners of any association or partnership and the officers of a corporation.

**PARENT:** A person who is:

1. A natural parent, adoptive parent, or step-parent of another person, or
2. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

**PUBLIC PLACE:** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, sidewalks, the common areas of schools, hospitals, apartment houses, office buildings, stores and shops.

**REMAIN:** To: 1) linger or stay, or 2) fail to leave premises when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises.

**SERIOUS BODILY INJURY:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the functions of any bodily member or organ.

**TRUANCY HOURS:** Those hours in which a compulsory school age youth should be attending school in the district or jurisdiction in which the student attends school.

A. Offenses:

1. A compulsory school age minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during truancy hours except as described in the exemption/defenses listed below.

B. Defenses:

1. It is a defense to prosecution under subsection B of this section that a minor was:
  - a. Accompanied by, or with permission from, the minor's parent, or guardian;
  - b. On an errand at the discretion of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate or intrastate travel with the permission of the minor's parent or guardian;
  - d. Engaged in an employment activity, or going to or returning home or to school from an employment activity, without any detour or stop; provided the employment activity does not violate the state's compulsory education requirements;
  - e. Involved in a legitimate emergency;



- f. Following school policy regarding open campus for lunch;
- g. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home or to school without any detour or stop, from an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor; provided attendance at such activity is with the permission of the minor's parent or guardian and/or is sponsored by the school at which the minor would otherwise be required to attend during truancy hours;
- h. Is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or
- i. Married or had been married or had disabilities of minority removed in accordance with state law.
- j. A home schooled or exempt minor as defined by Utah Code Annotated 53A-11-102.

#### **5.60.020 Enforcement**

It is not intended for an officer to stop all school age children on the street during daytime school hours to determine if they are truant, therefore the following guidelines will be followed by officers in determining if contact should be made with a minor.

- A. The officer receives information from a school, parent, citizen or business operator relating to potential minors that are truant.
- B. The officer has personal knowledge that a minor, viewed in a public place, should be in school.
- C. In the course of fulfilling their other duties the officer comes in contact with a minor during the daytime hours when school is in session.

Before taking any enforcement action under this chapter, the law enforcement officer shall ask the apparent offender's name, age, and the reason for not being at school. The officer shall not issue a citation or make a referral to juvenile court under this section unless the officer has probable cause to believe that an offense has occurred.

#### **5.60.030 Penalties**

A Minor, who violates a provision of this chapter, is guilty of an infraction, and a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

## **6 Finances And Taxation**

[6.10 Sales And Use Tax](#)

[6.20 Special Improvements](#)

[6.30 Special Improvement Guaranty Fund](#)

### **6.10 Sales And Use Tax**

[6.10.010 Purpose](#)

[6.10.020 Contract With State Of Utah](#)

[6.10.030 Sales Tax Levied](#)

[6.10.040 Use Tax](#)

#### **6.10.010 Purpose**

The purpose of this chapter is to levy a three fourths of one percent sales and use tax in compliance with the provisions of the Uniform Local Sales and Use Tax Law, Chapter 9 of Title 11 of the Utah Code Annotated, 1953, as amended, and in compliance with the applicable provisions of Chapters 15 and 16 of Title 59 Utah Code Annotated, 1953, as amended.

#### **6.10.020 Contract With State Of Utah**

The existing contract between the municipality and the state tax commission, which provides that the commission will perform all functions incident to the administration and operation of the sales and use tax ordinance of this municipality, is hereby declared to be in full force and effect.

#### **6.10.030 Sales Tax Levied**

- A. Levy of Tax. There is hereby levied a tax upon every retail sale of tangible personal property, services, and meals made within the municipality at the rate of three fourths of one percent.
- B. Situs of Levy. For the purposes of this chapter, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the state tax commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the municipality shall be as determined by the state tax commission, pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
- C. Application of Sales Tax Provisions. Except as hereinafter provided, and except insofar as otherwise inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of Chapter 15, Title 56, Utah Code Annotated, 1953, as amended and in force and effect on the effective date of this ordinance insofar as related to sales taxes, excepting Sections 59-15-1 and 59-15-21 thereof, and excepting for the amount of the tax levied therein, are hereby adopted and made a part of this chapter.
- D. Substitution of Municipality for State. Whenever, and to the extent that Chapter 15 of Title 59, Utah code Annotated, 1953, the state of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution of the name of the municipality for the word "state" when that word is used as part of the title of the state tax commission, or of the Constitution of Utah, nor shall the name of the municipality be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the state tax commission in performing the functions incidental to the administration or operation of this chapter.
- E. Additional License Not Required. If an annual license has been issued to a retailer under section 59-15-3, Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.
- F. Exemptions. There shall be excluded from the purchase price paid or charged by which the tax is measured:
  1. The amount of any sales or use tax imposed by the state of Utah upon a retailer or consumer.
  2. Receipts from the sale of tangible personal property upon which a sales or use tax has become due by reason of the same transaction to any other municipality or any county in the state of Utah, under a sales or use tax ordinance enacted by that county or municipality in accordance with the Uniform Local Sales and Use Tax Law of Utah.

#### **6.10.040 Use Tax**

- A. Levy of Tax. An excise tax is hereby levied on the storage, use or other consumption in this municipality of tangible personal property purchased from any retailer on or after the operative date of this ordinance for storage, use or other consumption in the municipality at the rate of three fourths of one percent of the sales price of the property.
- B. Application of State Use Tax Provisions. Except as hereinafter provided, and except insofar as inconsistent with the provisions of the Uniform Local Sales and use Tax Law of Utah, all of the provisions of Chapter 15, Title 56, Utah Code Annotated, 1953, as amended and in force and effect on the effective date of this ordinance, applicable to use taxes, excepting provisions of Section 59-16-1 and 59-16-25 thereof, and excepting for the amount of the tax levied therein, are hereby adopted and made a part of this section.
- C. Substitution of Municipality for State. Wherever and to the extent that in Chapter 16 of Title 59, Utah code Annotated, 1953, the state of Utah is named or referred to as the taxing agency, the name of the municipality shall be substituted therefor. Nothing in this subsection shall be deemed to require the substitution of the name of this municipality for the word "state" when that word is used as part of title of the state tax commission, or the Constitution of Utah, nor shall the name of the municipality be substituted for that of the state in any section when the results of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the state tax commission in performing the functions incidental to the administration or operation of this chapter.
- D. Exemption. There shall be exempt from the tax due under this section:
  1. The amount of any sales or use tax imposed by the state of Utah upon a retailer or consumer.
  2. The storage, use or other consumption of tangible personal property, the gross receipts from the sales of or the cost of which has been subject to sales or use tax under a sales or use tax ordinance enacted in accordance with the Uniform Local Sales and Use Tax Law of Utah by any other municipality and any county of the state of Utah.

## **6.20 Special Improvements**

6.20.010 Purpose

6.20.020 Delinquency - Notice Of Sale

6.20.030 Costs

6.20.040 Expense Of Sale

6.20.050 Minimum Sale Price

6.20.060 Sale

6.20.070 Fees

6.20.080 Interest

6.20.090 Tax Sale Record

6.20.100 Certificate Of Sale

6.20.110 Certificate Of Sale To Municipality

6.20.120 Sale To Municipality

6.20.130 General Taxes On Delinquent Property

6.20.140 Redemption

6.20.150 Installment Redemption

6.20.160 Certificate Of Redemption

6.20.170 Notice Of Redemption

6.20.180 Tax Deed

6.20.190 Tax Deed Record

6.20.200 Recorder's Fee

6.20.210 Sales After Deed

### **6.20.010 Purpose**

It is the purpose of this chapter to supplement and provide details necessary to implement the powers and procedures whereby the municipality may levy, assess and collect special taxes for special improvements under the provisions of the Utah municipal Improvement District Act, U.C.A. §§10-16-1 et seq.

### **6.20.020 Delinquency - Notice Of Sale**

After the date of delinquency, as fixed in the levy and notice of tax adopted by the governing body in connection with the creation of a special improvement district and the levy of taxes necessary to pay for the project, the treasurer shall proceed to make up a list of all property upon which the special tax remains due and unpaid and cause the same to be published at least once in some newspaper having general circulation in the municipality at least ten days prior to the date of sale. The delinquency list shall contain a description of the property delinquent according to lots, block, or parcels, together with the owner's name or names, if known, and if not known, in lieu thereof, the words "unknown owner" with the amount of taxes due on each separate parcel exclusive of costs, and shall be due on each separate parcel exclusive of costs, and shall be accompanied by a notice of sale substantially in the following form:

#### ***"NOTICE OF SALE FOR SPECIAL TAXES***

*Notice is hereby given that special taxes for (here insert briefly the purpose of the tax) are due and unpaid in amounts and upon the lands set forth and described in the delinquent list hereto attached. Unless the taxes, including interest together with the cost of publication are paid on or before the \_\_\_\_\_ day of \_\_\_\_\_ (here fix a day at least 12 days from the date of first publication), the real property upon which such taxes are a lien will, on that day, be sold for the taxes, interest, costs of advertising, and expenses of sale, at the front door of the \_\_\_\_\_ (here insert name of building and address) beginning at the hour of 12:00 o'clock noon, and continuing until all of the property shall have been sold."*

### **6.20.030 Costs**

The treasurer shall tax against each parcel of land advertised as delinquent the sum of \$15.00 for the cost of advertising the delinquency and shall, after the first publication, in all instances of payment, collect such amount in addition to the tax.

### **6.20.040 Expense Of Sale**

In case of a sale of any land for special taxes, the treasurer shall add to the amount of tax and costs of advertising the further sum of \$15.00 as the expense of sale and shall, in all instances of sale or redemption, collect such sum.

### **6.20.050 Minimum Sale Price**

In no case shall lands advertised for sale for delinquent special taxes be sold for less than the amount of such special taxes, interest, the cost of advertising, and expense of sale.

### **6.20.060 Sale**

On the day fixed for the sale, the treasurer, in person or by deputy, shall appear at the hour and place named in the notice of sale and at public auction, and there offer to the highest responsible bidder sufficient of the delinquent real estate for a sum sufficient to pay the taxes, interest and costs. The offer of sale shall be substantially in the following language:

*"There is delinquent upon \_\_\_\_\_ (here describe the piece of property as in the notice) special taxes amounting to \_\_\_\_\_ dollars with interest, costs and expenses of \_\_\_\_\_ dollars.  
What is the smallest portion of this property which you will take and pay taxes, interest, costs and expenses?"*

If the sale is not concluded by 4:00 p.m. of the day advertised it may be, by the treasurer, continued until noon of the next succeeding business day and thereafter in the same

manner proceeded with and continued until completed.

#### **6.20.070 Fees**

"The treasurer shall collect a fee of \$15.00 for each certificate issued, which fee shall be paid into the treasurer.

#### **6.20.080 Interest**

Interest at the rate of ten percent per year shall be charged on the special tax due from the date of delinquency until date of sale and interest at the rate of ten percent per year shall be charged on the full amount for which the property was sold from the date of sale.

#### **6.20.090 Tax Sale Record**

- A. The treasurer shall make a record of all sales of real property in a book to be kept by him for that purpose. The record shall be kept substantially in the same order as that for which the property was advertised for sale, but shall list, as applicable, in separate columns, a description of the property, the amount of the tax, interest, costs, expenses, how much of what part of each tract was sold, by whom purchased, the date of sale, and the date of redemption.
- B. At the end of each calendar year, the book shall be endorsed " \_\_\_\_\_ Treasurer, Special Tax Sale Record for the Year 19\_\_\_\_," and it shall then be filed in his office. Whenever thereafter any portion of property so sold shall be redeemed, the fact of redemption shall be entered by the treasurer opposite the description of the property in the tax sale record. At the expiration of three years from the date of filing in his office, the treasurer shall file each yearly tax sale record in the office of the recorder / clerk.

#### **6.20.100 Certificate Of Sale**

When real estate is sold for special taxes, the treasurer shall make out, sign acknowledge, and deliver a certificate of sale which shall recite the facts of sale as in the tax sale record, and what payment has been made therefore, and which certificate shall be substantially in the following form:

"(name of municipality)  
TREASURERS OFFICE  
CERTIFICATE OF SALE FOR SPECIAL TAX  
THIS CERTIFIES, That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in pursuance of law and ordinance, I, \_\_\_\_\_ as treasurer and collector of special taxes for \_\_\_\_\_, Utah, sold to \_\_\_\_\_ subject to redemption, as provided by law, the following property in (name of municipality) for delinquent special taxes assessed against the property in the name of (delinquent taxpayer) to-wit:

DESCRIPTION  
\_\_\_\_\_ Ext. No. \_\_\_\_\_ Page \_\_\_\_\_  
Frontage abutting the improvement to the full depth back therefrom (or other depth)  
\_\_\_\_\_  
Feet \_\_\_\_\_ of Lot \_\_\_\_\_ Block \_\_\_\_\_ Plat \_\_\_\_\_

TAX AND COSTS  
Amount of tax.....\$ \_\_\_\_\_  
Interest to date of sale.....\$ \_\_\_\_\_  
Advertising .....\$ \_\_\_\_\_  
Expense of sale .....\$ \_\_\_\_\_  
Certificate of sale .....\$ \_\_\_\_\_  
Total tax and costs at date of sale .....\$ \_\_\_\_\_

\_\_\_\_\_  
treasurer and collector of special taxes  
DATED. (name of municipality) \_\_\_\_\_ (acknowledgement in statutory form.)"

#### **6.20.110 Certificate Of Sale To Municipality**

When property is sold to the municipality for special taxes, the treasurer shall make out, sign, acknowledge and deliver the certificate of sale above described to the recorder / clerk, whose duty it shall be to see that such certificate is properly recorded in the office of the county recorder, and it shall thereafter be kept as a part of the records of the recorder / clerk's office.

#### **6.20.120 Sale To Municipality**

Where no bid at least equal to the amount of the tax, interest, cost of advertising and expenses of sale on each separate parcel is received as each separate parcel is offered for sale, the municipality shall be deemed to have bid for such property, and the property shall be sold by the treasurer to the municipality for the amount of the tax, interest, cost of advertising and expenses of sale. The sale shall have the same effect as if made to an individual. The recorder / clerk shall draw a check or warrant on the special improvement guarantee fund for which the special tax was levied in the amount necessary.

#### **6.20.130 General Taxes On Delinquent Property**

- A. Between the 15th day of November and the 15th day of December in each year, the recorder / clerk shall ascertain, by examination of the county records, which, if any, of the property sold to this municipality is delinquent and about to be sold for general taxes, and report the property and the amount of taxes in each instance to the governing body, with the request that the amount thereof be appropriated to the county.
- B. It shall be the duty of the governing body to appropriate the amount recommended by the recorder / clerk. The treasurer shall thereon draw a warrant in favor of the county for the total sum of such delinquent taxes, and the recorder / clerk shall deliver the warrant to the county treasurer, taking duplicate receipts therefore for each

separate piece of parcel of property upon which the general taxes are thus paid. The recorder / clerk shall thereon deliver one of each such receipts to the treasurer and file and attach the other to the corresponding certificate of sale in his office.

- C. On receiving such receipt, the treasurer shall make entry on his tax sale record, opposite the corresponding property, of the date and amount of taxes paid. Such taxes shall thereafter draw interest at the rate of ten percent per annum, and shall be included in the amount required to be paid for redemption of such property.

#### **6.20.140 Redemption**

Real estate sold for special taxes may be redeemed by any person interested therein, at any time within three years after the date of the sale thereof, by such person paying to the treasurer, for the use of the purchaser or his legal representative, the amount paid by such purchaser and all cost and expenses, including the cost of the certificate of sale, together with the sum of \$15.00 for the redemption certificate, and all special taxes that have been accrued thereon and which have been paid by the purchaser after his purchase to the time of redemption, together with the interest at the rate of one percent per month on the whole from the date of payment to the date of redemption, provided, that:

- A. In all cases where property has been sold to this municipality, and general taxes thereon have been thereafter paid by this municipality, it shall be necessary for a redemptioner to pay the amount of such general taxes, so paid as aforesaid, with interest thereon from the date of payment to the date of redemption, at the rate of ten percent per annum: and
- B. When two or more parties are interested in a piece of property which has been sold for taxes, either party may redeem the property in which he is interested, upon payment of that proportion of the taxes, interest and costs which his property bears for the whole property sold, together with the sum of \$15.00 for a redemption certificate.

#### **6.20.150 Installment Redemption**

- A. Any property sold to this municipality, on which tax sale certificates have been issued but for which no tax deed has issued to the municipality, may be redeemed by any person having an interest in such property on the payment in installments of the unpaid principal, interest and all costs and charges, provided that the installments shall be paid within such time and in such amounts as will discharge the indebtedness within the period in which the right to redeem from such tax sale shall expire.
- B. Credit shall be given for each installment as paid, and the interest shall be reduced proportionately.
- C. Interest shall be paid at the rate of ten percent per annum on the unpaid balance due under this section.
- D. There is hereby imposed the sum of \$1.00 per installment payment to cover the additional bookkeeping expenses incurred by any person taking advantage of this section, and such charge shall not be credited against the delinquent assessment.
- E. Every person who take advantage of this section shall enter into an agreement with the municipality which shall be substantially in the following form:

#### **"AGREEMENT OF INSTALLMENT REDEMPTION**

*The undersigned hereby:*

- 1. Acknowledges that he is delinquent in the payment of the special improvement taxes levied against the property described below in the amount of \$\_\_\_\_\_ which amount is the total of the unpaid tax, principal and interest, costs of advertising and expense of sale.*
- 2. Agrees and promises to pay the above stated amount in \_\_\_\_\_ equal installments of \$\_\_\_\_\_, which payment will be made on or before the \_\_\_\_\_ day of each month from the period beginning \_\_\_\_\_, 19\_\_ to and including \_\_\_\_\_, 19\_\_.*
- 3. Acknowledges having received and read a copy of section 6.20.150 of the "revised Ordinances of Hyde Park City, and understands the same.*
- 4. Agrees that should he fail to make payment of the installments when due, the right of the municipality to receive a tax deed for the property below described shall not be impaired thereby and the undersigned shall not be entitled to receive any refund of any amount paid hereunder.*

*The property covered by the provisions of this agreement is described as follows:*

\_\_\_\_\_  
*DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_*

\_\_\_\_\_  
*Mayor*

*ATTEST:*

\_\_\_\_\_  
*Recorder / Clerk"*

#### **6.20.160 Certificate Of Redemption**

The treasurer shall, when any property is fully redeemed, make the proper entry in the tax sale record file in his office, and issue a certificate of redemption, which certificate shall be by him acknowledged, and which entry or certificate shall be prima facie evidence of such redemption.

#### **6.20.170 Notice Of Redemption**

In all cases where property sold to this municipality is fully redeemed, the treasurer shall issue a formal notice of such redemption in writing and file the same with the recorder/clerk, whose duty it shall be to attach such notice to the corresponding certificate of sale on file in his office, and endorse on the filing face of such certificate in red ink the word "REDEEMED" and the date of redemption.

#### **6.20.180 Tax Deed**

- A. If any property sold as aforesaid is not fully redeemed within the time and in the manner in this chapter provided, on the deposit of the tax sale record for the year in which the property was sold by the treasurer with the recorder/clerk, the recorder/clerk shall, on presentation of the treasurer's certificate of sale, make and acknowledge a deed conveying the property therein described to their purchaser, his heirs, or assigns, as the case may be. If any person shall be entitled to receive deeds for more than one parcel of property, he may have the whole included in one deed, but each parcel shall be separately described. In January of each year, or as soon thereafter as the business of the office will permit, the recorder/clerk shall make and acknowledge a deed, conveying to the municipality all property purchased in the name of the municipality at special tax sale not theretofore redeemed, as in this chapter provided, shall see that such deeds are properly recorded in the office of

the county recorder, and shall keep such deeds on file in his office for the benefit of the special improvement guaranty fund.

- B. Deeds issued by the recorder/clerk in pursuance of the provisions of this chapter shall recite in substance the amount of tax for which the property was sold, the particular purpose of the tax levied, the year in which the levy was made, the day and year of sale, the amount for which the real estate was sold, a description of the property sold, in accordance with the certificate of sale, the name of the purchaser or the purchaser's assignee, and shall be executed by the recorder/clerk on behalf of the municipality, and by him acknowledged so as to be entitled to record.

#### **6.20.190 Tax Deed Record**

The recorder/clerk shall keep on file in his office a record of all tax deeds issued by him, which shall be a photocopy of the deeds so issued to him, and which shall be indexed in the name of the party whose property was sold for taxes, and also in the name of the individual to whom the tax deed was insured.

#### **6.20.200 Recorder's Fee**

The recorder/clerk shall collect \$15.00 for each deed issued, for the first description of property contained in such deed, and for each additional description of property in such deed, and shall pay such fees monthly into the treasury. However, in cases where this municipality is the tax sale purchaser, no fee shall be collected.

#### **6.20.210 Sales After Deed**

Whenever property sold for special taxes and purchased by this municipality shall not have been redeemed within the time specified, but shall have been conveyed to the municipality by recorder's deed, and which shall not have been sold by the municipality, such property may thereafter be purchased by the prior owner, his heirs, personal representative or assigns, or any other person, upon petition therefor addressed to the governing body and upon such terms as the governing body may determine. The proceeds of such purchase shall be paid into the special improvement guaranty fund, provided, however, that nothing contained in this section shall prevent this municipality from selling any property conveyed to it by recorder's deed to any person at any time after such conveyance is made.

### **6.30 Special Improvement Guaranty Fund**

#### **6.30.010 Special Improvement Guaranty Fund**

#### **6.30.020 Maintenance Of Fund**

#### **6.30.030 Interest And Penalties**

#### **6.30.040 Payment Of Bonds Or Warrants**

#### **6.30.050 Replenishment Of Fund**

#### **6.30.060 Recorder To Issue Warrants**

#### **6.30.070 Subrogation Of Municipality**

#### **6.30.010 Special Improvement Guaranty Fund**

There is hereby created a special fund to be known as the "Special Improvement Guaranty Fund," which fund shall be used for the purpose of guaranteeing to the extent of the fund the payment of special improvement bonds or special improvement warrants and interest thereon theretofore or hereafter issued against the local improvement districts for the payment of local improvements therein and for the purchase of property sold to the municipality at tax sales or under foreclosure for delinquent special improvement taxes.

#### **6.30.020 Maintenance Of Fund**

The governing body shall create and maintain the special improvement guaranty fund by appropriations for the general fund, by the levy of a tax not to exceed one mill in any one year, by the issuance of general obligations bonds, or by appropriation from such other sources as may be determined by the governing body to provide the money necessary for that purpose. The fund shall be held by the treasurer and shall be kept by him separate and apart from all other funds held by him. Payments out of the fund shall be made only by checks drawn by the recorder/clerk.

#### **6.30.030 Interest And Penalties**

All excess charges and penalties collected by the treasurer for the benefit or credit of any special improvement fund and remaining on hand after all the bonds or warrants, together with interest thereon, drawn against the special improvement fund shall have been fully paid and cancelled, shall be transferred by the recorder/clerk to the special improvement guaranty fund.

#### **6.30.040 Payment Of Bonds Or Warrants**

When any bond, warrant, or coupon drawn against any special improvement fund is presented to the treasurer for payment and there is not a sufficient amount in the special improvement fund against which it is drawn, payment therefor shall be made by warrant drawn by the recorder/clerk against the special improvement guaranty fund (unless otherwise requested by the holder).

#### **6.30.050 Replenishment Of Fund**

Whenever there is not a sufficient amount of cash in the special improvement guaranty fund at any time to make any and all purchases of property bid in by the municipality at sales of property for delinquent special improvement taxes, the governing body shall replenish the special improvement guaranty fund by transfer or appropriation from the general fund or other available sources as may be determined by the governing body.

#### **6.30.060 Recorder To Issue Warrants**

Warrants drawing interest at a rate not to exceed eight percent per annum may be issued by the recorder/clerk against the fund to meet any financial liabilities accruing against it. At the time of making its annual tax levy, the governing body shall provide for the levy of a sum sufficient with the other resources of the fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

#### **6.30.070 Subrogation Of Municipality**

Whenever the municipality shall have paid under its guaranty any sum on account of principal or interest on the bonds or warrants of any district, it shall be subrogated to the rights of the holders of such bonds or warrants or interest coupons so paid, and such bonds or warrants or coupons, and the proceeds thereof, shall become a part of the guaranty fund.



## **7 Animal Control**

[7.10 General Provisions](#)

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### **7.10 General Provisions**

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#### **7.10.010 Definitions**

As used in this ordinance:

Animal Control Officer- The person or persons designated to enforce this ordinance.

Animal Establishment- Any pet shop, grooming shop, animal auction, performing-animal exhibition, kennel/cattery or animal shelter, except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers.

Animal Shelter- Facility designated or recognized by Hyde Park City for the purpose of impounding and caring for domestic animals.

At Large- A domestic animal shall be deemed to be at large when off the property of the owner and not under restraint.

Dangerous Animal- An animal that without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals.

Domestic Animal- Any animal commonly kept as a pet in family households in the United States, including, but not limited to, dogs, cats, guinea pigs, rabbits, pygmy pigs, and hamsters; and any animals commonly kept for companion or commercial purposes.

Field Cat- A cat kept primarily out of doors, not as a pet, but instead kept for the control of rodents. Owners of field cats are still encouraged to vaccinate and spay/neuter this class of cats as well as cats that are considered more as pets

Fixed Dog Run- A fenced in and/or covered structure with or without an impervious floor surface used to house or contain a dog(s) in a relatively limited area. This fixed dog run must be closer to the owners' residence than adjoining neighbors' residence. Not meant to include merely keeping a dog attached to a line or keeping a dog in a fenced yard.

Foster Care Provider- A person or persons designated by the Animal Control Officer to provide temporary care of impounded animals. Such persons shall be exempt from the requirements of permits, licenses, and number of animals being cared for.

Humane Manner- Care of a domestic animal includes, but is not limited to, adequate heat, ventilation, sanitary shelter, and wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

Kennel- An establishment of three (3) or more dogs and regulated by a "Conditional Use Permit".

Licensing Authority- The agency or department of Hyde Park City or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this ordinance.

Livestock Guarding Dogs- Dogs kept for the primary purpose of protecting livestock from predatory attacks.

Neutered or Spayed- Rendered permanently incapable of reproduction.

Nuisance- A domestic animal shall be considered a nuisance if it damages, soils, defiles, or defecates on property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

Owner- A person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.

Pen- An area where a dog is contained within the yard of the owner.

Person- Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

Pet Shop- An establishment engaged in the business of buying or selling, at retail, animals for profit-making purposes.

Restraint- An animal shall be considered under restraint if it is in within the real property limits of its owner or secured by a leash or lead.

Stray Animal- Any valuable animal, except dogs and cats, not wild, found wandering from its owner.

Wild Animal- Any animal of a species that in natural life is wild, has a predatory nature, or any animal which, because of its size, grown propensity, vicious nature or other

characteristics would constitute an unreasonable danger to human life, health or property if not kept, maintained, or confined in a safe and secure manner. These animals, however domesticated, shall include but are not limited to:

1. Alligators, crocodiles, caiman
2. Bears (ursidae). All bears including grizzly bears, brown bears and black bears
3. Cat Family (felidae). All except the commonly accepted domestic cats; including cheetahs, cougars, leopards, lions, lynx, bobcats, panthers, mountain lions, tigers and wildcats. Any cat crossbred with a wild animal as described herein shall be considered to be wild.
4. Dog family (canidae). All dogs, with the exception of domesticated dogs, including but not limited to fox, coyote, wolf and wild dingo. Any dog crossbred with a wild animal, as described herein shall be considered to be a wild animal.
5. Porcupines.
6. Primate (all subhuman primates).
7. Raccoons (all varieties)
8. Skunks
9. Venomous snakes or lizards
10. Any snake or reptile of such size or characteristics as to pose threat to human life.
11. Weasels (all weasels, martins, badgers, otters, ermine, mink and mongoose), except that the possession of mink shall not be prohibited when raised commercially for their pelts, in or upon a property constructed for a legally operated ranch.
12. Marsupials.
13. Any otherwise prohibited wild animals such as big game animals which are restricted by State or Federal Law.

#### **7.10.020 Duties Of Animal Control Officer**

The Animal Control Officer shall perform the following duties:

- A. Carry out and enforce the provisions of this ordinance.
- B. Take into his possession through capture or other method, all animals found running at large contrary to the provisions of this ordinance and impound and/or dispose of the same as herein provided.
- C. Enforce the licensing and control of all animals within the municipality as hereafter provided.
- D. Issue citations and file complaints in the courts against any person, firm, or corporation failing to comply with the provisions of this ordinance and obtain licenses when required thereunder.
- E. Provide for a good and sufficient pound in which an animal duly committed to his charge or otherwise impounded by him shall be maintained.
- F. Enter a description sufficient to provide identification thereof in records kept for that purpose, stating the kind of animal and the circumstances under which received or impounded, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animal.

#### **7.10.030 Interference With Officer Prohibited**

It shall be unlawful for any person to interfere, molest, hinder or obstruct the Animal Control Officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

#### **7.10.040 Lawful For Officers To Go On Property**

In the enforcement of any provision of this title any police officer or Animal Control Officer is authorized to enter on to the property of any person or entity to take possession of any dangerous or vicious dog or animal, or dog or animal which has committed an act prohibited by city ordinance, when in fresh pursuit of such dog or animal at the time the dog or animal goes onto private property and ONLY if the animal represents an immediate threat to the safety and welfare of one or more humans and/or a domestic animal.

#### **7.10.050 Biting Animal Quarantined For Observation**

- A. Veterinary Hospital or Municipal Pound. Any animal of a species subject to rabies which is known to have bitten or has been bitten, or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the municipal pound and shall not be killed or released until at least ten (10) days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, it shall be removed and immediately taken to the state health or other appropriate laboratory to be examined for rabies.

The owner of such quarantined animal, or if the owner cannot be found then the person having custody and control of the animal, shall be responsible for and reimburse the city for any and all costs incurred for such quarantine regardless of whether or not the animal in fact has rabies.

If the animal has not been vaccinated for rabies then it shall be euthanized and taken for testing at an approved laboratory. If the animal has proof of rabies vaccination the owner of such animal may choose to euthanize the animal prior to the 10-day quarantine period and take the animal to the proper agency for the required tests.

- B. Home Quarantine. When an animal bite has occurred that requires quarantining as defined in the section above, home quarantining may be an alternative. The following criteria need to be considered in making this decision. The animal will be considered for home quarantine only if:
  1. This is the animal's first offense;
  2. The animal is not exhibiting aggressive behavior;
  3. The bite or attack was minor and not repetitive;
  4. In the opinion of the Chief of Police or the Animal Control Officer, there is relatively little safety risk to the owner and the public if the home quarantine is allowed.
  5. The owner/caregiver is capable of confining the animal at home in such a way that it will not be able to stray;
  6. The animal is current in its vaccinations for rabies.

If home quarantine is determined by the officer to be an acceptable option, the officer will review the requirements for home quarantining with the owner/caregiver. The owner/caregiver will be required to sign a document agreeing to abide by such requirements.

#### **7.10.060 Animal Suffering Prevention**

In the event that Hyde Park City finds animal to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

#### **7.20 Unlawful Acts**

##### 7.20.010 Trespassing Animals

##### 7.20.020 Killing Or Poisoning Animals Prohibited

##### 7.20.030 Keeping Animals For Fighting

##### 7.20.040 Malicious Impounding

##### 7.20.050 Removal Of Dead Animal

##### 7.20.060 Trapping Of Domestic Animals

##### 7.20.070 Trapping Of Wild Animals

##### 7.20.080 Wild Animal Restrictions

##### 7.20.090 Nuisance Animals

#### **7.20.010 Trespassing Animals**

It is unlawful for any owner or caregiver of any dog or other animal to permit or negligently allow such dog or other animal to run at large or to trespass upon the property of another person.

#### **7.20.020 Killing Or Poisoning Animals Prohibited**

It is unlawful for any person to willfully kill any domestic animal belonging to another, or to administer poison to any domestic animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.

#### **7.20.030 Keeping Animals For Fighting**

It is unlawful for any person, firm or corporation to raise, keep or use any animal, for the purpose of fighting or baiting; and for any person to be party to or be present as spectator at any such fighting or baiting of any animal, and for any person, firm, corporation to knowingly permit the use of his building, sheds, rooms, grounds, or premises for these purposes.

Law enforcement officers or animal control officers may enter any building or place where there is an exhibition of the fighting or baiting of live animals, or where preparations are being made for such exhibitions, and law enforcement officers may arrest persons there present and take possession of all animals being prepared to fight, engaged in fighting or found for the purpose of fighting, along with all implements and other paraphernalia used in such exhibition. This provision shall not be interpreted to authorize a search or arrest without a warrant when the law requires such.

#### **7.20.040 Malicious Impounding**

It is unlawful for any person to maliciously hide or impound the animal of another.

#### **7.20.050 Removal Of Dead Animal**

The owner of any animal that has died or been killed shall remove or bury the carcass of such animal as soon as possible and at least within two (2) days after its death. No horse, cow, ox, or other such large animal shall be buried on the owner's real property that is less than two acres and without approval to do so from the local health department.

#### **7.20.060 Trapping Of Domestic Animals**

- A. It is unlawful for any person to trap, set a trap or engage in trapping in Hyde Park City except under the supervision of the Animal Control Officer. The Mayor may authorize any employees of the City to engage in trapping where it is deemed by the Mayor to be in the best interest of Hyde Park City.
- B. The Animal Control Officer may make available humane "live" traps to the public to trap nuisance animals running at large and trespassing on their property.
- C. It shall be the responsibility of the citizen trapping an animal to notify the Animal Control Officer who will retrieve the contents of the trap and deal with the animal in accordance with approved policies.

#### **7.20.070 Trapping Of Wild Animals**

Trapping of wild or nuisance animals is regulated by State law. Residents are encouraged to contact the City's Animal Control Officer for assistance and/or advice regarding wild and/or other nuisance animals. The Animal Control Officer will often be able to assist with the control of such animals.

#### **7.20.080 Wild Animal Restrictions**

It is unlawful for any person to sell, possess, offer for sale, barter, give away, keep or purchase any wild animal which is fierce, dangerous, noxious or naturally inclined to do harm. An animal shelter, a zoological park, veterinary hospital, humane society shelter, public laboratory, circus, sideshow, amusement park or facility for education of scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided.

#### **7.20.090 Nuisance Animals**

Any owner or person having charge, care, custody or control of an animal(s) causing a nuisance as defined in this ordinance shall be subject to the penalties provided herein. The following list of possible nuisance behaviors or conditions may make such a person liable for causing a nuisance if:

- A. The animal is allowed to damage, soil or defile property other than the owner's: or

- B. The animal is allowed to defecate on property other than the owner's or on public walks and recreation areas, unless such waste is immediately removed and properly disposed of by the owner; or
- C. The care of (or lack of care for) the animal causes unsanitary, dangerous, or offensive conditions. Such conditions could include but are not limited to foul odors or water containing feces that is allowed to runoff onto property other than the owner's (for example water from the cleaning of pens or confined fenced in areas, etc); or
- D. The animal is allowed to cause a disturbance by excessive barking, whining, growling, howling or other noise making, which substantially disturbs the peace or quiet or causes unreasonable annoyance or disturbance to individuals; or
- E. The animal chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property or private property other than the owner's.

### **7.30 Dogs And Cats**

#### 7.30.010 Licensing And Rabies Vaccinations

#### 7.30.020 Permits

#### 7.30.030 Issuance And Revocation Of Permits And Licenses; Appeal

#### 7.30.040 Owner Responsibility

#### 7.30.050 Impoundment

#### 7.30.060 Redemption

#### 7.30.070 Adoption

#### 7.30.080 Euthanization

### **7.30.010 Licensing And Rabies Vaccinations**

- A. Except as provided in this section, no person shall own, keep, or harbor any dog over four (4) months of age within Hyde Park City unless such dog is vaccinated and licensed. The licensing of cats is not required. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter, or held temporarily by an authorized foster care provider.
- B. Rabies vaccinations are required for all licensed dogs and encouraged for cats.
- C. Application for a license must be made within thirty (30) days after obtaining a dog over four (4) months of age, except that this requirement will not apply to a nonresident keeping a dog within Hyde Park City for no longer than sixty (60) days. Written application for a dog license shall be made to Hyde Park City and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination. The following shall be considered proof of current rabies vaccination:
  - 1. A rabies vaccination certificate from a licensed veterinarian (a rabies tag alone is not to be considered proof of vaccination);
  - 2. Verification through a phone call with a licensed veterinarian (or a fax) verifying the rabies vaccination; or
  - 3. Hyde Park City records made from either of the above sources that indicate the rabies vaccination is current.
- D. The licensing period shall begin the first day of the calendar year and shall run for one (1) year. All licenses are due January 1 of each year. A late fee will be charged on licenses paid on or after March 1. License renewal may be applied for within sixty (60) days prior to the expiration date. New residents must apply for a license within thirty (30) days of establishing residency.
- E. A license shall be issued after payment of a fee according to the Fee Schedule for each dog. Persons who fail to obtain a license for a dog as required within the time period specified in this section will be subjected to a late fee as set forth in the Fee Schedule.
- F. License fees shall be waived for dogs serving the disabled or government-owned dogs used for law enforcement. All other animal control provisions shall apply including vaccinations and obtaining/wearing license tags. In these cases the tags would be issued at no cost.
- G. Upon acceptance of the license application and fee, Hyde Park City shall issue a durable license tag including an identifying number, year of issuance, city, county, and state, which must be attached to the collar of the dog. Tags must be worn at all times and are not transferable. Dogs with or without an implanted identification "chip" are required to wear the tag to facilitate quick identification by any person. Hyde Park City shall maintain a record of all licenses issued, and such records shall be available to the Animal Control Officer.

### **7.30.020 Permits**

- A. No person shall operate an animal establishment without first obtaining permit in compliance with this section.
- B. The permit period shall begin with the first day of the calendar year and shall run for one (1) year. Renewal applications for permits may be made within sixty (60) days prior of the expiration date. Application for a permit to establish a new animal establishment under the provisions of this ordinance may be made at any time.
- C. Annual permits shall be issued upon payment of the applicable fees as found in the prevailing Fee Schedule.
- D. A person who maintains a kennel of three (3) or more dogs must pay an annual kennel permit fee and must license the individual dogs. Kennels are permitted only when the owner has a minimum of one acre. Kennels are permitted by conditional use only with appropriate notice and public hearing.
- E. Under the provisions of this ordinance, no permit fee shall be required of any animal shelter. All other provisions shall apply.
- F. No person or persons at any one residence within Hyde Park City shall at any time own or license more than two dogs, except as otherwise provided in this title. Individuals who have been approved as "foster care providers" are exempt from this requirement.

### **7.30.030 Issuance And Revocation Of Permits And Licenses; Appeal**

- A. Hyde Park City may refuse to issue, refuse to renew or revoke any permit or license if the person requesting the permit or renewal or holding the permit or license refuses or fails to comply with this ordinance, the regulations promulgated by Hyde Park City or any other law governing the protection and keeping of animals.
- B. If an applicant or license holder is shown to have withheld or falsified any material information on the application, Hyde Park City may refuse to issue or renew or may revoke a permit or license.
- C. It shall be a condition of issuance of any permit for an animal establishment that Hyde Park City shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause, or pending appeal of any such action, Hyde Park City shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not reapply for a period of at least thirty (30) days. Each re-application shall disclose any previous denial or revocation and shall be accompanied by the fee as set forth in the prevailing Fee Schedule.
- D. Any person whose application for a new permit or license or for the renewal of an existing permit or license is denied, or who receives notice that his/her existing permit or license has been revoked, by or from the City official or employee administering the animal control licensing and permitting procedures, may appeal such decision/action by filing a written notice of appeal with the City Recorder, within ten (10) calendar days after such decision/action is taken. The written notice of appeal shall state the decision/action appealed from and all information and evidence which supports the appellant's notice of appeal. The appeal shall be heard by the City

Council at the next regular city council meeting, which is held at least ten (10) business days after the date the written notice of appeal is received by the City Recorder. The City Council shall receive such evidence as is presented, within its discretion, shall give both the appellant and City representatives an opportunity to heard and shall take such action as the City Council deems appropriate. The City Council's decision shall be final.

#### **7.30.040 Owner Responsibility**

- A. All dogs shall be kept under restraint when off owner's property.
- B. No dog shall be abandoned, neglected, or allowed to cause a nuisance. The owner of every dog shall be held responsible for every behavior of such dog under the provisions of this ordinance.
- C. Livestock guarding dogs shall be exempt from nuisance regulations when performing duties protecting livestock on premises owned or controlled by the owner.
- D. Dog owners shall ensure that their dog carries identification at all times in the form of a tag, or other means to allow easy determination of the owners.

#### **7.30.050 Impoundment**

- A. When any animal is found running at large or causing a nuisance as defined in this ordinance, it shall be impounded by the Animal Control Officer and confined in a humane manner. Immediately upon impounding an animal, the Officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Animals not claimed by their owners within a period of five (5) days, in which the shelter is open to the public will no longer be under the responsibility of Hyde Park City. Said animal may be adopted or euthanized at the discretion of the animal care facility. Hyde Park City will not be responsible for any boarding charges over five (5) days.
- B. When any dog found running at large, or causing a nuisance as defined in this ordinance, is caught; and its ownership is verified by the Animal Control Officer, the officer may exercise the option of serving the owner with a citation in lieu of impounding the animal. The owner of any dog, which has been impounded three (3) times, in a two- year period, will be issued a citation, and required to appear before a judge for review.
- C. Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

#### **7.30.060 Redemption**

- A. Any animal impounded may be redeemed by the owner/caregiver thereof within five (5) working days upon payment of an impound fee as listed in the prevailing Fee Schedule plus any additional costs incurred in caring for the impounded animal. If any such animal has been previously impounded within the previous twenty-four (24) months, the impoundment fee shall be increased as listed in the prevailing Fee Schedule. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, or license fees.
- B. The owner or caregiver of an impounded animal may redeem their animal by the following procedure:
  - 1. Report to the Hyde Park City office to request the redemption of the animal.
  - 2. An authorized city employee will locate the proper impound ticket and calculate the daily board charges incurred as per the prevailing Fee Schedule. (The city employee may also call the impound facility to obtain the correct daily board charges.)
  - 3. The owner/caregiver will pay Hyde Park City for all impound fees, fines, and daily board charges. The city will then issue the owner an itemized paid receipt listing all charges paid for.
  - 4. The owner/caregiver will present the paid receipt at the impound facility and request the redemption of the animal. Owner will pay the impound facility for all expenses incurred for any veterinarian care, vaccinations, spaying, neutering, or other charges.
  - 5. The impound facility will then release the animal and bill Hyde Park City for the daily board charges incurred for the animal.
- C. Any dog or cat confined for rabies, quarantine, evidence or other purposes may be redeemed by the owner, following the confinement period, and upon payment of all costs incurred in caring for the animal as specified in paragraph B above.
- D. No animal, that is required to be licensed or vaccinated under this ordinance, may be redeemed until provisions for such licensing and vaccinations have been fulfilled.

#### **7.30.070 Adoption**

No dog can be released for adoption without being spayed or neutered. Vaccination fees, any appropriate licensing fees, boarding charges, and veterinary costs may be assessed above and beyond or as part of the adoption fees.

#### **7.30.080 Euthanization**

Any animal not redeemed or rescued within five (5) working days may be euthanized. Any animal deemed by a competent licensed veterinarian / animal control officer to be feral (unowned) and dangerous, sick, injured, suffering, a nuisance, or a hazard to public health may be euthanized immediately.

### **7.40 Dangerous Dogs**

#### **7.40.010 Definitions**

#### **7.40.020 Responsibility Of Owner Of "Dangerous" Animal**

#### **7.40.030 Actions Allow By Authorized Person Against A Dangerous Dog**

#### **7.40.040 Judicial Hearing Procedure**

#### **7.40.050 Repeals, Conflicting Ordinances**

#### **7.40.060 Severability**

#### **7.40.070 Penalty**

#### **7.40.010 Definitions**

- A. Dangerous Dog means any dog, which without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals. A dog's breed shall not be considered in determining whether or not it is "dangerous". No dog may be declared "dangerous" if:
  - 1. The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
  - 2. At the time the attacked person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
  - 3. The attacked person was teasing, tormenting, abusing or assaulting the dog, or in the past had teased, tormented, abused or assaulted the dog.

4. The dog was attacked or menaced by the domestic animal, or the attacked domestic animal was on the property of the owner, or custodian, of the dog;
5. The dog was responding to pain or injury, or protecting itself, its domain or its offspring;
6. The attacked person or domestic animal was disturbing the dog's natural functions such as sleeping or eating.

Neither growling nor barking, nor both, shall alone constitute grounds upon which to find a dog to be "dangerous."

- B. Attack means aggressive physical contact initiated by the dog.
- C. Serious Injury means any physical injury consisting of broken bones or a permanently disfiguring laceration requiring either multiple stitches or cosmetic surgery.
- D. Domestic Animal means any animal commonly kept as a pet in family households in the United States, including, but not limited to, dogs, cats, guinea pigs, rabbits, pygmy pigs, and hamsters; and any animals commonly kept for companion or commercial purposes.

#### **7.40.020 Responsibility Of Owner Of "Dangerous" Animal**

Every "dangerous" dog or cat, as determined by the Animal Control Officer, shall be confined by its owners within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

#### **7.40.030 Actions Allow By Authorized Person Against A Dangerous Dog**

- A. If any dog shall attack a person or domestic animal who was peaceably conducting himself in any place where he may lawfully be, any person, for the purpose preventing imminent injury or further injury, may use such force as is required to stop the attack.
- B. A police officer or Animal Control Officer acting pursuant to his statutory duties may, where the threat of serious injury to a person or domestic animal is imminent and unjustified, use such force as is required to prevent such injury.

#### **7.40.040 Judicial Hearing Procedure**

- A. Any person may make a complainant of an alleged "dangerous dog" as that term is defined herein to the Animal Control Officer or a police officer of Hyde Park City. Such officer(s) shall immediately inform the complainant of his right to commence a judicial hearing provided for in Paragraph B, immediately below, and if there is reason to believe the dog is a "dangerous" dog, the officer shall forthwith commence such judicial hearing himself.
- B. Any person may, and any police officer, or Animal Control Officer acting within the scope of his statutory duties, shall make a complaint under oath or affirmation of an alleged "dangerous" dog as that term is defined herein to any municipal or county judge or justice, with jurisdiction. Thereupon, the judge or justice, shall immediately determine if there is probable cause to believe the dog is a "dangerous" dog and, if so, shall issue an order to any police officer pursuant to his statutory duties or Animal Control Officer directing such officer to immediately seize such dog and hold same pending judicial determination as herein provided. Whether or not the judge or justice finds there is probable cause for such seizure, he shall, within five (5) working days and upon written notice of not less than three (3) days to the owner of the dog, hold a judicial hearing on the complaint.
- C. Where a dog is determined, pursuant to clear and convincing evidence at a duly constituted hearing to be "dangerous," the judge or justice, shall require the owner of said animal to register such animal with Hyde Park City, and to provide prompt notification to Hyde Park City of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instance of attack; any claims made or lawsuits brought as a result of further instances of attack, or the death of the animal. In addition, the judge or justice may require any or all of the following, but items 5 and 6, may only be imposed where there has been serious injury to a person.
  1. Indoors, when not alone, the dog must be under the control of a person eighteen (18) years or older. Provisions for the dog to be outdoors must also be made.
  2. Outdoors and unattended, the dog must be kept within a locked fenced area from which it cannot escape.
  3. When outdoors the dog must be attended and kept within a fenced area from which it cannot escape.
  4. When outdoors the dog must be attended and kept on a leash no longer than six (6) feet and under the control of a person eighteen (18) years of age or older.
  5. When outdoors the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.
  6. Outdoors and unattended, the dog must be confined to an escape-proof fixed dog run of the following description:
    - a. Such fixed dog run shall allow the dog to stand normally without restriction, and shall be at least two and one half (2.5) times the length of the dog, and shall protect the dog from the elements.
    - b. Fencing materials shall not have openings with a diameter of more than two (2) inches, and in the case of wooden fences, the gaps shall not be more than two (2) inches.
    - c. Any gates within such fixed dog run or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the dog is confined to such fixed dog run and unattended such locks shall be kept locked.
    - d. The fixed dog run may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
  7. Placement of a sign or signs of a description and in places directed by the judge or justice, advising the public of the presence and tendencies of said animal.
  8. Attendance by the dog and its owner/custodian at training sessions conducted by a certified applied animal behaviorist, board certified veterinary behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owners of the dog shall be responsible for all costs associated with the evaluation and training ordered under this section.
  9. Neutering or spaying of the dog at the owner's expense, unless medically contraindicated.
  10. That the dog be permanently identified by tattooing or by injecting an identification microchip, using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with Hyde Park City.
- D. If a further incident of attack occurs under such circumstances that the dog, after a judicial hearing as described above, is determined to be a "dangerous dog" the judge or justice may impose or re-impose any applicable directives listed above; additionally, humane destruction of the dog may be ordered, but only where further incident involves serious injury to a person.

#### **7.40.050 Repeals, Conflicting Ordinances**

All other ordinances of Hyde Park City that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

#### **7.40.060 Severability**

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

**7.40.070 Penalty**

The violation of any section of this ordinance shall be a Class B Misdemeanor. A person adjudged guilty of an offense under the provisions of this Animal Control Ordinance shall be sentenced in accordance with the appropriate provisions of state and city codes and the payment of restitution of all amounts due to the City and/or others shall be ordered and shall be paid in addition to, and not in lieu of, any fine imposed, imprisonment ordered and community service allowed. Restitution amounts due shall be paid by check, credit card and/or cash.



## **8 Municipal Property**

### **8.10 Regulation And Control**

#### **8.10 Regulation And Control**

- [8.10.010 Control Of Property](#)
- [8.10.020 Acquisition And Disposal](#)
- [8.10.030 Erection And Care Of Buildings](#)
- [8.10.040 Control Of Municipal Property](#)
- [8.10.050 Unlawful Use](#)
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- [8.10.090 Cemeteries \(Reserved\)](#)

#### **8.10.010 Control Of Property**

Cities see U.C.A. Section 10-8-1 and 10-8-2.

Towns see U.C.A. Section 10-13-1 and 10-13-5.

#### **8.10.020 Acquisition And Disposal**

Cities see U.C.A. Section 10-8-2.

#### **8.10.030 Erection And Care Of Buildings**

Cities see U.C.A. Section 10-8-5.

#### **8.10.040 Control Of Municipal Property**

#### **8.10.050 Unlawful Use**

Unless authorized by permit or other written authorization issued by the municipality or unless authority is granted by provisions of this code or other ordinance of the municipality now or hereafter enacted, it shall be a class B misdemeanor for any person to:

- A. Construct, Law, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by this municipality any utility, canal, ditch, construction or building.
- B. Enter upon any property of this municipality contrary to posting or marking restricting or prohibiting use of the area
- C. Intentionally use or perform acts upon property of the municipality which materially impairs, alters, or damages the property.

#### **8.10.060 Repair Or Restoration**

#### **8.10.070 Franchise**

- A. The governing body may grant to any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for other use of the property of this municipality, and the provisions of Section 8.10.050 and 8.10.060 shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.
- B. Any franchise or easement granted by this municipality shall be in writing and any franchise or easement not in writing shall be void.

#### **8.10.080 Acts Exempted**

It shall not be a violation of this part where any person uses the public property of this municipality in the manner or for the purpose or purposes for which such property has been made available for public use.

#### **8.10.090 Cemeteries (Reserved)**

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## **9 Building Codes**

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### **9.10 Building Regulations**

[9.10.010 Building Official](#)

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[9.10.420 Reinspection Charge](#)

[9.10.430 Refusal To Comply With Order Of Inspector](#)

[9.10.440 Penalty](#)

[9.10.450 Uniform Mechanical Code Adopted](#)

#### **9.10.010 Building Official**

#### **9.10.020 Building Official**

There is hereby created the position of building official who shall also be known as the municipal building inspector.

#### **9.10.030 Stop Order**

The building inspector shall have the power to order all work stopped on construction, alteration or repairs of buildings in the municipality when such work is being done in violation of any provisions of any ordinance relating thereto, or in violation of the subdivision or zoning ordinance. Work shall not be resumed after the issuance of such order except on the written permission of the inspector, provided that if the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written stop order may be served by any peace officer or other authorized person.

#### **9.10.040 Entry Powers**

The building inspector shall have the power to enter into any building or the premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspections at any reasonable hour, pursuant to any of the provisions of chapters 9.50 and 9.60 and title 10 of this code.

#### **9.10.050 Additional Duties Of Building Inspector**

The building official (inspector) shall in addition to all other duties imposed on him by this municipality:

- A. Enforce the provision of the Uniform Building Code.
- B. Inspect all buildings, structures, ditches, signs, fences and objects to determine their safety and effect on the persons who are within this municipality.
- C. Until such time as a plumbing inspector is appointed or designated, the building inspector shall be responsible for enforcing section 9.50.270 of this title.
- D. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (i) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) use construction materials and utility equipment that are resistant to flood damage, and (iii) use construction methods and practices that will minimize flood damage.
- E. Review subdivision proposals and other proposed new developments to assure that (i) all such proposals are consistent with the need to minimize flood damage, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided so as to reduce exposure to flood hazards.
- F. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

#### **9.10.060 General Provisions**

#### **9.10.070 Permit Required - Exceptions**

- A. It shall be a class C misdemeanor for any homeowner and a class B misdemeanor for any person who receives payment or anything of value to construct or alter any building or structure, or a fence, without first securing the permit required by this chapter.
- B. This section shall not apply where the retail cost of the materials used in the construction or alteration is less than \$150.00, except that it shall apply in all cases where the construction or alteration results in an enlarged structure or affects the walls of the building or structure.

#### **9.10.080 Application For Permit**

A building permit shall be secured from the recorder/clerk on written application accompanied by plans and specifications in duplicate which must state the specific nature of the construction or alterations to be made. The plan must be verified by the person who will perform or be in charge of the construction or alteration.

#### **9.10.090 Approval Of Plan**

The application and plans shall be forward from the recorder/clerk to the building inspector, who shall review the plan to determine whether the proposed construction or alteration conforms to the building codes and ordinances of this municipality. The building inspector shall return the plans to the recorder/clerk within ten days with the statement "approved" if the plans do conform or "disapproved" if the plans do not conform. IF the plans are disapproved, the reasons therefor shall be annexed to the plans. On receipt of an approved plan, the recorder/clerk shall issue a permit to the applicant together with one set of the approved plan. One set of the plans shall be retained by the building inspector. The building inspector may revoke at any time a permit which has been issued for any building constructed or being constructed or which would be or result, if constructed, in a violation of any ordinance of this municipality.

#### **9.10.100 Variations Of Plan Prohibits**

No material variation from the approved plan shall be allowed unless such variations shall first have been approved in writing by the building inspector.

#### **9.10.110 Fee Schedule**

The clerk/recorder shall collect a fee for the application of a permit in the amount set forth in the appropriate appendix to this code.

#### **9.10.120 Building Code**

#### **9.10.130 Adoption Of Building Code**

The Uniform Building Code, 1976 Edition, published by the International Conference of Building Officials and printed as a code in book form, three copies of which have previously been filed with the recorder/clerk for use and examination by the public, hereby is approved and adopted as the building code of this municipality.

#### **9.10.140 Reserved**

#### **9.10.150 Establishment Of Fire Districts Or Zones**

The areas described in the appropriate appendix are hereby established as fire districts or zones.

#### **9.10.160 Electrical Code**

The National Electrical Code-1978 Edition, published by the National Electrical Contractors Association and approved by the National Board of Fire Underwriters, American Standards Association and the National Fire Protection Association and printed as a code in book form, three copies of which have been previously filed with the recorder/clerk for use and examination by the public, hereby is approved and adopted as the electrical code of this municipality.

#### **9.10.170 Electrical Inspection**

The building inspector shall perform all functions of electrical inspection and shall, among other things, inspect and supervise the construction, installation, and repairs of all electric light and power wiring, fixtures, appliances, or apparatus installed within the limits of the municipality and shall require compliance with the provisions of the electrical code. Wiring, fixtures, and apparatus theretofore installed need not necessarily be made to conform strictly to all the provisions of the electrical code. The building official shall require the correction of such defects as he deems actually dangerous to life or property. Those same enforcement standards established in the Uniform Building Code shall be followed by the building inspector for all electrical work.

#### **9.10.180 Permits And Inspections**

No alterations or additions shall be made in existing wiring, nor shall any wiring or any apparatus which generates, transmits, transforms or utilizes any electricity be installed without first obtaining a permit therefore except minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords. Applications for such permit describing such work shall be made in writing and shall conform as far as practicable to the requirement set forth in section 9.50.080 of this title. This section shall not apply to installations in power houses and substations belonging to electric light companies. No permit shall be issued to any applicant for a permit during the time that he shall fail to correct any defective electrical installations after he has been duly notified to correct such defective work by the building inspector.

#### **9.10.190 Permit Fees**

The electrical permit fees applicable in this municipality for use under the National Electrical Code-1978 Edition shall be the amount set forth in the appropriate appendix to this code.

#### **9.10.200 Electrical Disturbances**

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

#### **9.10.210 Electrical Installations**

#### **9.10.220 Electrical Installations - Business License Required**

No person shall engage in the installation, alteration, repair, or construction of any electrical work, wiring, fixtures, appliances, or equipment inside or outside of any building, except work done for or on the property of the municipality, without first securing a business license and paying the fee therefor as provided in section 9-543 of this chapter.

#### **9.10.230 Notification**

It shall be unlawful for any person to do or cause to be done any electrical wiring or other electrical installation in the building or structure within the municipality without first notifying the building inspector of the kind and nature of such electric wiring or other electrical installation and the location of the building or structure in which the same is to be installed.

#### **9.10.240 Inspection**

All electric wiring or other electrical installations shall be subject to supervision and inspection by the building inspector. It shall be unlawful for any person to do or cause to be done any electrical wiring or electrical installations without first obtaining the permit required by section 9.50.180 of this chapter.

#### **9.10.250 Unlawful Installation - Disconnection**

- A. If the building inspector shall find any part of any electric light or power wiring, appliances, apparatus, or fixtures in or upon any building in the municipality to have been installed without permit, or installed not in accordance with the provisions of the Electrical Code or to be dangerous to life or property, the inspector shall have the right and power to disconnect such defective work, fixtures, appliances, or apparatus and place a seal upon the same, and shall at the same time give written notice of such disconnection to the owner or occupant of the building.
- B. After such disconnected wiring, fixtures, appliances, or apparatus have been put in the condition required by this part, the seal so placed shall be removed by order of the inspector.

#### **9.10.260 Notification To Inspect**

- A. Upon completion of the installation of any electrical wiring, fixtures, appliances or apparatus in or on any building, it shall be the duty of the person doing the work to notify the building inspector who shall cause the same to be inspected and, if approved, to issue a certificate of inspection which shall contain the date of such inspection and a statement that the installation is approved.
- B. It shall be unlawful for any person to turn on or connect the current with such installation until such certificate shall be issued and it shall also be unlawful to make any change, alteration, or extension in or to the installation of any electrical wiring, fixtures, appliances, or apparatus in or on any building after inspection without notifying the municipal wiring inspector and securing a permit to do so.
- C. The requirement of permits, inspection, and supervision shall not apply to minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints, and repairing drop cords, and wiring for appliances and devices operating at less than 25 volts.

#### **9.10.270 Plumbing Code**

#### **9.10.280 Plumbing Code Adopted**

The Utah State Plumbing Code-1973 Edition, published by the Utah Plumbing, Heating and Cooling Contractors as a code in book form, three copies of which have been filed for use and examination by the public in the office of the record, hereby is approved and adopted as the plumbing code of this municipality except as otherwise altered or modified by the ordinances of this municipality.

#### **9.10.290 Application And Scope**

The provisions of this part shall apply to, but not be limited to, all new construction, relocated buildings, and to any installation, alteration, repair or reconstruction of a plumbing system within the municipality except as otherwise provided for in this part.

#### **9.10.300 Plumbing Inspector - Duties**

- A. There is hereby created the position of plumbing inspector.

B. The plumbing inspector shall issue permits to properly licensed, bonded and registered persons. Licensing should be for work to be done within the scope of this part. The plumbing inspector:

1. Shall order changes in workmanship and/or materials essential to enforce compliance with the provisions of the plumbing code.
2. Shall investigate any construction or work regulated by this part and issue such notices and orders as are necessary to prevent or correct dangerous or unsanitary conditions.
3. May recommend the revocation of any license to the state department of business regulation for cause, and report to the department of business regulation all violations of this part by journeymen, apprentices or contractors.

#### **9.10.310 Allowance For Exception To Ordinance**

Where structure conditions impose extreme difficulty in fully complying with the plumbing regulations of this part, any aggrieved party may apply in writing to the plumbing inspector for special permission to deviate from the regulations. If in the judgment of the plumbing inspector such deviation is reasonable and does not create an unsanitary or unsafe condition, he shall recommend to the governing body that the request for deviation be approved or disapproved, or that approval is subject to such conditions as the governing body may require. The governing body, on review, may approve or disapprove the application or vary the conditions on which approval is granted.

#### **9.10.320 Right Of Entry Granted**

The plumbing inspector shall have the right of entry within reasonable hours to any building or premise for the purpose of inspection or to investigate any work or conditions governed by this part.

#### **9.10.330 Power To Condemn Granted**

The plumbing inspector is hereby empowered to condemn and order repaired, removed, replaced or changed any plumbing found in any unsanitary condition or not in accordance with this part. Failure to comply with the order within a reasonable time is an infraction.

#### **9.10.340 Interest In Sale Or Installation Of Equipment Prohibited**

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

#### **9.10.350 Permits Required**

No plumbing shall be installed, nor additions or alterations made in existing plumbing, except as provided in section 9.50.390 without first obtaining a permit. Application for such permits shall be in writing to the recorder/clerk and shall describe the nature of the work to be done and affirm that the plumbing will conform to the plumbing code. No permit shall be issued to any application during the time that he shall fail to correct any defective plumbing installed by him after he has been notified in writing by the plumbing inspector of the defective work.

#### **9.10.360 Revocation Of Permit**

The plumbing inspector may revoke any permit when the person to whom the permit is issued fails, neglects, or refuses to do the work thereunder in conformance with this part, or when the permit is issued in error.

#### **9.10.370 Expiration Of Permit**

Every permit issued by the plumbing inspector shall expire and become null and void if the work authorized by such permit is not commenced within sixty days from the date such permit is issued, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred and twenty days or more.

#### **9.10.380 Denial Of Permit**

The plumbing inspector may refuse to issue permits for any plumbing work to any person who has had a permit revoked in accordance with this part during such time as such person fails to perform plumbing work in conformance with this part.

#### **9.10.390 Permits Not Required**

- A. Repairs which involve only the working parts of a faucet or valve, the clearance of stoppages, the repairing of leaks or the replacement of defective faucets or valves may be made without a permit provided that the permits shall be procured to replace fixtures, traps, soil, waste, and vent pipes unless waived by the plumbing inspector.
- B. Any person regularly employed by an owner or lessee of property, or his agents, for the sole purpose of operating and maintaining such property and to make minor repairs thereof, and any owner or lessee of property shall be exempt from the provision of this part when doing work for which permits are not required.

#### **9.10.400 Home Owner Permit**

Any permit required by this part may be issued to any person to do any plumbing or drainage work regulated by this part in a single family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters and that the same are occupied by or designed to be occupied by the owner, and further provided that the owner shall furnish the plumbing inspector with a complete layout drawing of the proposed work, satisfies the plumbing inspector that he has a working knowledge of the requirements contained in this part, pays the necessary fees, and calls for all inspections required by this part.

#### **9.10.410 Permit Fees**

Before a permit shall be issued, permit fees in the amount set forth in the appropriate appendix to this code shall be paid to the treasurer.

#### **9.10.420 Reinspection Charge**

After notice that any plumbing work is ready for inspection if the plumbing inspector calls at the place designated to make such inspection and finds the work not ready for inspection, he shall charge an additional fee \$15.00 for each additional inspection required, except that the governing body may from time to time change the inspection fee required in this part by resolution.

#### **9.10.430 Refusal To Comply With Order Of Inspector**

It shall be unlawful for any owner, agent or occupant of any building or premises to fail, neglect or refuse to repair, remove, replace or change within ten days after written notice to do so from the plumbing inspector, any plumbing condemned by such inspector, provided that this section shall not apply to any occupant not responsible for the installation or repair of the condemned plumbing.

#### **9.10.440 Penalty**

- A. The violation of any provision of this part by any homeowner, building owner or manager of any building, apartment, hotel, motel or other structure shall be an infraction.
- B. The violation of any provision of this part by any person who receives payment or anything of value for performing such work shall be a class B misdemeanor.

#### **9.10.450 Uniform Mechanical Code Adopted**

The Uniform Mechanical Code establishing uniform requirements for the installation and maintenance of heating, ventilating, cooling and refrigeration systems as set forth in the "Uniform Mechanical Code-1976 Edition" and sponsored jointly by the International Association of Plumbing and Mechanical Officials and the International Conference of Building Officials as a code in book form, three copies of which have been filed for use and examination by the public with the recorder, hereby is adopted as the mechanical code for this municipality except as the code may be altered or modified by the provisions of the ordinance of this municipality.

### **9.20 Other Building Or Construction Codes**

- [9.20.010 Individual Wastewater \(Sewage\) Disposal Code Adopted](#)
- [9.20.020 Small Underground Wastewater Disposal System Code Adopted](#)
- [9.20.030 Code For Installing Gas Piping And Appliances Adopted](#)
- [9.20.040 Code Adopted](#)
- [9.20.050 Sections Of Code Not Adopted](#)
- [9.20.060 Construction Of Gas Code](#)
- [9.20.070 Uniform Sign Code Adopted \(Reserved\)](#)
- [9.20.080 Uniform Housing Code](#)
- [9.20.090 Adoption Of A Housing Code](#)
- [9.20.100 Application](#)
- [9.20.110 Alteration](#)
- [9.20.120 Relocation](#)
- [9.20.130 Establishment Of A Housing Advisory And Appeals Board](#)
- [9.20.140 Violations](#)
- [9.20.150 Permits And Inspections](#)
- [9.20.160 Fallout Shelters](#)
- [9.20.170 Exemption From Building Code Requirements](#)
- [9.20.180 Definition](#)
- [9.20.190 Design](#)
- [9.20.200 Construction](#)
- [9.20.210 Administrative Application Of Building Code](#)

#### **9.20.010 Individual Wastewater (Sewage) Disposal Code Adopted**

Part IV, "Individual Wastewater Disposal Systems," of the Code of Waste Disposal Regulations, adopted by Utah division of health and Utah state committee on water pollution in May, 1965, as revised by action of the Board in June, 1967, and issued and published as a code in book form, three copies of which have been filed for use and examination by the public in the office of the clerk, and which established rules and regulations relating to the disposal of domestic waste water discharge from single homes, multiple dwellings containing not more than four individual units, and commercial installations serving not more than 50 persons per day, is hereby adopted by the municipality as the ordinance relating to individual waste water disposal systems within the municipality except as such code may be altered or modified by the provisions of this part.

#### **9.20.020 Small Underground Wastewater Disposal System Code Adopted**

Part V, "Small Underground Wastewater Disposal Systems" of the Code of Waste Disposal Regulations, adopted by the Utah division of health and Utah state committee on water pollution in May, 1965, as revised by action of the Board June 2, 1967 and June 21, 1967, and issued and published as a code in book form, three copies of which have been filed for use and examination by the public in the office of the clerk, is hereby adopted by the municipality as the small underground wastewater disposal systems code within the municipality, except as it may be altered or modified by the provisions of this or the preceding chapter. Occupancies in existing building may be continued as provided in section 104(g) of the Uniform Building Code, except as to those structures which are found to be substandard as defined in the Housing Code.

#### **9.20.030 Code For Installing Gas Piping And Appliances Adopted**

#### **9.20.040 Code Adopted**

Recommended good practices for gas piping, appliance installation and venting, 1976 revision, published by Mountain Fuel Supply in book form, three copies of which have been filed for use and examination by the public in the office of the record, is hereby adopted by this municipality.

#### **9.20.050 Sections Of Code Not Adopted**

Section I of the Gas Code is not adopted.

#### **9.20.060 Construction Of Gas Code**

The practices recommended, suggested or described by the word “should” are hereby made mandatory unless the building inspector or the gas company determine that it is in the best interests of and safe for the gas user and municipality to vary the requirements of the gas code, provided that such variation shall be in accordance with generally accepted gas use standards.

#### **9.20.070 Uniform Sign Code Adopted (Reserved)**

#### **9.20.080 Uniform Housing Code**

#### **9.20.090 Adoption Of A Housing Code**

The “Uniform Housing Code,” 1976 Edition, printed as a code in book form by the International Conference of Building Officials (providing minimum requirements for the protection of life, limb, health, safety, and welfare of the general public and the owners and occupants of residential buildings), three copies of which have been filed for use and examination by the public in the office of the clerk of this municipality, is hereby approved and adopted as the Housing Code of this municipality.

#### **9.20.100 Application**

The provisions of the Housing Code shall apply to all buildings or portions thereof used, designed for or intended to be used for human habitation. Occupancies in existing buildings may be continued as provided in section 104(g) of the Uniform Building Code, except for such structures as are found to be substandard as defined in the Housing Code.

#### **9.20.110 Alteration**

Existing buildings which are altered or enlarged shall be made to conform to the housing code insofar as the new work is concerned, in accordance with section 104(a), (b), (c), (d), (e), and (i) of the Uniform Building Code.

#### **9.20.120 Relocation**

Existing buildings which are moved or relocated shall be considered as new buildings and shall comply with all requirements of the Housing Code.

#### **9.20.130 Establishment Of A Housing Advisory And Appeals Board**

In order to interpret the provisions of the Housing Code and to hear appeals provided for hereunder, there is hereby established the housing advisory and appeals board consisting of five members who shall not be employees of the municipality. The building official shall be an ex officio member of and shall act as secretary to the board. The housing advisory and appeals board may adopt reasonable rules and regulations for conducting its business. Its decisions and findings shall be in writing, copies of which shall go to the appellant and to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 1201 of the Housing Code. Copies of all rules or regulations adopted by the board shall be delivered to the building official who shall make them available to the public without cost.

#### **9.20.140 Violations**

It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Housing Code or any order issued by the building official pursuant thereto.

#### **9.20.150 Permits And Inspections**

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, cause or allow the same to be done, without first obtaining a separate building permit for each such building or structure from the building official in the manner and according to the application conditions prescribed in the Housing Code.

#### **9.20.160 Fallout Shelters**

#### **9.20.170 Exemption From Building Code Requirements**

Due to the specialized purpose of emergency nature for which family fallout shelters are designed, any such shelter which complies with the provisions of this chapter is hereby exempt from the provisions of the Building Code, except as otherwise provided herein.

#### **9.20.180 Definition**

For the purpose of this part, a family fallout shelter is a structure designed and constructed for emergency use only, to afford minimum protection from nuclear radiation, commonly known as fallout, resulting from a nuclear incident which recently has been or is likely to be of catastrophic proportions.

#### **9.20.190 Design**

A family fallout shelter shall be of a design conforming to that recommended or accepted by the Federal Department of Defense, Office of Civil Defense.

#### **9.20.200 Construction**

A family fall out shelter shall, in all matters relating to construction and structural stability, comply with not less than the equivalent of the provisions relating to design loads and general building requirements specified in the Uniform Building Code.

#### **9.20.210 Administrative Application Of Building Code**

Notwithstanding the foregoing, the provisions contained in the Building Code relating to administration, permits and inspections shall be applicable to family fallout shelters.



## **9.30 Water System Safety**

### **9.30.010 Definitions**

#### **9.30.020 Water Supply Protection**

#### **9.30.030 Duty To Inspect Annually**

#### **9.30.040 New Construction**

#### **9.30.050 Installation Required**

#### **9.30.060 Existing Equipment**

#### **9.30.070 Repair And Maintenance Of Equipment**

#### **9.30.080 Access For Inspection**

#### **9.30.090 Certified Backflow Technician**

#### **9.30.100 Notification Of Public**

#### **9.30.110 Records**

#### **9.30.120 Violations**

### **9.30.010 Definitions**

Backflow- The reversal of the normal flow of water caused by either back-pressure or back siphonage.

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

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

Backflow Prevention Assembly- An assembly or means designed to prevent backflow. See Appendix J, chapter 10, Utah Plumbing Code as adopted for specifications of such assemblies.

Cross Connection- Any physical connection or arrangement of piping or fixtures which may allow non-potable water or industrial fluids or other material of questionable quality to come into contact with potable water inside a distribution system. This phrase includes any temporary connections, including swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or change-over devices; sliding multi-port tubes, or other similar plumbing arrangements.

### **9.30.020 Water Supply Protection**

No water service connection to any premises shall be installed or maintained by the city, or any other water utility, or individual, unless the water supplying the premises is protected as required by state and city laws and regulations.

### **9.30.030 Duty To Inspect Annually**

It shall be the responsibility of the water consumer to purchase, install, test and maintain backflow prevention devices/assembly where necessary and to control cross connections. Certified inspections and operational tests shall be made at least once a year. Where the city deems the hazard to be great, the consumer may be required to have such inspections and tests at a more frequent interval as prescribed by the city. All such tests shall be made according to the standard set forth by the Utah State Department of Health, Bureau of Drinking Water and Sanitation.

### **9.30.040 New Construction**

The Building Official of the city will review all plans for new construction to ensure that unprotected cross connections are not an integral part of the consumer's water system. If a cross connection cannot be eliminated, protection will be required by installation of an air gap or other approved backflow prevention device/assembly, in accordance with the Utah Plumbing Code as adopted. Water vacating the drinking water supply must do so by means of an approved air gap or mechanical backflow prevention assembly as required by said Code.

### **9.30.050 Installation Required**

Whenever the city deems a sufficient hazard to the water supply, installation of an approved backflow prevention assembly shall be required on the lateral service line of the consumer's water system, at or near the property line, or immediately inside the building being served, or any irrigation system connection, but before the first branch line leading off the lateral service line in any event. The type of protective assembly required shall depend upon the degree of hazard existing at the point of cross connection (whether direct or indirect) so as to comply with local and state requirements. The city test all backflow prevention assemblies within ten (10) working days after their installation in order to determine their adequacy.

### **9.30.060 Existing Equipment**

All backflow prevention assemblies existing at the time this ordinance is adopted but which do not meet the requirements hereof shall nonetheless be excluded from the requirements of the chapter, provided they were approved for the purposes described herein at the time of installation and have been properly maintained so as to function in the manner originally intended. Such previously existing assemblies nonetheless shall be subject to the periodic inspection and testing required by Section 3 above. Whenever an existing assembly is moved to another location, or requires more than minimum maintenance, or where it is determined to constitute a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this chapter.

### **9.30.070 Repair And Maintenance Of Equipment**

The maintenance, including necessary repairs, of all backflow prevention assemblies and cross connection control devices required by the chapter shall be the responsibility of the consumer, and failure to adequately maintain any required equipment shall be a violation hereof. All installations and repair of such equipment shall be effected by a certified journeyman plumber or other agent of the owner, provided he is a Certified Backflow Technician as provided in Section 9 in either case.

#### **9.30.080 Access For Inspection**

A consumer's system shall be open for inspection at all reasonable times to authorized representatives of the City Water Department in order to determine whether cross connections or other structural or sanitary hazards, including violations of the chapter, exist. In order to determine that no backflow prevention assembly is installed in such manner as to create a safety hazard, the inspection shall include access to above sealing areas, pits, paneled interior areas, or other locations where cross connections might exist.

The consumer shall be responsible to provide a router of access across his property for inspection purposes that is free from litter, overgrowth, the threat of a vicious animal, or other hindrance that may be detrimental to the safety of the inspector or obstructive to his ease of access.

#### **9.30.090 Certified Backflow Technician**

All tests of mechanical devices/assemblies shall be conducted by a certified backflow technician or other competent technicians as determined by Hyde Park City, who will be responsible for the competence and accuracy of all test and reports. Such technician shall be responsible for the following:

- A. Assure that acceptable testing equipment and procedures are used for the testing, repairing or overhauling of backflow prevention assemblies.
- B. Make reports of such testing and/or repair to the consumer, the city, and the Bureau of Drinking Water and Sanitation on the form approved for such use by said Bureau. Reporting shall be within the time allowed by the Bureau.
- C. Include in all reports a list of any materials or replacement parts used.
- D. Assure that replacement parts are equal in quality to original parts and that any testing, repair or replacement does not change the design or operational characteristics of the assembly.
- E. Maintain his license in current condition and his testing equipment in proper operating condition.
- F. Be equipped with, and competent and use, all necessary tools, gauges, and other equipment necessary to properly test and maintain backflow prevention assemblies.
- G. Tag each double check valve, pressure vacuum breaker, reduce pressure backflow assembly and high hazard air gap, showing the serial number, date tested and by whom, including the technician's license number.

#### **9.30.100 Notification Of Public**

Although failure of a consumer to be aware of this chapter shall be no defense to violation hereof, the Public Works Department shall use reasonable means to notify it's consumers of the hazards of cross connection and the need for annual inspection of backflow prevention assemblies.

#### **9.30.110 Records**

The Public Works Department shall keep reasonable records of cross connection hazards and the condition of backflow assemblies, including those records required by state and federal agencies. It shall provide the tags required by Section 9-(G) upon request by certified backflow technicians.

#### **9.30.120 Violations**

Service of water to a consumer found to be in violation of this ordinance shall be discontinued by the city after written notice of the violation, and appropriate time suspended for voluntary compliance, and the due process entitlements otherwise extended by the city before termination of water service. A violation exists if:

- A. A backflow prevention assembly required by the chapter for control of cross connections is not installed, tested or maintained.
- B. If it is found that backflow prevention assembly has been removed or bypassed.
- C. If an unprotected cross connection exists on the premises.
- D. If the periodic system inspection has not been conducted.

Where written notification of a deficiency is provided by the city, in the event of a failure by the consumer to take the required corrective action within ten (10) days after the date of mailing such notice, the city shall at it's sole discretion immediately discontinue service in accordance herewith. Water service will not be restored until all such conditions or defects are corrected.

In addition to any penalty provided herein, violation of this chapter shall be a Class B misdemeanor.

## **10 Fire, Health, Safety And Welfare**

10.10 Fires - Department - Code

10.20 Health

10.30 Nuisances

10.40 Garbage And Litter

### **10.10 Fires - Department - Code**

10.10.010 Department

10.10.020 Creation

10.10.030 Personnel And Duties

10.10.040 Creation Of Position Of Chief

10.10.050 Powers And Duties Of Chief

10.10.060 Employees

10.10.070 Powers Of Fire Department

10.10.080 Emergency Vehicles

10.10.090 Removal Of Obstructions Are Fire

10.10.100 Control Of Persons

10.10.110 Interference With Firemen In Discharge Of Duties

10.10.120 Unlawful Interference With Officers, Apparatus, Water, Etc.

10.10.130 Investigation After Fire Report

10.10.140 Right To Enter Upon And Inspect Premises

10.10.150 Males Present At Fire Subject To Orders

10.10.160 False Alarm

10.10.170 Uniform Fire Code

10.10.180 Uniform Fire Code Adopted

10.10.190 Establishment And Duties Of Bureau Of Fire Prevention

10.10.200 Definitions

10.10.210 Limits On Storage Of Flammable Liquids Prohibited.

10.10.220 Establishment Of Limits In Which Bulk Storage Of Liquified Petroleum Gases Is To Be Restricted

10.10.230 Establishment Of Limits Of Districts In Which Storage Of Explosives And Blasting Agents Is Prohibited

10.10.240 Amendments Made In The Uniform Fire Code

10.10.250 Appeals

10.10.260 New Materials, Processes, Or Occupancies Which May Require Permits

10.10.270 Penalties

10.10.280 Standard Fire-Fighting Equipment

10.10.290 Equipment For New Fire Protection Systems - Standard Equipment

10.10.300 Duty Of Local Governing Body To Maintain And Comply

10.10.310 Prohibited Sales And Penalties

#### **10.10.010 Department**

#### **10.10.020 Creation**

There is hereby created a fire department to be known as the Hyde Park Fire Department.

#### **10.10.030 Personnel And Duties**

#### **10.10.040 Creation Of Position Of Chief**

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

#### **10.10.050 Powers And Duties Of Chief**

- A. The chief shall be responsibility for the general supervision of the department.
- B. During a fire, the chief shall have full authority to take all measures as he shall deem necessary, subject to state law, to control and extinguish the fire and for the purpose he is hereby made a special peace officer.
- C. The chief shall at least quarterly report to the governing body the condition of the fire equipment, the number of fires and their causes and the estimated loss therefrom together with such other information as the governing body may request or as he shall deem appropriate.
- D. The chief shall strictly enforce all the provision of the ordinances of this municipality relating to the protection against and prevention of fire.
- E. The chief shall maintain the equipment of the department in good repair and order and ready for use.
- F. The chief, subject to the approval of the mayor and governing body, shall establish rules and regulations for the operating of the department.
- G. The chief may delegate his duties to any person employed by the department, but such delegation shall not relieve the chief of his responsibility for the performance thereof.
- H. The chief shall cause all fires to be promptly investigated to determine the cause of the fire and report the cause of the fire, the time originated and such other information as may be relevant to prevent other fires.

#### **10.10.060 Employees**

The chief may make recommendations to the mayor relating to the employment of firemen and such other personnel as may be necessary to enforce the provisions of this chapter. The chief may employ such additional personnel as the mayor and governing body may direct or authorize.

#### **10.10.070 Powers Of Fire Department**

#### **10.10.080 Emergency Vehicles**

Fire trucks are hereby designated authorized emergency vehicles.

#### **10.10.090 Removal Of Obstructions At Fire**

The officer in charge at any fire may order the removal or destruction of any fence, building or structure, or that any utility be closed, cut or removed when deemed necessary to control, extinguish or prevent the spread of fire.

#### **10.10.100 Control Of Persons**

All persons present at a fire shall obey the orders of any firemen.

#### **10.10.110 Interference With Firemen In Discharge Of Duties**

Every person at the scene of any fire who disobeys the lawful orders of any public officer or fireman, or offers any resistance to or interference with the efforts of any fireman, or company of firemen to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of an infraction.

#### **10.10.120 Unlawful Interference With Officers, Apparatus, Water, Etc.**

Any person who shall willfully hinder any officer or fireman in the discharge of his duty at a fire, or in any manner injure, deface or destroy any engine, hose or other fire apparatus belonging to the municipality, or who shall interfere with any fire company or person, or who shall willfully break or injure any water pipe, or interfere with the water or its source of supply shall be deemed guilty of a class B misdemeanor and shall be punished accordingly.

#### **10.10.130 Investigation After Fire Report**

The chief, or such other persons as he shall designate, shall, after extinguishing a fire, make a prompt and thorough investigation of the cause of the fire, the time the fire began, the amount of loss and insurance, a description of the affected buildings and premises, and shall secure all other useful information available, and record the same in a record book kept for that purpose in the office of the department and shall report the same to the governing body at such time as it may direct.

#### **10.10.140 Right To Enter Upon And Inspect Premises**

The fire chief or his deputies upon presentation of proper credentials shall have the right to enter upon any premises at all reasonable hours for the purpose of making inspections.

#### **10.10.150 Males Present At Fire Subject To Orders**

Every male person eighteen years or older present at a fire shall be subject to the orders of the officer in command and shall render assistance in the manner directed by the officer in command.

#### **10.10.160 False Alarm**

It shall be unlawful for any person to turn in or report to the fire department a false alarm or report of a fire or to tamper or remove any part of the fire alarm system.

#### **10.10.170 Uniform Fire Code**

#### **10.10.180 Uniform Fire Code Adopted**

There is hereby adopted as the fire code by this municipality, for the purpose of prescribing regulations governing conditions hazardous to life and protecting property from fire or explosion, that certain code known as the 1976 edition of the Uniform Fire Code as recommended by the Western Fire Chiefs Association and the International Conference of Building Officials, except to the extent it is hereinafter modified or amended by section 10.10.230 of this part, three copies of which have been and are now filed in the office of the clerk for use and inspection by the public.

#### **10.10.190 Establishment And Duties Of Bureau Of Fire Prevention**

- A. The Uniform Fire Code shall be enforced by the bureau of fire prevention in the fire department of the municipality which is hereby established and which shall be operated under the supervision of the chief of the fire department.
- B. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the mayor the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

#### **10.10.200 Definitions**

- A. The word "jurisdiction" as used in the Uniform Fire Code, shall mean the boundaries of this municipality.
- B. The term "corporation counsel" as used in the Uniform Fire Code shall mean the attorney for this municipality.

#### **10.10.210 Limits On Storage Of Flammable Liquids Prohibited.**

1. The limits referred to in Section 15-201 of the Uniform Fire Code in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby established in an appendix to this code.
2. The limits referred to in Section 15.601 of the Uniform Fire Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established in an appendix to this code.

#### **10.10.220 Establishment Of Limits In Which Bulk Storage Of Liquefied Petroleum Gases Is To Be Restricted**

The limits referred to in Section 20.105(a) of the Uniform Fire Code, in which the bulk storage of liquefied petroleum gas is restricted, are hereby established in the appropriate appendix attached to this code.

#### **10.10.230 Establishment Of Limits Of Districts In Which Storage Of Explosives And Blasting Agents Is Prohibited**

The limits referred to in Section 11.106(b) of the Uniform Fire Code, in which the storage of explosives and blasting agents is prohibited, are hereby established in the appropriate appendix attached to this code.

#### **10.10.240 Amendments Made In The Uniform Fire Code**

Any amendments to the Uniform Fire Code shall be set forth in the appropriate appendix to this code.

#### **10.10.250 Appeals**

Whenever the chief shall disapprove an application, refuse to grant a permit for which application has been received, or when it is claimed that the provision of the fire code do not apply or that the true intent and meaning of the fire code have been misconstrued or wrongly interpreted, the application may appeal the decision of the chief to the governing body within 30 days from the date of such decision.

#### **10.10.260 New Materials, Processes, Or Occupancies Which May Require Permits**

The building inspector and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in the fire code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

#### **10.10.270 Penalties**

- A. Any person who shall violate any of the provisions of the Uniform Fire Code or fail to comply therewith, or who shall violate or fail to comply with any order thereunder, or who shall building in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit used thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction within the time fixed herein shall, severally for each and every such violation and noncompliance respectively, be guilty of a class B misdemeanor. Imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal of the prohibited condition.

#### **10.10.280 Standard Fire-Fighting Equipment**

#### **10.10.290 Equipment For New Fire Protection Systems - Standard Equipment**

See U.C.A. section 11-4-1.

#### **10.10.300 Duty Of Local Governing Body To Maintain And Comply**

See U.C.A. section 11-4-2.

#### **10.10.310 Prohibited Sales And Penalties**

See U.C.A. section 11-4-3 and 11-4-4.

### **10.20 Health**

10.20.010 Board Of Health And Health Officer

10.20.020 Board Of Health Established

10.20.030 Duties And Powers Of Board Of Health

10.20.040 Permits

10.20.050 Applications

10.20.060 Health Director

10.20.070 Position Created

10.20.080 Powers And Duties Of Health Director

10.20.090 Unwholesome Food

10.20.100 Vacating Premises

10.20.110 Discharge Of Sewage Pollution

10.20.120 Inadequate Plumbing

10.20.130 Offensive Business And Facilities

10.20.140 Commencement Of Offensive Business

10.20.150 Issuance Of Permits

10.20.160 Existing Offensive Business And Facilities

10.20.170 Control Of Animal And Fowl Facilities

#### **10.20.010 Board Of Health And Health Officer**

#### **10.20.020 Board Of Health Established**

The Bear River District Health Department is hereby designated as the board of health of this municipality.

#### **10.20.030 Duties And Powers Of Board Of Health**

- A. The municipality may contract with the Bear River District Health Department on such terms and conditions as the parties may agree to enforce the provisions of this chapter and such other ordinances of this municipality which authorize or require action or impose any duty on the board of health.
- B. The board of health shall adopt such rules and regulations as it shall deem necessary to govern its meetings and conduct.
- C. The board of health shall review and approve all applications for permits to operate any business or engage in any construction for which a permit is required from the board of health pursuant to any ordinances or regulations of this municipality.
- D. The board of health shall recommend to the mayor for promulgation by the governing body such health rules, regulations, and ordinances as it deems necessary for the health of the persons within this municipality.

#### **10.20.040 Permits**

It shall be unlawful for any person to engage in any of the following businesses or activities without first obtaining a permit from the board of health.

- A. Handling, selling, offering for sale, preparing or serving any food or food products or beverages or water intended for human consumption.
- B. Operating or permitting public access to any public swimming pool.
- C. Commercially operating any public dump, garbage or refuse collection or disposal facility, or cleaning out or installing any privy, cesspool or septic tank.
- D. Fumigating or eradicating pests, insects, vermin or any other infestation from any building occupied or to be occupied by humans.
- E. Keeping cattle, sheep, hogs, poultry or rabbits where the fair market value of such animal or animals exceeds \$100.00.

#### **10.20.050 Applications**

- A. Applications for a permit from the board of health shall be made in writing to the recorder/clerk.
- B. The application shall be referred by the recorder/clerk to the board of health for review and recommendation. The board of health shall then forward the application with its recommendation to the mayor for approval or disapproval by the governing body.

#### **10.20.060 Health Director**

#### **10.20.070 Position Created**

The health director of the Bear River District Health Department is hereby designated as the health director of this municipality.

#### **10.20.080 Powers And Duties Of Health Director**

- A. The health director may appoint or designate any qualified person to act as his assistant for the purpose of enforcing the ordinances of this municipality.
- B. Subject to the terms and conditions of the contract between the Bear River District Health Department, the health director shall:
  - 1. Be the executive officer of the board of health.
  - 2. Enforce all ordinances of this municipality and the state of Utah which relate to the health and welfare of the residents of this municipality.
  - 3. Enforce all rules, regulations and ordinances relating to:
    - a. Plumbing, sanitation, contagious infectious diseases, quarantine and sewage disposal.
    - b. Producing, storing, keeping and selling meat, dairy or other foods or food products.
    - c. The quarantine and disposal of all animals affected with any contagious or infectious diseases.
  - 4. Enforce the nuisance ordinances of this municipality.
  - 5. Have the power to impose and maintain a strict quarantine of all infected persons and premises having contagious or infectious diseases, and to require such persons or premises to be disinfected.
  - 6. Have the right and authority, when he shall deem necessary to secure or preserve the public health, to enter into or upon any premises, building, or other places during the daytime to examine, analyze, or test any building, structure, premise, product or good manufactured, stored, or kept within the municipality for the purposes of enforcing this chapter.

#### **10.20.090 Unwholesome Food**

It is a class B misdemeanor for any person to sell or offer for sale any unwholesome food or beverage which has been condemned by any government food inspector.

#### **10.20.100 Vacating Premises**

- A. It shall be unlawful for any person, upon vacating or moving from any dwelling, storeroom, or other building, to fail to remove all garbage, rubbish, or ashes from such building or premise and the grounds appurtenant thereto, or to fail to place the same in a thoroughly sanitary condition within 24 hours after the premises are vacated.
- B. In situations where rental property is so vacated, the owner of the property shall be concurrently responsible with the tenant thereof for compliance with this section.

#### **10.20.110 Discharge Of Sewage Pollution**

- A. It shall be unlawful for any person to discharge or permit the discharge of any sewage or filth from any premises into and upon any public highway, stream, water course, or public place, or into any drain, cesspool, or private wastewater disposal system which does not conform to standards established by the state division of health or by this municipality.
- B. The health director may order a connection for sewage disposal to be made with the public sewer system provided by the municipality if such is available, provided that the public sewer system is within 300 feet of the premises.
- C. The health director shall use all due measures to prevent the fouling of any streams, water courses, reservoirs, or any source furnishing water to any of the inhabitants of this municipality.

#### **10.20.120 Inadequate Plumbing**

The health director shall have power to require the prompt repair of all leaks or other defects in plumbing throughout the municipality. He shall have power to condemn and abate all plumbing which is deficient under the plumbing ordinances. When, in the opinion of the health officer, a change in occupants, type of business or other cause requires changes in plumbing, he shall have the power to compel the installation of an increased number of plumbing fixtures and a change in their type or capacity, and to make such other alterations or increases as may be necessary for health and safety of the occupants of the building and of the public generally.

#### **10.20.130 Offensive Business And Facilities**

#### **10.20.140 Commencement Of Offensive Business**

- A. No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of this municipality without first filing an application for a permit to do so with the recorder/clerk.
- B. Offensive businesses, within the meaning of this part, shall include but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases, or noises.
- C. The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control, or modify the emission by the business of the undesirable odors, fumes, noises, and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

#### **10.20.150 Issuance Of Permits**

- A. The recorder/clerk shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the board of health and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing body. The governing body, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:
  1. Deny the application.
  2. Recommend a modification thereof.
  3. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body with reference to controlling the offensive features of the business.
- B. In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.
- C. The governing body shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

#### **10.20.160 Existing Offensive Business And Facilities**

- A. The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.
- B. If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.

#### **10.20.170 Control Of Animal And Fowl Facilities**

- A. The governing body shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the municipality and may control the owner of any pigsty, privy, barn corral, fur-bearing animal farm, feed yard, poultry farm, or other unwholesome or nauseous house or place to cleanse, abate or remove the same.
- B. The governing body may on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.
- C. In the event that the governing body decides that the business or facility should be abated, removed, or controlled, it shall notify the owner or operator of the business or facility of such fact.
- D. After a hearing, the governing body may issue a limited license wherein it may prescribe the specifications and standard which must be followed by the business or facility in order to be permitted to continue in operation.
- E. Upon a determination by the governing body that the business or facility is a nuisance, it shall power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the governing body shall have power to bring all necessary legal proceedings to force removal, abatement, or adherence to standards.

### **10.30 Nuisances**

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#### **10.30.010 Nuisances Generally**

#### **10.30.020 Nuisances Defined**

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

#### **10.30.030 Author Of Nuisance Defined**

Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

#### **10.30.040 Declaration Of Nuisance**

- A. Every act or condition made, permitted, allowed or continued in violation of Section 10.30.020 above, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.
- B. Nuisances include but are not limited to:
  1. Befouling water in any spring, stream, well, or water source supplying water for culinary purposes.
  2. Allowing any privy, vault or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors to air or water.
  3. Permitting any garbage container to remain on premises when it has become unclean and offensive.
  4. Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area except when it temporarily deposited for immediate removal.
  5. Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard, or in any other building or area in which any animals are kept.
  6. Permitting any slaughter house, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed, or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.
  7. Discharging or placing any offense water, liquid waste, or refuse any kind into any street, alley, sidewalk, gutter, stream, wash, natural water course, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so.
  8. Keeping or collecting any stale or putrid grease or other offensive matter.
  9. Having or permitting upon any premises any fly or mosquito-producing condition.
  10. Keeping any drinking vessel for public use without providing a method of decontamination between uses.
  11. Permitting or performing any ablutions in or near any public drinking fountain.
  12. Failing to furnish any dwelling house, boarding house, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.
  13. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems within 20 days after notice from an enforcement officer or official of the municipality.
  14. Permitting any lot or excavation to become the repository of stagnant water or any decaying or offense substances.
  15. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the governing body.

#### **10.30.050 The Enumeration Of Nuisances**

The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

#### **10.30.060 Toilet Or Sewer Facilities**

All toilet or sewer facilities shall be constructed and maintained in accordance with the ordinances of the municipality. All such facilities that do not comply with such

provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed.

#### **10.30.070 Restrictions On Blocking Water**

- A. It shall be unlawful for any person or persons to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow there from, or to become unsanitary.
- B. Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.

#### **10.30.080 Abatement Of Weeds And Deleterious Objects**

#### **10.30.090 Real Property To Be Kept Clean**

It shall be an infraction for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this part or not to remove from such property and cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the health director as hereinafter provided.

#### **10.30.100 Weed - Defined**

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

#### **10.30.110 Standards Of Weed Control**

- A. It is hereby declared that the above stated weeds constitute a nuisance when they:
  - 1. Create a fire hazard, a source of contamination, or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or are unsightly or deleterious to their surroundings.
- B. The cut weeds shall be removed from the premises within 48 hours after cutting.

#### **10.30.120 Nuisances On Property**

#### **10.30.130 Definition Of Nuisance**

For the purpose of this part the term "nuisance" is defined to mean any condition of use or premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to keeping or depositing on, or scattering over the premises any of the following:

- A. Lumber, junk, trash, or debris.
- B. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, can or containers.

#### **10.30.140 Duty Of Maintenance Of Private Property**

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

#### **10.30.150 Storage Of Personal Property**

Unsheltered storage of old, unused, tripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of 30 days or more (except in licensed junk yards) within this municipality, is hereby declared to be a nuisance and dangerous to the public safety.

#### **10.30.160 Abatement Of Nuisance By Owners**

The owner, owners, tenants, lessees or occupants of any lot within this municipality on which such storage as defined in the foregoing section 10.30.150 is made, and also the owner, owners or lessees of the above described personal property involved in such storage shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured buildings to be used for such purposes, or otherwise to remove such property from the municipality.

#### **10.30.170 Dangerous Buildings**

#### **10.30.180 Adoption Of A Code For The Abatement Of Dangerous Buildings**

The "Uniform Code for the Abatement of Dangerous Buildings," 1976 edition, printed as a code in book form by the International Conference of Building Officials (providing for a just, equitable and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished), three copies of which have been filed for use and examination by the public in the office of the clerk of this municipality, is hereby approved and adopted as the Abatement of Dangerous Buildings Code of this municipality.

#### **10.30.190 Application**

The provisions of the Abatement of Dangerous Buildings Code shall apply to all dangerous buildings as therein defined, which now exist or which may exist or hereafter be constructed in this municipality.

#### **10.30.200 Alterations, Additions, And Repairs**

All buildings or structures which are required to be repaired under the provisions of the Abatement of Dangerous Buildings Code shall be subject to the provisions of subsections (a), (b), (c), (d), (e), and (i) of Section 104 of the Uniform Building Code.

#### **10.30.210 Abatement Of Dangerous Buildings**

All buildings or portions thereof which are determined after inspection by the building office to be dangerous, as defined in the Abatement of Dangerous Buildings Code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with procedures specified in section 401 of the

Abatement of Dangerous Buildings Code.

#### **10.30.220 Establishment Of A Board Of Appeals**

In order to interpret provisions of the Abatement of Dangerous Buildings Code and to hear appeals provided for there under, there is hereby established an abatement of dangerous building board of appeals consisting of five members who shall not be employees of the municipality. The building official shall be an ex officio member of and shall act as secretary to the board. The board may adopt reasonable rules and regulations for conducting its business and shall render all decision and findings in writing to the applicant with a copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in the adopted codes. Copies of all rules and regulations adopted by the board shall be delivered to the building official who shall make them accessible to the public without cost.

#### **10.30.230 Dangerous Building - Nuisances**

All dangerous buildings within the terms of this part are hereby declared to be public nuisances shall be vacated or demolished as hereinbefore and hereinafter provided.

#### **10.30.240 Administrative Notice - Hearings - Disposal Of Nuisance - Lien - Penalty For Violation**

#### **10.30.250 Appointment And Duties Of Inspector**

- A. There is hereby established the position of nuisance inspector whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the chief or police shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.
- B. The nuisance inspector is authorized to:
  1. Perform all functions necessary to enforce the provisions of the chapter.
  2. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.
- C. If he concludes there exists an objectionable condition in violation of this chapter, the inspector shall:
  1. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.
  2. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, postage prepared, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the inspector may designate, provided that any person notified pursuant to this subsection shall be given at least ten but not more than 20 days, as determined by the inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:
    - a. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
    - b. Inform the owner, occupant or other person that in the event he disagrees with the determination of the inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the governing body at a time and place to be set by the governing body. A written application for a hearing shall stay the time within which the person must conform to the provisions of the notice.
    - c. Inform the person that in the event he fails or neglects to correct the objectionable condition, the municipality will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs together with reasonable attorney's fees and court costs, or will charge the cost of correcting the violation against the property as a tax.
  3. In the event the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the recorder/clerk shall notify the owner, occupant, or other persons in writing of the time and place at which they may appear and be heard. The hearing shall not be heard within less than five days from the date of service or mailing of the notice of hearing.

#### **10.30.260 Hearing**

- A. At the written request of an owner, occupant or other person having an interest in property which is the subject or a notice to remove or abate weeds, objectionable conditions, or objects from the property, the governing body shall conduct an informal hearing (which need not be reported wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter. The governing body shall also permit the presentation of evidence and argument by the inspector and other interested parties. Thereafter within not less than five nor more than ten days, the governing body shall over the signature of the mayor or such other member of the governing body as it may designate render its written decision, a copy of which shall be mailed to or served upon the owner or other person to whom the original notice was given by the inspector.
- B. In the event the decision of the governing body upholds the determination of the inspector, the notice originally given by the inspector as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed 30 days, is authorized by the inspector.
- C. In the event that the decision of the governing body either overrules or modifies the determination of the inspector, the written decision of the governing body shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the governing body within ten days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the governing body.
- D. The inspector shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

#### **10.30.270 Failure To Comply**

#### **10.30.280 Itemized Statement**

The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant, or persons having an interest in the property.

#### **10.30.290 Failure To Make Payment**

In the event the owner, occupant or person having an interest in the property, fails to make payment of the amount set forth in the statement to the municipal treasurer within the 20 days, the inspector either may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter.

#### **10.30.300 Collection By Lawsuit**

In the event collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorneys' fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

#### **10.30.310 Collection Through Taxes**

In the event that the inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the three copies of the statement to the county treasurer within ten days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provision so section 10-14-4, Utah Code Annotated 1953, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

#### **10.30.320 Criminal Proceeding**

The commencement of criminal proceedings for the purposes of imposing penalties for violations of this chapter shall not be conditioned upon proper issuance of a notice or the granting to the defendant of an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

#### **10.30.330 Penalty For Failure To Comply**

- A. Any owner, occupant or person having an interest in the property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a Class C Misdemeanor for each offense and further sum of \$50 for each and every day such failure to comply continues beyond the date fixed for compliance.
- B. Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

### **10.40 Garbage And Litter**

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#### **10.40.010 Garbage Regulation**

#### **10.40.020 Definitions**

- A. "Garbage" means waste from preparation, handling, storing, cooking or consumption of food and food products.
- B. "Residential garbage" refers to garbage produced in places of private residence and dining halls not open to the public.
- C. "Commercial garbage" refers to garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.
- D. "Refuse" means all waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels, or other places of dwelling and from the operation of a business. Refuse shall not be deemed to include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.
- E. "Community waste" means lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.
- F. "Container" or "regulation container" means a type of garbage or trash container of galvanized metal or other approved material and having a tight fitting lid or properly and sufficiently treated weather resistant paper bag manufactured specifically for use in garbage and refuse collection.

#### **10.40.030 Collection Of Garbage**

- A. The municipality or its agent shall collect, remove and dispose of all residential, commercial garbage the removal of which is not otherwise provided for by the establishment or institution as herein provided. All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as the governing body may from time to time establish by regulation.
- B. Except as otherwise expressly permitted by this part, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the municipality except by the municipality or its agent and except by authorized persons hauling commercial garbage or refuse as hereinafter provided. It is hereby to be unlawful for any person, except as permitted in this part, to haul or remove garbage or refuse in the municipality.
- C. Commercial establishments, public or quasi-public, institutions and establishments creating commercial garbage, may remove commercial garbage themselves or may employ the services of authorized contractors to remove commercial garbage. Authorized garbage haulers must apply for and receive permission to do so from the recorder/clerk. Haulage of refuse must be done in the manner, at such times and in such vehicles as may be approved for such purposes as the governing body may from time to time by regulation provide.
- D. Nothing contained in this section shall preclude persons from hauling their own garbage, trash or community waste over the streets and alleys of the municipality in vehicles and containers approved by a sanitary inspector or such other personnel of the municipality as the governing body may authorize.
- E. Nothing in this section shall be construed as eliminating the charge made for garbage service.

#### **10.40.040 Service Charge**

- A. The service charge for garbage collection shall be established by resolution from time to time by the governing body and shall be in an amount consistent with the amounts set forth in the contract between the municipality and the Cache County Service Area #1.
- B. Charges shall apply to all residences and business establishments whether or not they have also elected to haul their own garbage or employ the services of authorized garbage haulers.

#### **10.40.050 Method Of Payment Of Service Charges**

- A. The garbage service charges above imposed by this part shall be added to the charge made for water furnished through the water system of the municipality and shall be billed and collected in the same manner as water service charges are billed and collected.
- B. In the event that the obligee for the water service charges and the obligee for the garbage service charges do not coincide, or in the event that practical economic and administrative reasons do not make combined billing and collection feasible in the opinion of the governing body shall be regulation provide.

#### **10.40.060 No Accumulation Of Garbage**

It shall be unlawful for any person to accumulate garbage or refuse or cause garbage or refuse to be deposited upon any street or ally or upon any premises in the municipality without express permission from the municipal health officer. The health officer may permit the feeding or processing of garbage or refuse upon premises property equipped and maintained so as to prevent the creation of a nuisance or a hazard to health, or permit the depositing of ashes and other dry material for filling purposes at such places as the health officer may designate and under such restrictions as the governing body may by regulation impose. Additionally, the health officer may grant to any person permission for sorting, bailing and marketing trade waste upon premises property equipped and maintained.

#### **10.40.070 Containers**

- A. All garbage and refuse shall be placed in suitable and sufficient garbage receptacles, either receptacles with tight fitting lids or property and sufficiently treated water resistant paper bags manufactured specifically for use in garbage and refuse collection, or plastic bags manufactured specifically for use in garbage and refuse collection.
- B. Containers shall not exceed a 30-gallon capacity for receiving and holding garbage, market waste or other refuse which may accumulate.
- C. Receptacles shall not be filled to exceed 75 pounds in weight including the weight of the receptacle. Metal receptacles shall be provided with handles for convenient lifting.

#### **10.40.080 Closing Of Garbage Containers Required**

All garbage and market waste must be placed in rainproof and fly-proof receptacles of the type herein required, and the receptacle shall be tightly closed in such manner as to prevent offense odors or flies.

#### **10.40.090 Time And Place Of Pickup**

- A. All garbage and refuse subject to garbage collection by the municipality shall be placed at a pickup point at or near the premises designated from time to time by regulations adopted by the governing body and at such time or times as shall be designated by regulations of the governing body.
- B. Until otherwise provided by regulation, garbage and refuse must not be set out upon the street for collection prior to the evening of the day before collection and must be set out on the day of collection before the hour of collection designated by regulations of the governing body.
- C. All empty receptacles must be removed from the street as soon as practicable after being emptied, and in every case, must be removed from the street the same day

they are emptied. Receptacles shall not be permitted to remain on any street longer than may be necessary for the removal of the contents.

#### **10.40.100 Disposal Of Community Waste**

- A. Community waste may be disposed of by residents and business establishments in vehicles provided by them subject to regulation by the governing body as to the places of disposal and as to the type of vehicle used to avoid spillage upon the public ways of municipality, hazards to safety and the prevent of nuisances.
- B. The governing body from time to time may provide for the collection and disposal of such types of community waste as it may decide to collect and haul in connection with its regular garbage, waste collection and disposal service. In the event community waste disposal service should require a charge to be made by the municipality, the determination of the charge will be made by negotiation with the residents or business enterprises and residents or business enterprises will be given an opportunity to choose from among services offered by persons other than the municipality.

#### **10.40.110 Burning Of Refuse Prohibited**

It shall be unlawful for any person to burn garbage, market waste, manure or other refuse in the open air or in any furnace or stove within the municipality.

#### **10.40.120 Dumping Refuse Prohibited**

It shall be unlawful for any person to place, deposit, or dump garbage, ashes, market waste, paper boxes, cartons, trade waste, manure or night soil, or any other refuse upon any lot within the municipality whether such lot is occupied or vacant and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under his jurisdiction.

#### **10.40.130 Limitations Upon Dumping**

Dumping waste and garbage shall be permitted only in such places as are designated by the governing body. Dumping shall be subject to such rules and regulations as may be formulated by the governing body.

#### **10.40.140 Regulations**

The governing body may adopt such regulations as in its opinion are necessary to implement this part and its objective.

#### **10.40.150 Permits**

It shall be unlawful for any person who does not possess an unrevoked permit from the Cache County Service Area #1 in addition to any business license required by the municipality to engage in the business of refuse collection or refuse disposal for compensation in the municipality. The Cache County Service Area #1 shall issue permits for such applicants; provided that such permits shall be limited to persons having proper equipment and personnel to collect and dispose of refuse in accordance with the provisions of this part; and that no permit shall be required of any agency acting under contract with the municipality.

#### **10.40.160 Enforcement, Service Of Notices, And Orders, Hearings**

- A. Whenever the Cache County Service Area #1 has determined that there are reasonable grounds to believe that there has been a violation of any provision of this part, notice of such alleged violation shall be given to the person or persons responsible therefore, as hereinafter provided. Such notice shall:
  1. Be put into writing;
  2. Include a statement of the reasons why it is being issued;
  3. Allow a reasonable time for the performance of any act it requires;
  4. Be served upon the holder of a permit issued under this part or upon the owner or agent or the occupant of any premises within the municipality; provided, that such notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of this state for commencement of civil actions.
- B. Such notice may:
  1. Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this part.
  2. State that unless conditions or practices described in such notice, which violate this part, are corrected within reasonable time specified in such notice, the violator may be punished in accordance with the provisions of this part, or a permit which has been issued pursuant to this part may be suspended or revoked.
- C. Any person who is affected by any notice issued in connection with the enforcement of any provision of this part may request, and shall be granted, a hearing on the matter before the Cache County Service Area #1 or its designee; provided, that such person shall file, in the office of the Cache County Service Area #1 a written request for such hearing and within ten days after the date the notice was served. Upon receipt of such request, the Cache County Service Area #1 shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than ten days after the day on which the request was filed, provided that, upon application of the petitioner, the Cache County Service Area #1 may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement.
- D. After such hearing, the Cache County Service Area #1 shall sustain, modify, or withdraw the notice, depending upon its findings based on such hearing as to whether or not the provisions of this part and of the regulations adopted pursuant thereto have been complied with. If the Cache County Service Area #1 sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if filed in the office of the Cache County Service Area #1 within ten days after such notice was served. In the case of any notice which states that a permit required by this part may be suspended or revoked, the Cache County Service Area #1 may suspend or revoke such permit if an order is issued and corrective action has not been taken within the time specified in the notice.
- E. The proceedings at such hearing, including the findings and decision of the Cache County Service Area #1, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Cache County Service Area #1. Such record shall include, also, a copy of every notice or order issued in connection with the matter.
- F. If the corrective action ordered by the Cache County Service Area #1 under this part has not been taken within five days after such decision or other thereof, the Cache County Service Area #1 shall give notice that the governing body shall hear the matter. Notice of the hearing shall be given by personal service or by leaving a copy at the residence or place of business of the person not complying, with anyone at such address who is over the age of 14 years and by mailing a copy of the notice to the last known address of the person not complying with the order.



- G. At the time set for the hearing by the Cache County Service Area #1, the governing body shall hear the matter and receive evidence and determine what corrective action is required, if any. The decision of the governing body shall be in writing and a copy mailed to the person not complying.
- H. Any person who does not comply with the decision of the governing body shall be guilty of a misdemeanor. The governing body may order the Cache County Service Area to take the corrective action required if the person who does not comply fails to do so and a court action shall be commenced against such person for any costs incurred by the municipality.
- I. Whenever the Cache County Service Area #1 finds that an emergency exists involving a serious health hazard, which requires immediate action to protect the public health, it may without notice or hearing issue a written order reciting the existence of such an emergency and the conditions violating this part, which require corrective action to remove such health hazard. If such corrective action is not taken, the Cache County Service Area #1 may take the action including the abatement of any nuisance as may be necessary to protect the public health. Notwithstanding other provisions of this part such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the governing body shall be afforded a hearing as soon as possible, but in any case not later than three days after the petition was filed. After such hearing depending upon the findings of the governing body as to whether or not the provisions of this part and of the regulations adopted pursuant hereto have been complied with the governing body may continue such order in effect, modify it or revoke it.

#### **10.40.170 Inspection**

Any authorized employee or agent of the Cache County Service Area #1, after identifying himself, shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this part and where necessary shall obtain a search warrant from a court having jurisdiction.

#### **10.40.180 Equipment**

- A. All public or private vehicles used for the collection or disposal of refuse shall have enclosed bodies or suitable provision for covering the body. Provision and use of a tarpaulin or canvas cover to enclose open bodies of collection vehicles may be permitted when specifically approved by the Cache County Service Area #1.
- B. Vehicles used for the collection or disposal of garbage, or of refuse containing garbage, shall have watertight, metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect-breeding and shall be maintained in good repair.

#### **10.40.190 Litter - Handbills**

#### **10.40.200 Definitions**

- A. "Authorized receptacle" is a public or private litter storage and collection receptacle.
- B. "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:
  - 1. Which advertises for sale any merchandise, produce, commodity, or thing;
  - 2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof;
  - 3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. However, the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this municipality; or
  - 4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distribution.
- C. "Garbage" means waste from the preparation, cooking, or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked or consumed.
- D. "Litter" is "garbage," "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, welfare or appearance of the municipality.
- E. "Newspaper" is any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
- F. "Non-Commercial Handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.
- G. "Park" is a park, reservation, playground, beach, recreation center or any other public area in the municipality, owned or used by the municipality.
- H. "Refuse" is all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.
- I. "Rubbish" is all putrescible and nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- J. "Vehicle" is ever device in, on, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

#### **10.40.210 Litter In Public Places**

No person shall throw or deposit litter in or on any street, sidewalk or other public place except:

- A. In authorized receptacles for collection or in official municipal garbage dumps, or
- B. For collection as authorized by the governing body.

#### **10.40.220 Placement Of Litter In Receptacles So As To Prevent Scattering**

Persons placing litter in authorized receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements on any street, sidewalk or other



public place or on private property.

#### **10.40.230 Sweeping Litter Into Gutters Prohibited Except As Otherwise Authorized By The Governing Body**

No person shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

#### **10.40.240 Merchants' Duty To Keep Sidewalks Free Of Litter**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business shall keep the sidewalk in front of their business premises free of litter.

#### **10.40.250 Litter Thrown By Person In Vehicles**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter on any street or other public place, or on private property.

#### **10.40.260 Truck Loads Causing Litter**

No person shall drive or move any truck or other vehicle unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposit on any street, ally or other public place. Nor shall any person drive or move any vehicle or truck, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

#### **10.40.270 Litter In Parks**

No person shall throw or deposit litter in any park except in authorized receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

#### **10.40.280 Litter In Lakes And Fountains**

No person shall throw or deposit litter in any fountain, pond, lake, stream, by or any other body of water in a park or elsewhere.

#### **10.40.290 Throwing Or Distributing Commercial Handbills In Public Places**

No person shall throw or deposit any commercial or non-commercial handbill in or on any sidewalk, street or other public place. Unless otherwise authorized by the governing body, it is an infraction for any person to hand out, distribute or sell any commercial handbill in any public place, provided, however, that it shall not be unlawful on any sidewalk, street, or other public place for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

#### **10.40.300 Placing Commercial And Non-Commercial Handbills On Vehicles**

Unless otherwise authorized by the governing body, no person shall throw or deposit any commercial or non-commercial handbill in or on any vehicle, provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

#### **10.40.310 Depositing Commercial And Non-Commercial Handbills On Uninhabited Or Vacant Premises**

No person shall throw or deposit any commercial or non-commercial handbill in or on any private premises, which are temporarily or continuously uninhabited or vacant.

#### **10.40.320 Prohibiting Distribution Of Handbills Where Property Posted**

No person shall throw, deposit or distribute any commercial or non-commercial handbill on any private premises, if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddler or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left on such premises.

#### **10.40.330 Distributing Commercial And Non-Commercial Handbills At Inhabited Private Premises**

No person shall throw, deposit or distribute any commercial or non-commercial handbill in or on private premises which are inhabited, except by handling or transmitting any such handbill directly to the owner, occupant, or other person then present in or on such private premises. However, in case of inhabited private premises which are not posted, as provided in this part, such person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

#### **10.40.340 Exemption For Mail And Newspapers**

The provisions of this part shall not apply to the distribution of mail by the United States, or to newspapers except that newspapers shall be placed on private property in such a manner so as to prevent their being carried or deposited by the elements of any street, sidewalk, or other public place or on private property.

#### **10.40.350 Posting Notice Prohibited**

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or on any public structure or building, except as may be authorized or required by law.

#### **10.40.360 Litter On Occupied Private Property**

No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.

#### **10.40.370 Litter On Vacant Lots**

No person shall throw or deposit litter on any open or vacant private property whether or not owned by such person.

#### **10.40.380 Handbills And Posters**

- A. No person or business shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, or upon any sidewalk, curb, or any other portion or part of any public way or public place or any lamp post, electric light, telegraph, telephone or railway structure, hydrant, shade street or tree-box, or upon the columns, trusses, girders, railings, gates or other parts of any bridge or other public structure of building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of this municipality.
- B. It shall be unlawful to distribute indiscriminately to the public by leaving at houses or residences in the municipality any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever without having first secured a permit therefore. This section shall not be construed to apply to the sale of articles by licensed peddlers.
- C. Applications for such permit shall be made to the recorder/clerk and shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant and the name of the manufacturer or distributor of such article or service advertised.
- D. Licenses shall be issued only to persons of good character. The chief of police shall make or cause to be made an investigation into the character of each applicant and shall report the results thereof to the recorder/clerk before any such license is issued.

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### **11.10 Reserved**

### **11.20 Reserved**

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11.30.520 Jetting Pipe

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### **11.30.010 Superintendent Of Streets**

### **11.30.020 Department - Superintendent Of Streets**

- A. There is hereby created a department of streets, which shall have general supervision of streets, sidewalks, bridges, and other public ways.

- B. The department shall be under the direction and control of the superintendent of streets.

#### **11.30.030 Powers And Duties Of Street Department**

The department shall:

- A. Have charge of the construction, maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways and other public ways. It shall have control of all waters flowing on the streets, sidewalks and public ways whether originating from storm, flood, drainage or irrigation waters.
- B. Keep a record of and promptly investigate all complaints of defective streets, culverts, drains, ditches, sidewalks, and other public ways and, when proper, repair, replace or take such action as deemed best, and shall record the action taken on each complaint.
- C. Enforce the provisions of this chapter 11.30 and all other ordinances relating to the maintenance and use of streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks and other public ways.
- D. Repair, or cause to be repaired, all defects coming to the department's attention and take reasonable precautions to protect the public from injuries due to such defects pending their repair.

#### **11.30.040 Streets - Traffic Control**

#### **11.30.050 Adoption Of Uniform Traffic Code**

The Utah Traffic Code--Rules of the Road, 1978 edition--as compiled, prepared and published as a code in book form by the Utah Department of Public Safety and the Utah League of Cities and Towns, three copies of which have been filed for use and examination by the public in the office of the recorder, hereby is approved and adopted as the traffic code for this municipality except as such code may be altered or modified by the ordinances of this municipality.

#### **11.30.060 Definitions Contained On Code**

Unless the context otherwise requires, all references in the traffic code to:

- A. The State Road Commission or State Department of Transportation shall mean this municipality and its officers, departments, agencies, and agents.
- B. Local Authorities shall mean the governing body of this municipality.
- C. The Department of Public Safety of the State of Utah shall mean the chief of police of this municipality or his agent.
- D. Magistrate shall mean the justice of the peace or judge of this municipality.

#### **11.30.070 Prima Facie Speed - Posted Streets**

- A. When appropriate traffic control or regulatory signs giving notice of speeds are posted, the prima facie maximum speed limits designated upon said signs shall apply to the appropriate streets or portions of streets so posted.
- B. In the absence of any speed limit sign designating a speed limit applicable thereto, the prima facie speed limit shall be 30 miles per hour.

#### **11.30.080 Angle Parking**

When appropriate traffic control or regulatory signs are posted permitting angle parking, angle parking shall be permitted on the streets or parts of streets so posted at the angle designated by the sign.

#### **11.30.090 Trough Streets - Stop And Yield Intersections**

When appropriate traffic control or regulatory signs are posted at entrances to intersections identifying them as stop or yield entrances, such as hereby declared to be stop entrances and yield entrances as designed by said signs.

#### **11.30.100 Designation Of Streets And Intersections To Be Posted**

The governing body shall designate the places at which appropriate traffic control devices or regulatory signs shall be placed relating to maximum speed limits, angle parking, through streets, stop and yield intersections and other regulations governing traffic.

#### **11.30.110 Penalties**

Any person violating, causing or permitting violation of any provision of this part shall be guilty of a misdemeanor. Notwithstanding other language or provisions in the Utah Traffic Code--Rules of the Road 1978-- hereby adopted, any violator of this part, upon conviction, shall be punished by a fine of not more than \$299 or by a jail sentence not to exceed six months, or by both a fine and jail sentence.

#### **11.30.120 Animals On Streets (Reserved)**

#### **11.30.130 Parking Regulations**

#### **11.30.140 Parking Or Blocking Streets Or Highways**

In addition to the parking provisions contained in the Utah Traffic Code, as adopted by this municipality, it shall be a class B misdemeanor for any person to:

- A. Remain standing, lying or sitting on street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic hereon.
- B. Willfully remain standing, lying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer.
- C. Willfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.

#### **11.30.150 Signs**

The governing body may authorize or direct any person employed by the municipality to erect or install any sign or traffic control device required to enforce the provisions of this part.

#### **11.30.160 No Parking**

It shall be a class B misdemeanor to park or leave standing at any time a motor vehicle, as defined in the Utah Traffic Code--Rules of the Road 1978--as adopted by this municipality, in any of the places described in the appropriate appendix attached to this code when properly posted, except when necessary to avoid interference with other traffic or in compliance with the directions of a policeman or traffic control device.

#### **11.30.170 Unlawful Parking**

- A. Parking at curb. No motor vehicle shall be parked with the left side of the vehicle next to the curb, except on one-way streets. It shall be unlawful to stand or park any motor vehicle in a street other than parallel with the curb and with the two right wheels of the vehicle within twelve inches of the regularly established curb line except on those streets which have been marked for angle parking; then vehicles shall be parked at the angle to the curb indicated by such marks.
- B. Vehicles for sale. It shall be unlawful to park any vehicle on any street for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.
- C. Loading Zone. When so posted, it shall be unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than is permitted by the posted sign for the loading or unloading of passengers, or for the driver to stand or park any freight carrying motor vehicle for a period of time longer than is necessary to load, unload and deliver materials in any such place designated as a loading zone and marked as such.
- D. Parking Prohibited. It shall be unlawful for any person, except physicians on emergency calls or designated emergency vehicles when properly posted, to park any motor vehicle on any street in violation of the posted restrictions.
- E. Alleys. No person shall park a motor vehicle within an alley in such manner or under such conditions as to leave less than ten feet of the width of the roadway available for the free movement of vehicle traffic. No person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.
- F. Parking Prohibited. It shall be an infraction for any person to park or leave standing on any public road, street, alley or municipal property any motor vehicle for 48 or more consecutive hours, and any vehicle so parked or left standing may be impounded or removed by the chief of police. For purposes of impoundment and removal, the chief of police may impound and remove any motor vehicle, which reasonably appears to have remained unmoved for 48 consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle.

#### **11.30.180 Construction And Repair Of Streets And Sidewalks**

##### **11.30.190 Construction By Persons**

It shall be unlawful for any person either as owner, agent, servant, contractor, or employee to construct a street or sidewalk which does not conform to specifications established by the municipal engineer or other authorized representative of the municipality, unless special permission to deviate from such specification is first obtained from the governing body.

##### **11.30.200 Permit Required - Supervision**

- A. No person, either as owner, agent, servant, contractor, or employee, shall construct any permanent sidewalk without first obtaining from the recorder/clerk a permit so to do. The permit shall specify that the sidewalk be constructed of cement, the character and quality of the cement, the consistent parts of the mixture, and the thickness of the walk.
- B. It shall be unlawful to construct a sidewalk in violation of the specifications given by a proper municipal official.
- C. All sidewalks shall be constructed under the inspection of the superintendent of streets or his duly authorized representative.

##### **11.30.210 Construction Of Driveways Or Changes Of Construction**

It shall be unlawful for any person to construct a driveway across a sidewalk, or cut or change the construction of sidewalk, curb, or gutter without first making written application and obtaining from the recorder/clerk a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construction said driveway in accordance with specifications furnished by the municipality.

##### **11.30.220 Building Materials In Street - Permit**

It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the governing body a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the governing body. Any such permit may be revoked by the governing body at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the governing body, the public interest requires such revocation.

##### **11.30.230 Placing Or Mixing Sand Or Gravel On Paved Street Or Sidewalk**

Unless a permit from the superintendent has been obtained, it shall be unlawful to:

- A. Place or pile, or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete, or any like substance or mixture, or allow the same to remain on any portion of any paved street or sidewalk.
- B. Make or mix or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk.

##### **11.30.240 Overflowing Of Water On Public Property**

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

##### **11.30.250 Irrigation Ditches Across Sidewalks**

All owners or occupants of lots in this municipality who require water from a main ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall meet such reasonable standards and specifications as may be established by the superintendent of streets.

##### **11.30.260 Removal Of Sod, Earth From Streets Or Other Property**

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

#### **11.30.270 Sidewalk Regulations**

#### **11.30.280 Removal Of Snow**

- A. It shall be unlawful for the owner, occupant, lessor, or agent of any property, abutting on a paved sidewalk to fail to remove, or have removed from such paved sidewalk, all hail, snow, or sleet thereon within a reasonable time after such snow, hail, or sleet has fallen. In the case of a storm between the hours of 5 p.m. and 6 a.m. such sidewalks shall be cleaned before 9 a.m. of the same day.
- B. It shall be unlawful for any person removing snow from the sidewalk, to deposit snow, dirt, leaves, or any other material in the gutter so as to clog or prevent the free flow of water therein.

#### **11.30.290 Placing Trash Or Other Obstruction In Streets, Gutters, Sidewalks**

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

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

#### **11.30.300 Openings In Street**

- A. It shall be unlawful for the owner or occupant of any building having a cellar which opens upon any street or sidewalk to fail to keep the door or other covering in good repair and safe for the passage of the customary traffic on the street or sidewalk. If the owner or occupant of any such building shall neglect or refuse to repair properly any such door or covering within 24 hours after notice from the superintendent of streets to do so, the superintendent shall forthwith cause such repairs to be made at the expense of the owner or occupant.
- B. It shall be unlawful to construct or maintain coal holes or other openings in streets or sidewalks, except with the special permission of the governing body, and under the direction and supervision of the superintendent of streets.

#### **11.30.310 Doors Opening Into Streets**

It shall be unlawful for any person, firm, or corporation owning or having the control of management of any alley, road, or passageway to construct or hang gates or doors to such alley, road, or passageway so that the gates or doors thereto, when open, shall project outwardly more than two feet over or upon the sidewalk beyond the property line.

#### **11.30.320 Discharge Of Water On Street**

It shall be unlawful for any person owning, occupying, or having control of any premise to fail, refuse or neglect to prevent water from the roof of eaves of any house, building, or other structure, or from any other source under the control of such person to be discharged upon the surface of any sidewalk.

#### **11.30.330 Crossing At Intersections**

It shall be unlawful for any person to drive or park a self-propelled vehicle or lead, drive, or ride any animal upon any sidewalk except across a sidewalk at established crossings.

#### **11.30.340 Business To Keep Sidewalk Clean**

It shall be unlawful for any owners or occupants of any place of business to refuse, neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of 9 a.m.

#### **11.30.350 Placing Goods On Sidewalks For Sale Or Show**

No goods, wares, or merchandise shall be placed, maintained or permitted for sale or show in or on any parking area, street, or sidewalk beyond two feet from the front line of the lot, without first obtaining the written approval of the governing body. Such approval shall be granted only when such sale or show shall be a promotional activity not exceeding 48 hours and when participated in by a majority of firms seeking approval in their business areas. The governing body's written approval shall specifically provide that no goods, wares, or merchandise shall be placed in such a manner as to leave less than a six-foot passageway for pedestrians.

#### **11.30.360 Placing Goods On Sidewalks For Receipt Or Delivery**

It shall be unlawful for any person to place, or suffer to be placed or kept upon any sidewalk, any goods, wares or merchandise which he may be receiving or delivering, without leaving a foot passageway upon such sidewalk. It shall be unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than four hours.

#### **11.30.370 Playing On Sidewalks**

Every person who obstructs the sidewalk or street by playing any game or engaging in any activity which obstructs the free travel thereon is guilty of an infraction.

#### **11.30.380 Congregating On Sidewalks**

It is an infraction for any person or persons to congregate about or upon any sidewalks, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere any by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises.

#### **11.30.390 Excavations**

#### **11.30.400 Permit Franchise Required**

- A. No person shall make any excavation in any street, lane, or alley, or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the superintendent of streets or other authorized representative of the municipality.
- B. No person shall excavate any sidewalk without first obtaining a permit from the superintendent of streets or other authorized personnel.
- C. Nothing contained in this part shall be construed to waive the franchise required for any person by the ordinances of this municipality or laws of Utah.

#### **11.30.410 Excluded Excavations**

#### **11.30.420 Subject Excavations**

#### **11.30.430 Preparation**

The pavement, sidewalk, driveway, or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard surfacing. An undercut bevel at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up on a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of the work.

#### **11.30.440 Backfill**

- A. Materials for backfill will be select nature. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over eight inches loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to insure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular free draining materials will be permitted.
- B. The density (dry) of the backfill under pavements, sidewalks, curbs, or other structures will be not less than that existing prior to excavation. The fill shall be restored and placed in a good condition, which will prevent settling.

#### **11.30.450 Restoration Of Surfaces**

- A. General. All street surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the governing body, in accordance with the specifications contained herein governing the various types of surfaces involved.
- B. Protection of Paved Surfaces. In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
- C. Time. In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five days from the date of completion of the backfill except for periods:
  - 1. When permanent paving material is not available.
  - 2. When weather conditions prevent permanent replacement.
  - 3. When an extension of time is granted by the superintendent of streets.
- D. Temporary Repair. If temporary repair has been made on paved street with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible.

#### **11.30.460 Restoring Bituminous**

Concrete or asphalt street surfaces.

- A. Temporary grade surface. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches below the bottom of the bituminous or concrete surface. Normally, this will require nine inches of gravel for bituminous surfaces, twelve inches of gravel for concrete, and concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the inspector until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for gradings:

Passing 1-inch sieve	100 percent
Passing ¾-inch sieve	85%-100 percent
No. 4 sieve	45%-65 percent
Passing No. 10 sieve	30%-50 percent
Passing No. 200 sieve	5%-10 percent

- B. Bituminous surface. The exposed edges of existing pavement shall be primed with Type MC-1 bituminous material. The type, grade, and mixture of the asphalt to be used from street surface replacement shall be approved by the superintendent of streets. The thickness shall be equal to the adjacent surface thickness but not less than three inches. The complete surface shall not deviate more than one-half inch between old and new work.

#### **11.30.470 Concrete Surfaces**

The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six inches thick. The mixing, cement, water content, proportion, placement, and curing of the



concrete will be approved by the superintendent of streets. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of 28 days.

#### **11.30.480 Concrete Base, Bituminous Wearing Surfaces**

This type of surfacing shall be constructed as above described.

#### **11.30.490 Gravel Surfaces**

Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in section 11.30.470 of this part, except that the gravel shall be a minimum of one inch more than the thickness of the existing gravel.

#### **11.30.500 Protection Of Public Excavation Project**

Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of excavator's equipment is removed from site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise, all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices. Police and fire departments shall be notified at least 24 hours in advance of any planned excavation requiring street closures or detour.

#### **11.30.510 Relocation And Protection Of Utilities**

An excavator shall not interfere with any existing utility without the written consent of the governing body and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by the municipality or by a private enterprise, shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work. In case any of the pipes, conduits, poles, wires, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this part that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation, which the permittee accepts upon acceptance of an excavation permit. The municipality need not be made a party to any action because of this part. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

#### **11.30.520 Jetting Pipe**

Jetting pipe by means of water under pressure, or compressed air, is permitted only when approved by the municipality.

#### **11.30.530 Inspection And Acceptance**

- A. In order to insure proper backfill and restoration of surface, the permittee shall deposit a surety bond or cash deposit with the recorder/clerk payable to the municipality, except that a public utility operating or using any of the streets under a franchise from the municipality will not be required to furnish such bond, providing such franchise obligates the holder thereof to restore the streets and to hold the municipality harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation and restoration operations under such franchise. The required surety bond must be:
  1. With good and sufficient surety.
  2. By a surety company authorized to transact business in the state.
  3. Satisfactory to the municipal attorney in form and substance.
  4. Conditioned upon the permittee's compliance with this part in order to secure and hold the municipality and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation permit or for which the municipality, the governing body or any municipal officer may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee.
  5. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the municipality, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.
- B. The amount of the surety bond or cash deposit shall be established by resolution and may be changed from time to time, but until such resolution is passed the amount of the surety or cash deposit shall be \$200.00 and \$5.00 for each foot of street the permittee shall excavate.

#### **11.30.540 Application For Street Excavation Permit**

It shall be unlawful any person to break, excavate, tunnel, undermine, or in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an excavation permit therefor from the recorder/clerk. Any public utility regulated by the State of Utah or holding a franchise from the municipality which in the pursuit of its calling has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the municipality to cover all excavations such utilities may make within the streets of the municipality. All permits shall be subject to revocation and the municipality may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this part. Excavation permits will not be required prior to excavation in case of emergency endangering life or property, providing the municipality is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency.

#### **11.40 Parking Modifications**

11.40.010 Stopping, Standing And Parking

11.40.020 Vehicles- Registration And Plates Required

11.40.030 Prohibited Stopping, Standing And Parking

11.40.040 Left Side To Curb Prohibited  
11.40.050 Winter Street Maintenance - Overnight Parking Prohibited  
11.40.060 Parking In Ditches Prohibited  
11.40.070 Handicapped Parking  
11.40.080 Time Limitation For Parking On City Street Or Property  
11.40.090 Special Restrictions  
11.40.100 Stopping, Standing Parking - Violation - Penalty  
11.40.110 Unauthorized Stopping, Standing And Parking Appeal Procedures  
11.40.120 Parking For Certain Purposes Prohibited  
11.40.130 Critical Safety Areas

#### **11.40.010 Stopping, Standing And Parking**

The provisions of this ordinance prohibiting the stopping, standing or parking of a vehicle shall apply at all times, or at those times herein specified, or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

#### **11.40.020 Vehicles- Registration And Plates Required**

Every vehicle at all times while being driven, stopped or parked upon the roadways of this city, shall: (1) be registered in the name of the owner thereof in accordance with the laws of the state, unless such vehicle is not required by the laws of Utah to be registered in this state; (2) display in proper position two valid, unexpired registration plates, one on the front and one on the rear of such vehicle; and (3) when required, current validation or indicia of registration attached to the rear plate and in a manner complying with the laws of the state of Utah, and free from defacement, mutilation, grease and other obscuring matters, so as to be plainly visible and legible at all times. However, if such vehicle is not required to be registered in this state, and the indicia of registration issued by another state, territory, possession or district of the United States, or of a foreign country, substantially complies with the provisions hereof, such registration shall be considered as compliance with this code.

#### **11.40.030 Prohibited Stopping, Standing And Parking**

No person shall stop, stand or park a vehicle in any of the following places:

- A. On a sidewalk;
- B. In front of or within five (5') feet of a public or private driveway;
- C. Within an intersection;
- D. Within fifteen feet (15') of a fire hydrant;
- E. On a crosswalk;
- F. Within twenty feet (20') of a crosswalk at an intersection;
- G. Within thirty feet (30') upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a street;
- H. Within fifty feet (50') of the nearest rail of a railroad crossing;
- I. Within twenty feet (20') of the driveway entrance to any fire station;
- J. On a roadway where the vehicle stopped or parked blocks the normal flow of traffic;
- K. Adjacent to any curb painted red;
- L. Within fifty feet (50') in front of any sign designating the area to be a Cache Valley Transit District bus loading zone;
- M. Upon the roadway side of another vehicle which is parked, standing or stopped except while actually engaged in loading or unloading passengers;
- N. At any place where official signs or traffic markings prohibit stopping, standing or parking;
- O. At any place in any public park, playground or grounds of any public building other than on the roads or parking lots provided for public parking;
- P. On any footpath in any park or playground;
- Q. Within a marked fire lane, whether on public or private property; or
- R. On any median or island, or on any roadway dividing section.

#### **11.40.040 Left Side To Curb Prohibited**

- A. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be stopped or parked with the right-hand wheels parallel to and within eighteen inches of the right-hand curb or, if there is no curb, as close as practicable to the right edge of the right-hand shoulder.
- B. Angle parking is permitted on any street containing painted lines designating parking at an angle to the curb.

#### **11.40.050 Winter Street Maintenance - Overnight Parking Prohibited**

- A. No person shall park a vehicle on any roadway or city-owned parking lot without it being attended by someone able to immediately remove the same between the hours of one o'clock (1:00) a.m. and five o'clock (5:00) a.m. of any day, beginning November 1st of each year and ending March 31 the following year, except health care professionals and/or emergency support personnel during emergency calls.
- B. Where no curb and gutter exists a vehicle shall be parked six (6) feet off of the asphalt. (See Hyde Park City Policy regarding damage to vehicles parked on the roadway.)

#### **11.40.060 Parking In Ditches Prohibited**

It is unlawful for any person to park a vehicle in any ditch or gutter in such a manner as to hinder the free flow of the full stream of water through such ditch or gutter.

#### **11.40.070 Handicapped Parking**

Only those vehicles carrying a distinctive (logo) handicapped license plate or transferable identification card may park in a parking space which is clearly identified as reserved for use by the handicapped. This Section applies to and may be enforced on public property and on private property which is used or intended for use by the public.

#### **11.40.080 Time Limitation For Parking On City Street Or Property**

No person shall park a motor vehicle on any roadway or city owned property for forty-eight (48) or more consecutive hours. Any vehicle so parked may be impounded and removed by a City police officer. The cost of any such impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle.

#### **11.40.090 Special Restrictions**

The chief of police or city engineer, after obtaining the prior approval of the city council, may place signs or markings prohibiting or restricting the stopping, standing or parking of vehicles on any roadway or city owned property. Such signs as placed by the chief of police or city engineer shall be official signs, and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs. A red painted curb shall mean no stopping at any time. A Blue painted curb shall mean handicapped parking only.

#### **11.40.100 Stopping, Standing Parking - Violation - Penalty**

- A. Any person engaged in the unauthorized stopping, standing or parking of a vehicle within the City and/or any registered owner of such vehicle shall be strictly liable for a civil penalty for such unauthorized stopping, standing or parking. Any penalty assessed herein may be in addition to such other penalties as may be provided by law.
- B. Civil penalties shall be imposed. Refer to current Fee Schedule.

#### **11.40.110 Unauthorized Stopping, Standing And Parking Appeal Procedures**

- A. The Mayor shall appoint such hearing officers, as he or she deems appropriate to consider matters relating to unauthorized stopping, standing or parking.
- B. Any person having received notice of such unauthorized stopping, standing or parking, or the owner of any vehicle employed in such use, may appear before a hearing officer and present and contest such alleged unauthorized use.
- C. The burden to prove any defense shall be upon the person raising such defense.
- D. If the hearing officer finds that no unauthorized use occurred or an unauthorized use occurred but one or more of the defenses set forth in this Section is applicable, the hearing officer may dismiss the notice of unauthorized use and release the owner or driver from liability thereunder. Such defenses are:
  - 1. At the time of the receipt of the notice, possession of the subject vehicle had been acquired in violation of the criminal laws of the State;
  - 2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property.
- E. If the hearing officer finds that an unauthorized use occurred but one or more of the defenses set forth in this Section is applicable, the hearing officer may reduce the penalty associated therewith. Such defenses are:
  - 1. At the time of receipt of the notice, possession of the subject vehicle had been acquired pursuant to the written lease agreement or similar written agreement;
  - 2. The subject vehicle was mechanically incapable of being moved from such location; provided, however, such defense shall not apply to any vehicle which remains at such location in excess of six (6) hours;
  - 3. Any markings, signs or other indicia of parking use regulation were not clearly visible or comprehensible;
  - 4. Such other mitigating circumstances as may be approved by the City Attorney.
- F. If the hearing officer finds that an unauthorized use occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the City, enter into an agreement for the timely or periodic payment of the applicable penalty.
- G. If the penalty imposed pursuant to this Chapter remains unsatisfied after forty (40) days from the receipt of notice, or ten (10) days from such date as may have been agreed to by the hearing officer, the City may use such lawful means as are available to collect such penalty, including costs and attorney fees.

#### **11.40.120 Parking For Certain Purposes Prohibited**

No person shall park or operate a vehicle upon any roadway for the principal purpose of:

- A. Displaying such vehicle for sale;
- B. Greasing or repairing such vehicle except repairs necessitated by an emergency;
- C. Displaying advertising; or
- D. The sale of foodstuffs or other merchandise in any business district, except with City approval and proper licensing.

#### **11.40.130 Critical Safety Areas**

These areas are determined to have a higher risk for injury to pedestrians and significantly higher potential for accidents. Critical safety areas shall be identified by the city council and posted. Violations in this area will have a higher penalty per the current Fee Schedule.

### **11.50 Restricting The Parking Of Vehicles For Sale**

#### **11.50.010 Unlawful Parking**

#### **11.50.010 Unlawful Parking**

- A. Vehicles for sale. No person shall park a vehicle upon any street, alley, public parking facility, or public right-of-way for the purpose of advertising that vehicle for sale. No more than two vehicles shall be parked on any parcel of private property that are there for the purpose of advertising the vehicles for sale. No person shall park any vehicle on any vacant lot fronting any street for the purpose of advertising that vehicle for sale except as follows:
  - 1. Where a current business license has been granted to a business for the sale of vehicles in conformance with the ordinances and codes of the city.
- B. It shall be unlawful to park any vehicle from which merchandise is peddled on any city street.

## **12 Land Use And Development**

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### **12.10 General Provisions**

- [12.10.010 Short Title](#)
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#### **12.10.010 Short Title**

This Ordinance shall be known as the “Uniform Zoning Ordinance of Hyde Park, Utah”.

#### **12.10.020 Purpose**

This Zoning Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Hyde Park, Utah, including amongst other things, the lessening of congestion on the streets or roads, securing safety from fire and other danger, providing adequate light and air, the classification of land uses and distribution of land development, protection of the tax base, securing economy in governmental expenditures, fostering commercial and agricultural growth, protection of the environment, and the protection of both urban and non-urban development in the City.

#### **12.10.030 Interpretation And Conflict**

- A. In interpreting and applying the provisions of this Zoning Ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth.
- B. This Zoning Ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

#### **12.10.040 Changes And Amendments**

This Zoning Ordinance, including the zoning map, may be amended from time to time by the City Council after receiving recommendation from the Planning Commission. The Planning Commission shall hold a public hearing as required by Utah Code. Noticing of the time and place of such hearing shall be as required by Utah Code. All proposed amendments shall be reviewed for consideration within thirty (30) days. Failure of the Planning Commission to take action on the proposed amendment within the prescribed time shall be deemed approval of such Commission of the proposed change or amendment. The requested change or amendment will move to the City Council for a decision.

#### **12.10.050 Administration And Enforcement**

- A. The Chief Building Official of the City is hereby charged with the Administration and enforcement of this Zoning Ordinance.
- B. The Chief Building Official shall not grant a permit for the construction or alteration of any building or structure, nor issue any Certificate of Occupancy for a change in the use of land, if such construction or alteration or change would be in violation or would involve a violation of any of the provisions of this Zoning Ordinance or any other ordinance of the City or of any law of the State of Utah.
- C. The Chief Building Official shall enforce all of the provisions of this Zoning Ordinance. He shall inspect or cause to be inspected all of the buildings in course of

construction, alteration, or repair, and any change in the use of land. If, in the course of such inspection, or otherwise, it shall come to his attention that any such construction, alteration or repair, or that any use or contemplated use of land is in violation of the provisions of this Zoning Ordinance, he shall issue his written order to the person responsible therefore, ordering and directing such person to cease and desist such construction, alteration, repair or use. He shall report violation of this Ordinance to the City's Legal Department for prosecution and make complaint thereof before the court or courts having jurisdiction of such violation. Upon the recommendation of the City Council, the Legal Department shall bring such legal action for violation of the Ordinance as provided by law.

- D. The Chief Building Official may call for the assistance of law enforcement personnel whenever in his opinion such assistance is necessary in the investigation of a suspected violation of this Zoning Ordinance.
- E. The City Council may, by resolution, prescribe an exact payment of reasonable fees to cover the expense of examining plans, issuing building permits, inspecting uses, and issuing Certificate of Occupancy, and may determine the method of collecting such fees.

#### **12.10.060 Building Permit**

The construction, alteration, repair, removal or occupancy of any structure or of any part thereof, as provided or as restricted, in this Zoning Ordinance shall not be commenced or proceeded with, except after the issuance of a written permit for the same.

#### **12.10.070 Certificate Of Occupancy Required**

No land shall be used or occupied and no building hereafter structurally altered or erected shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Chief Building Official stating that the building or structure or the proposed use thereof or the use of land, complies with the provisions of this Zoning Ordinance. A like certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a non-conforming use. A Certificate of Occupancy either for the whole or a part of a building or structure shall be applied for coincidentally with the application for a Building Permit and shall be issued within ten days after the erection or structural alteration of such building or structure, or part thereof, shall have been completed in conformity with the provisions of this Zoning Ordinance.

#### **12.10.080 Issuance Of Licenses And Permits**

All departments, officials and public employees of the City, which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Zoning Ordinance and shall issue no such permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this Zoning Ordinance, and any such permit or license, if issued in conflict with the provisions of the Zoning Ordinance, shall be null and void.

#### **12.10.090 Violation A Misdemeanor**

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this Zoning Ordinance shall be guilty of a Class "C" misdemeanor and upon conviction thereof shall be punishable under the provisions of the State law. Such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of any violation of this Zoning Ordinance is committed, maintained, continued, or permitted by such person, firm or corporation, and shall be punishable as herein provided.

#### **12.10.100 Territory Annexed To The City**

At the time of the annexation of new territory to the City, the City Council, after reviewing the recommendation of the Planning Commission, shall classify such territory for zoning purposes according to the zones established by this Zoning Ordinance.

### **12.20 Definitions**

- A. Applicability – Definitions in Other Ordinances. The words and terms defined in this Chapter shall have the meanings indicated. Words used in the present tense include the future and words in the singular number include the plural and words in the plural include the singular. Words not included herein but defined elsewhere in the City ordinances shall be construed as termed therein. The word "shall" is mandatory.
- B. Access Strip. A strip of land which is part of a lot and provides access to the part thereof used or to be used for buildings or structures.
- C. Accessory Apartment. A self-contained rental unit that is located within a single-family owner-occupied home.
- D. Agriculture. The tilling of the soil, the raising of crops, horticulture and gardening, but not including keeping or raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business, such as fruit packing plants, fur farms, animal hospital or similar uses.
- E. Alley. A public thoroughfare less than twenty-six (26) feet wide.
- F. Architectural Projection. Any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, but shall not include signs.
- G. Assisted Living Facility. A residential facility, licensed by the state of Utah, available twenty four (24) hours per day to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services rules to need any of these services. These facilities provide supervision or assistance with activities of daily living (ADLs); coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety, and well-being.
- H. Basement. A story partly underground and having at least one-half (1/2) its height above the average level of the adjoining ground. A basement shall be counted as a story, for purposes of height measurement.
- I. Blanketing. The term blanketing or blanket, when applied to signs or sign structure, shall mean the partial or complete shutting off of the face of one sign by another sign.
- J. Boarding House. A building with not more than five (5) guest rooms where, for compensation, meals are provided for at least five (5) but not more than fifteen (15) persons.
- K. Building. Any structure other than a boundary wall or fence.
- L. Building, Accessory. A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of a main or principal building.
- M. Building, Detached. A building surrounded by open space on the same lot.
- N. Building Façade. That portion of an exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.
- O. Building Façade Facing. A resurfacing of an existing façade with approved material illuminated or non-illuminated.
- P. Building, Height of. The vertical distance from the grade elevation to the highest point of the coping of a flat roof, or to the deck line of mansard roof, or to a point midway between the lowest part of the eaves or cornice and ridge of a pitch or hip roof.
- Q. Building, Main. A building in which is conducted the principal use of the lot on which it is located.

- R. Building Official. The official or other person charged with the administration and enforcement of this Ordinance or his duly authorized deputy.
- S. Building, Public. A building owned and operated, or owned and intended to be operated by a public agency of the United State of America, of the State of Utah, or any of its political subdivisions.
- T. Car Wash, Laundry Type. A structure or portion thereof containing facilities for washing passenger automobiles, using production-line methods such as, but not limited to, chain conveyor, movable or revolving cleaning brushes, blower, steam cleaning, or similar mechanical devices.
- U. Car Wash, Manual Spray. A structure or portion thereof containing facilities for washing passenger automobiles, limited to using only hand operated manual spray cleaning equipment and techniques.
- V. Cellar. A story having more than one-half (1/2) its height below the average level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement.
- W. Changeable Copy Panel. A sign panel which is characterized by changeable copy, regardless of method of attachment.
- X. Corral. A space, other than a building, less than 10,000 square feet in area, and less than one hundred (100) feet in width, used for the confinement of animals.
- Y. Court. An unoccupied open space, other than yard, on the same lot with a building or buildings, which is bounded on two or more sides by the walls or such building or buildings.
- Z. Coverage, Lot. The percent of the lot area covered by the main and accessory buildings.
- AA. Dairy. A commercial establishment for the manufacture, processing, or sale of dairy products.
- AB. Day Care Center. A building or structure where six (6) or more children are regularly cared for during the day for compensation.
- AC. Dormitory, Fraternity or Sorority. Any boarding or rooming house sponsored by and associated with a school, university or a legitimate fraternity or sorority.
- AD. Dry Cleaner. An establishment which has as its sole purpose the cleansing of fabrics with substantially nonaqueous organic solvents. Laundry establishments with self-service, coin operated dry cleaning machines shall not be classified as a dry cleaner.
- AE. Dwelling. A building or portion thereof designed or used as the living quarters for one or more families.
- AF. Dwelling Unit, Bachelor or Bachelorette. A dwelling unit designed or used to accommodate unrelated persons exclusively.
- AG. Dwelling, Group. Two (2) or more dwellings placed upon a single lot.
- AH. Dwelling, Multiple Family. A building arranged or designed to be occupied by three (3) or more families.
- AI. Dwelling, Single Family. A building arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.
- AJ. Dwelling, Two Family. A building arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.
- AK. Dwelling Unit. One or more rooms in a dwelling, apartment, hotel or apartment hotel designed for or occupied by one family for living, sleeping, and eating purposes. A dwelling unit may contain more than one set of kitchen facilities, whether temporary or permanent, provided they are used only by members of the family occupying the dwelling unit or their non-paying guests. A dwelling unit may include up to two (2) persons per unit to whom rooms are rented in addition to a family related by blood, marriage or operation of law, but if the number of such additional persons exceeds two (2) or if they use or are furnished separate cooking facilities, whether temporary or permanent, such additional persons shall be considered a separate dwelling unit.
- AL. Educational Institution. A public elementary or secondary school or a private educational institution having a curriculum similar to that ordinarily given in public schools.
- AM. Family. One or more persons related by blood, marriage or operation of law, plus domestic servants employed for service on the premises, or a group of bachelor or bachelorettes of not more than four (4) persons who need not be so related, living together as a single nonprofit housekeeping unit.
- AN. Family Food Production. The keeping of not more than two (2) pigs, two (2) sheep, two (2) cows, two (2) goats, ten (10) rabbits, twenty (20) chickens, twenty (20) pheasants, five (5) turkeys, ten (10) ducks, ten (10) geese, and ten (10) pigeons, provided that an additional number of animals equal to the number listed above, and additional number of fowl, equal to two times the number listed above, may be kept for each 20,000 square feet in the parcel over and above the minimum area required for a single family residential lot in the zone. Not more than three (3) of the above listed kinds of animals and fowl may be permitted at any one time on any parcel smaller than one (1) acre and not more than five times the number listed above, shall be permitted at any one time on any one parcel, no matter how large. (See Chapters 3-6; 11-2; 12-2; 13-2; 17-7; 19-2; and 20-2.)
- AO. Fence. A tangible barrier or obstruction of any material, with the purpose or intent, or having the effect of preventing passage or view across the fence line. It includes hedges and walls. (See Chapters 3-8, 8-7-1, and 8-7-2.)
- AP. Floor Area. The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed terraces. All dimensions shall be measured from the exterior faces of the exterior walls.
- AQ. Floor-Lot Area Ratio. The total floor area of a building divided by the area of the lot on which it is located.
- AR. Frontage. All the property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.
- AS. Garage, Carport. A private garage not completely enclosed by walls or doors. For the purposes of this ordinance, a carport shall be subject to all of the regulations prescribed for a private garage.
- AT. Garage, Private. An enclosed space or accessory building for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common, or are connected structurally by a physical connection such as a wall, trellis or solid fence.
- AU. Garage, Public. A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor vehicles.
- AV. Grade. The average level of the finished surface or the ground adjacent to the exterior walls of those buildings more than five (5) feet from a street line. For buildings closer than five (5) feet to a street line, the grade is the sidewalk elevation at the center of the building. If there is more than one street, an average sidewalk elevation is to be used. If there is no sidewalk, the City Engineer may establish the grade.
- AW. Guest House. A separate dwelling structure located on a lot with one or more main dwelling structures and used for housing of guests or servants and not rented, leased or sold separate from the rental, lease or sale of the main building.
- AX. Home Occupation Business. Any business conducted entirely within a dwelling and carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no display, nor stock in trade. The home occupation business shall not include the sale of commodities except those which are produced on the premises, except where such sale of commodities is clearly incidental and limited to the main commodity which is produced on the premises, and shall not involve employees nor the use of any accessory building or yard space or activity or additional parking, outside the main building. Permitted home occupations, home occupations requiring special use permits and home occupations that are prohibited are listed in each residential zone of this Ordinance.
- AY. Hotel. A building designed for or occupied as the more or less temporary abiding place of sixteen (16) or more individuals who are, for compensation, lodged with or without meals.
- AZ. Household Pets. Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats or canaries, but not including a sufficient number of dogs or cats to constitute a kennel, as defined in this Ordinance.
- BA. Incombustible Material. Any material which will not ignite at or below a temperature of 1200 degrees F during an exposure of five minutes, and will not continue to burn or glow at that temperature. Tests shall be made as specified in the Uniform Building Code.

- BB. Junk Yard. The use of any lot, portion of a lot, or tract of land for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, or other vehicles, or machinery or parts thereof provided that this definition shall not be deemed to include such uses which are clearly incidental to and accessory to any agricultural use permitted in the zone.
- BC. Kennel. The land or buildings used in the keeping of three (3) or more dogs or cats at least four (4) months old.
- BD. Kindergarten. A school or class for children generally under six years of age.
- BE. Laundromat or Launderette. A self-service laundry establishment where clothes are cleansed in a coin-operated machine. Laundromats or launderettes may include self-service, coin operated dry cleaning machines.
- BF. Lodging House. A building where lodging only is provided for compensation to five (5) or more, but not exceeding fifteen (15) persons, in contrast to hotels.
- BG. Lot. A parcel of land occupied or to be occupied by a main building or group of buildings (main or accessory), together with such yards, open spaces, lot width and lot area as required by this Ordinance, and having frontage upon a dedicated, City-maintained, approved and improved street shown on the Master Street Plan. All improvements as required within the subdivision ordinance, i.e. curb, gutter, sidewalk and utilities must be installed prior to a building permit being issued for a lot. A lot must be within 325 feet of a City fire hydrant or be in conformance with the duly adopted Uniform Fire Code and be accessible to City culinary water lines and public utilities.
- BH. Lot, Corner. A lot abutting on two intersecting streets where the interior angle of intersection or interception does not exceed one hundred thirty-five (135) degrees.
- BI. Lot, Interior. Any lot other than a corner lot.
- BJ. Maintain. Includes, but is not limited to the following: service, repair, alter, remodel, reletter, redecorate, repaint, move, or remove. It does not include the removal of signs by a licensed wrecking contractor. Owner or lessee of sign may repaint, redecorate, and/or change letters or panels on his own sign.
- BK. Manufactured Homes. A dwelling where the parts are constructed and assembled either in whole or in sections at a site other than the lot on which it will be permanently affixed, and said assembly is being done in such a manner that the local building official cannot inspect and certify the assembly as to compliance with the applicable adopted ordinances. (For minimum requirements, see Section 3-2-1.)
- BL. Map, Official. Any map adopted by the City Council under the provision of the Utah Code.
- BM. Mobile Home. A movable living unit designed to be transportable after fabrication on its own wheels, attached wheels, or low boy, suitable for year-round occupancy and containing a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, plumbing and electric connections provided for attachment to appropriate external systems. Pre-sectionalized, modular or prefabricated housing not placed on a permanent foundation shall also be regarded as a mobile home whether or not such units meet the City's building and housing codes.

A mobile home as defined in the preceding paragraph which meets the City's applicable building and housing codes and which is placed on a permanent foundation is controlled by the Zoning Ordinance and other applicable ordinances the same as dwelling units constructed in the conventional manner.

- BN. Motel. Any building or group of buildings containing sleeping rooms designed for temporary use by automobile tourists or transients, with garage attached or parking space conveniently located to each unit.
- BO. Natural Waterways. Those areas, varying in width, along streams, creeks, gullies, springs, or washes which are natural drainage channels as determined by the Chief Building Official and in which areas no buildings shall be constructed.
- BP. Nightclub. A place of entertainment open at night usually serving food and liquor, having a floor show, and providing music and space for dancing.
- BQ. Nonconforming Building. A building or structure or portion thereof lawfully existing at the time any applicable zoning regulations become effective, the design, erection, use, height, area, or yard dimensions of which do not conform to the provisions of such regulations.
- BR. Nonconforming Use. The prior lawful use of land or of a building or structure which subsequently is prohibited by zoning regulations pertaining to the zone in which the building or land is situated.
- BS. Nursery for Children. A building or structure where six (6) or more children are regularly cared for during the day for compensation.
- BT. Open Space. Land area unoccupied by building and/or structures intended for human habitation for the preservation of open area for future recreation or to minimize hazard to life and property in areas of geologic or flood hazard.
- BU. Open Green Space. An open space suitable for relaxation or landscaping. It shall be unoccupied and unobstructed by buildings and/or hard surfaces such as asphalt, cement and packed gravel, except that such open green space may be traversed by necessary sidewalks.
- BV. Parcel of Land. A contiguous quantity of land, in the possession of, or owned by, or recorded as the property of the same claimant or person.
- BW. Parking Lot. An open area, other than a street, used for parking of more than four (4) automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.
- BX. Parking Space. Space within a building, lot or parking lot for parking or storage of one (1) automobile.
- BY. Paying Guest. Any person hiring a room in a dwelling unit for living, eating or sleeping purposes.
- BZ. Person. One or more persons, an association, a co-partnership, or a corporation or firm, either by themselves or by an agent, employee, guardian, or trustee.
- CA. Planning Commission. The Planning Commission of the City of Hyde Park, Utah.
- CB. Private Drive. Non-dedicated thoroughfare or road used exclusively for private access to and from private land and/or developments.
- CC. Recreational Coach. A vehicle such as a recreational trailer, tent, camper trailer, truck camper, travel trailer, camp car, other vehicle with or without motive power, designed and/or constructed to travel on the public thoroughfare in accordance with the provisions of the Utah Vehicle Code, designed for the use of human habitation.
- CD. Restricted Lots. A parcel of land severed or placed in separate ownership after August 23, 1978; and which does not meet all area, width, yard and other requirements of this Ordinance of a lot, or a parcel of land which does not meet all the requirements of this Ordinance for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in areas, width, setback, yard, or coverage requirements, when such adjacent lot has a structure on it.
- CE. Secondary Road. A road, publicly or privately owned, which facilitates traffic movement between businesses and main corridors.
- CF. Shopping Center. Multi-entity commercial complex under single ownership or control which leases space to various commercial establishments.
- CG. Sign. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity, or to communicate information of any kind to the public. All definitions regulating signs are found in Chapter 9, Sign Regulations, of this Ordinance.
- CH. Site Development Standards. Established regulations concerning lot areas, yard setbacks, building height, lot coverage, open green space and any other special regulations deemed necessary to accomplish the purpose of this Ordinance.
- CI. Stable, Private. A detached, accessory building for the keeping of horses owned by the occupants of the premises, and not kept for remuneration, hire or sale.
- CJ. Stable, Public. A stable other than a private stable.
- CK. Story. The space within a building, other than a cellar, included between the surface of any floor and the surface of the ceiling next above.
- CL. Story, Half. A story with at least two (2) of its sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor immediately below it.
- CM. Street. A public thoroughfare, dedicated, abandoned, condemned, or duly accepted for public use which affords the principal means of access of abutting property and is more than fifty (50) feet wide, developed in accordance with City standards, and maintained by the City on a regular basis.
- CN. Structure. Anything constructed or erected, the use of which required location on the ground, or attachment to something having location on the ground.



- CO. Structural Alterations. Any change in supporting members of a building, such as bearing walls, columns, beams or girders.
- CP. Swimming Pool. Any artificial or semi-artificial container, whether indoors, and whether above or below the surface of the ground, or both, used or intended to be used to contain a body of water for swimming by any person or persons, together with all permanent structures, equipment, appliances, and other facilities used or intended for use in and about the operation, maintenance and use of such pool.
- CQ. Swimming Pool, Family. A swimming pool used and intended to be used solely by the owner, operator or lessee thereof and his family and by guests invited to use it without payment of any fee or consideration.
- CR. Tavern. Any business establishment operating under a class "C" beer license.
- CS. Theater, Indoor Picture. A building or part of a building devoted to the showing of moving pictures on a paid admission basis.
- CT. Theater, Outdoor Drive-In. An open lot or part thereof, with its appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles.
- CU. Trim, Nonstructural. The molding, battens, caps, nailing strips, latticing, cutouts, or letters and walkways which are attached to a sign structure.
- CV. Uniform Building Code (U.B.C.). The current edition of the Uniform Building Code as adopted by the City of Hyde Park, Utah.
- CW. Use. The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.
- CX. Use, Accessory. A subordinate use customarily incidental to and located upon the same lot occupied by the main use and devoted exclusively to the main use of the premises.
- CY. Use, Permitted. Any use lawfully occupying land or buildings as authorized in the zone regulations and for which no Conditional Use Permit is required.
- CZ. Use, Special. A use or occupancy of a building, or use of land, permitted only when authorized upon issuance of a Conditional Use Permit, and subject to the limitations and conditions specified therein as provided in Chapter 8 of this Ordinance, intended to allow compatible integration of uses which may be suitable only in certain locations within a particular zone, or only upon certain conditions and/or design criteria being achieved.
- DA. Width of Lot. The distance between the side lot lines at the distance back from the front lot line required for the depth of the front yard. On lots with frontage on cul de sacs the lot width shall be the distance between the side lot lines at the actual setback of the primary structure or dwelling, providing that the front yard setback of the primary structure or dwelling exceeds the standard required front yard setback requirement. The minimum lot width at the property line shall be 20 feet.
- DB. Yard. An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings, except as otherwise provided herein.
- DC. Yard, Front. An open green space on the same lot with a building between the front line of the building (exclusive of steps) and the front lot line and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building.
- DD. Yard, Rear. An open, unoccupied space on the same lot with a building between the rear line of the building (exclusive of steps) and the rear lot line and extending the full width of the lot.
- DE. Yard, Side. An open, unoccupied space on the same lot with a building between the side line of the building (exclusive of steps) and the side lot line and extending from the front yard to the rear yard.
- DF. Zone. The geographical area of the City within which the zoning regulations are uniform.
- DG. Zoning Ordinance or Ordinance. The Zoning Ordinance of the City of Hyde Park, Utah.

*Amended by Ord. 2014-03 on 10/1/2014*

## **12.30 Regulations Applicable To All Zones**

- [12.30.010 Applicability](#)
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- [12.30.200 Disturbing The Peace](#)

### **12.30.010 Applicability**

The regulations hereinafter set forth in this Chapter qualify or supplement, as the case may be, the zone regulations contained elsewhere in this Zoning Ordinance.

### **12.30.020 Additional Use Regulations**

The requirements of this Zoning Ordinance related to minimum site development standards shall not be construed to prevent a use as permitted in a respective zone of any parcel of land in the event such parcel was held in separate ownership prior to the initial enactment of this ordinance. Each such parcel to be developed must have not less than 20 feet of frontage on a street, or as approved by the Board of Adjustment, and the density of development may not exceed that permitted by area requirements in the respective zone.

A. Additional Single Family Dwelling Requirements, applicable to all residential zones. It will require a special use permit in the four zones, A-1, RE-20, R-1 and R-2.

1. All single-family dwellings shall be permitted on a lot zoned for such use provided the real property and the dwelling installed thereon are held in common ownership (privately and commonly owned by the occupant or lessor) and are classified and taxed as real estate.

2. The lot upon which said dwelling is to be placed shall comply with all zoning requirements for the district in which it lies.
3. All on-site work must meet the requirements of the City's building codes for seismic zone 3 including, but not limited to: foundations, securing of said dwelling to the foundations, steps, stoops, carports or garages, patios and awnings, additions and alterations. Main entry steps, stoops and porches shall be concrete or masonry and shall have required handrails as per adopted Uniform Building Code.
4. All dwellings which are not constructed on the site and in which the building inspector cannot complete the inspections as required by the Uniform Building Code (UBC), shall have furnished with said dwelling, certification as to inspection conformance and to what standards said dwelling was inspected. They must also conform to the following:
  - a. Roofs shall have a minimum of 3/12 pitch with twelve (12) inch measure eave overhang. Rain gutters may be installed as desired, however, they will not be part of the required overhang.
  - b. Exterior siding and trim materials shall consist of durable, weather resilient materials approved for exterior use by the adopted building codes such as masonry, stucco, wood, composition, glass, vinyl and steel or aluminum residential sidings. In no case may corrugated metal, fiberglass, plastics, or typical trailer coach or recreational vehicle-type coverings be used.
  - c. Dwellings shall have a minimum width of 20 feet, with width being the smallest dimension.
  - d. Any addition or accession to said dwelling shall be built in conformance to the standards for any such additions or accessions as dictated by the adopted building codes and other applicable codes.
  - e. Manufactured homes shall meet the requirements of Class A Manufactured Home. A Class A manufactured home is a new manufactured home certified as meeting the National Manufactured Home Construction Safety Standards Act of 1974 (approved and became effective 14 June 1976) of the Department of Housing and Urban Development and which has not been altered in violation of said laws and applicable regulations.
  - f. Removal of all towing hitches and running gear or other materials used to transport said dwelling, which included tongues, axles, brakes, wheels, lights, and other such items shall be removed prior to dwelling occupancy.
  - g. Permanent connection of all services to local utilities (local authority approval required). This shall include not less than two outdoor faucets.
  - h. Off street parking, curb, gutter and sidewalk, and all other such items shall be in conformance with City adopted Zoning Ordinance and/or building codes.
5. Nothing in this section is intended, nor should be construed as intending to limit or exclude the construction or placement of a permanent dwelling on a lot zoned single family dwelling as heretofore may have been permitted by this ordinance.  
It should be noted that a special use permit requires a public hearing.

#### **12.30.030 Additional Main Building Regulations**

Every main building shall be located and maintained on a "lot" as defined in Section 2-56 and every lot shall have required frontage on a "street" as defined in Section 2-87, except as follows:

- A. Where a parcel of land was in separate ownership prior to the initial enactment of this ordinance as described in Section 3-2, and
- B. Where under special circumstances of design of a parcel of land the Planning Commission approves a lot split, as defined and provided for in the City Subdivision Ordinance, which may or may not have the required frontage as provided for in this ordinance. Under no circumstances may the frontage be less than twenty (20) feet.

#### **12.30.040 Additional Yard Regulations**

- A. No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Zoning Ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.
- B. On any lot under a separate ownership from adjacent lots and of record at the time of the initial enactment of this ordinance and such lot having a smaller width than required for the zone in which it is located, the following regulations shall apply:
  1. For interior lots, each side yard may be equal to but not less than the same percentage of the required side yard width, provided that in no case shall the smaller of the two side yards be less than five feet or the larger less than eight feet.
  2. On corner lots, each side yard may be equal to but not less than the same percentage of the required side yard width as the lot is of the required lot width, provided that in no case shall the side yard on the street side be less than fifteen feet, and the other side yard shall be not less than five feet in all residential zones.
- C. On any interior lot where a private attached garage containing a sufficient number of parking spaces to meet the requirements of this ordinance has a side yard equal to the minimum side yard required for a dwelling in the same zone, the width of the other side yard for the dwelling may be reduced to equal that of the minimum required side yard.
- D. Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard, and except for the ordinary projections of skylights, sills, belt courses, cornices and other ornamental features.
- E. Open and lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers may project into a yard not more than five feet, and the ordinary projections of chimneys and flues are permitted.
- F. Neither accessory building nor group of accessory buildings in any residential zone shall cover more than twenty-five percent of the rear yard.
- G. A restricted lot which meets all the requirements of this Ordinance for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in area, width, yard, or other requirements may be considered otherwise by adding or designating sufficient acreage to the adjacent lot to meet all the requirements of this ordinance for a lot. The added or designated land must then be duly recorded in the office of the County Recorder, Cache County, Utah before a building permit may be issued.
- H. Building permits will not be issued on restricted lots.
- I. In order that vehicles do not back onto limited access roads (250 East [800 East], Center Street [3700 North], 600 South [3100 North], 450 North, 1000 East [1600 East], 700 East [1200 East] and any other roads identified on the Hyde Park City Master Road Plan as a limited access road) a turnaround and/or a circle driveway shall be provided.

All limited access roads must be identified on the final plat of any new subdivision. All affected building permits shall be identified as requiring said turnaround and/or circle driveway.

All existing homes and structures will be considered legal and non-conforming.

- J. All subdivisions and other developments shall establish a minimum of a fifteen-foot (15') setback along any irrigation canal adjoining the property being developed or subdivided for the purpose of incorporation into the public trail right-of-way (ROW) system. Said ROW will always exist on the West, or downhill, side of the canal as required by the canal companies for maintenance of said canal. There may also exist a 15' ROW on the East side of any canal as required by the Hyde Park City Subdivision Ordinance to allow the extension of the public trail system.
- K. No building, accessory structure or installed equipment other than equipment required for the operation of irrigation systems shall be located closer than thirty feet (30') of any canal ROW or thirty feet (30') to the nearest top edge of any East canal bank. This distance may be increased in the event that the toe of the canal is unusually large or if determined to be subject to unusual water seepage from the canal.
- L. No fence shall be installed closer than the 'toe' of the canal bank and shall not encroach into any ROW. (See attached diagram.)
- M. Corner Lots: Where a parcel is on a corner lot, the landscaping shall not exceed thirty inches (30") in height within a triangular area formed by the street property lines and a line connecting them at points, a minimum of thirty feet (30') from the intersection. The city reserves the right to prohibit and declare a nuisance, any vegetation that may hamper visibility, as determined by the Land Use Authority, level 4, within any distance of the corner, to ensure safety.

#### **12.30.050 Additional Height Regulations**

- A. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain a building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, and water tanks, wireless or television masts, theatre lofts, silos or similar structures may be erected above the height limits prescribed in the Zone Height Regulations, but no space above the height limit shall be allowed for the purpose of providing additional floor space.
- B. No dwelling shall be erected to a height less than ten feet, and no accessory building in a residential zone shall be erected to a height greater than twenty-five feet.

#### **12.30.060 Animals And Fowl**

No animals or fowl shall be kept or maintained closer than forty (40) feet from any dwelling, and not closer than seventy-five (75) feet from any dwelling on an adjacent lot. Any barn, stable, coop, pen, corral, or enclosure for the housing or keeping of animals or fowl shall be kept, constructed or maintained not less than seventy-five (75) feet from a public street and not less than twenty (20) feet from any lot line. (See also Chapters 2-37; 11-2; 12-2; 13-2; 17-7; 19-2; and 20-2.)

#### **12.30.070 Building Regulations**

Domestic water supply and sewage disposal shall comply with requirements of the local health department having jurisdiction over the property in all applications for a building permit where either an approved supply of piped water under pressure, or a sewer, is not available.

#### **12.30.080 Fence Height Regulations**

(Also see Chapters 2-38 and 8-7-1.)

- A. No fence or other similar structure shall be erected closer than twelve (12) feet from the front property line to a height in excess of three and one-half feet; nor shall any fence or other similar structure be erected in any side or rear yard to a height in excess of seven feet.
- B. On corner lots, no fence or other similar structure shall be erected in any yard bordering a street or front yard of an adjoining lot to a height in excess of three and one-half feet except in accordance with the traffic code.
- C. Where a fence is erected upon a retaining wall or where for other reasons there is a difference in the elevation of the surface of the land on either side of a fence, height of the fence shall be measured from a point half-way between the top of the retaining wall and the land on either side of the fence, but nothing herein contained shall be construed to restrict a fence to less than three and one-half feet in height measured from the surface of the land on the side having the highest elevation.

#### **12.30.090 Lighting**

- A. Exterior Lighting. No spotlight or floodlight shall be installed in any way, which will permit the direct rays of such lights to penetrate into any residential zone or onto any property used for residential purposes.
- B. Lights Not to Constitute Traffic Hazard. No light, sign or other advertising structure as regulated by this ordinance shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or which makes use of the words, "STOP", "LOOK", "DRIVE-IN", "DANGER", or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse traffic.

#### **12.30.100 Private Park, Playground Or Recreation**

In all residential zones a private park, playground or recreation area, with or without a swimming pool shall meet the following requirements:

- A. The lands and facilities used for such purpose shall be owned or leased and operated by a non-profit corporation for the exclusive benefit of the members, their immediate families and non-paying guests.
- B. Sanitary facilities shall be maintained in proper working order and in a clean and sanitary condition and in full compliance with reasonable standards, rules and regulations established by the local health department having jurisdiction over said property.
- C. Twenty-five off-street parking spaces, or one-off-street parking space for each four memberships in the operating corporation, whichever is greater, shall be provided on the lot devoted to the principal use.
- D. Operation or use of the recreational or other facilities provided is forbidden between the hours of 11:00 p.m. to 6:00 a.m. next following day.
- E. All facilities, equipment and buildings shall be set back not less than twenty (20) feet from any property line and shall be located not less than fifty (50) feet from any main building on an adjoining lot and from any area upon which any such main building may be constructed upon said adjoining lot if no such main building is in existence.
- F. The minimum size of the lot or site used for such recreational or other purposes shall be one acre.
- G. Any lights used to illuminate the premises shall be installed in such a manner that the source of light shall be suitably screened to avoid annoying illumination of lands outside said premises.

#### **12.30.110 Public Utility Substation**

In all residential zones, public utility substations shall meet the following requirements:

- A. Each public utility substation in a residential zone shall be located on a lot not less than two thousand (2000) square feet in area.
- B. Each public utility substation in a residential zone shall be provided with a yard on each of the four sides of the building or structure not less than five feet in width, except that for such stations located on lots fronting on a street abutted by one or more residential lots, the front yard, side yards and rear yard shall equal those required for a single family residence in the same zone.
- C. Each public utility substation in a residential zone shall be located on a lot that has adequate access from a street, alley or easement.
- D. The location of public utility substations in a residential zone shall be subject to approval by the Planning Commission.

#### **12.30.120 Swimming Pool**

A family swimming pool shall be permitted in the rear yard of a dwelling as an accessory use provided the following requirements are met:

- A. The location of such family swimming pool or accessory machinery shall not be less than thirty-five (35) feet from any dwelling on an adjoining lot and not less than ten feet from any interior property line. On corner lots, the distance from said pool to the property line facing on a street shall not be less than the required side yard for an accessory building in that zone.
- B. An outside family swimming pool shall be completely enclosed by a substantial fence of not less than five feet in height and any lights used to illuminate said pool or its accessories shall be so arranged as to reflect the light away from adjoining premises.

#### **12.30.130 Flag Lots And Access Created By Easement(S)**

The purpose is to allow residential development on lots meeting all size requirements without the minimum frontage requirements. Homes may have access via private drives connecting to a public street.

- A. Permitted by Conditional Use. To make practical use of property for a residential dwelling, Flag Lots, or Access by Easement(s), may be created in any new major subdivision by Conditional Use Permit if all of the following requirements are met herein:
- B. Size, Area, and Layout Requirements. Flag lots and access to lots may be approved as a conditional use provided that:
  - 1. The flag lot or access easement has a minimum of thirty (30) feet of frontage on an improved, dedicated street.
  - 2. The flag lot stem must front on a City street and may not access any other City street, access road, driveway, or flag lot stem.
  - 3. The flag portion of the lot must meet a minimum lot area requirement of 20,000 sq. ft. for an RE-20 zone, or 40,000 sq. ft. in an A-1 zone. The stem may count for up to 5% of the total minimum lot size. The lot must also meet the width requirements for the zone it is located in.
  - 4. The design of all structures must conform to the existing neighborhood with regard to height, appearance, and placement on the lot. The Planning and Zoning Commission may make an on-site visit for each flag lot to establish conformity. At the discretion of the Planning and Zoning Commission, minimum setback requirements may be increased to allow for special circumstances and/or conditions.
  - 5. At the public hearing for the Conditional Use Permit, the adjacent property owners can request the Planning Commission to consider such items as fencing, landscaping, home orientation, and special lighting restriction as conditions to the request.
  - 6. All requirements of other City ordinances, including the Subdivision Ordinance, shall apply to flag lot requirements. In case of a conflict, the requirements of the flag lot ordinance shall prevail. All applicable requirements of State and Local Codes must be followed.
- C. All flag lot plot plans must be approved by the local fire protection agency for emergency vehicle access requirements prior to the issuance of a building permit. No dwelling/structure shall be located beyond 500 feet from the public street as measured along the centerline of the driveway or access road to the nearest point of the structure.
  - 1. Roadway Surface. Specifications submitted by a licensed engineer must demonstrate an all weather surface capable of supporting the imposed load of fire apparatus and shall be approved by the local fire protection agency.
  - 2. Width. The access road or driveway shall be a minimum of sixteen (16) feet in width.
  - 3. Turnarounds. Curves and Turns. A turn-around shall be provided at the end of the access road or driveway in accordance with the standards and specifications of the current State Adopted Fire Code.
- D. General Conditions.
  - 1. Maintenance. The access road or driveway shall be maintained by the property owners or possessor of the premises in good condition and repair and with adequate snow removal so as to provide free and uninhibited access by emergency vehicles. Turnarounds must be included in the snow removal process. No services will be provided by the City on any access road except fire protection. Garbage collection shall occur at the City right-of-way in a location specified in the conditions of approval.
  - 2. Distance to Buildings. Any access road or driveway shall be extended to within 150 feet of all portions of the exterior walls of the first story of any building.
  - 3. Maximum Grade. The maximum grade for access roads or driveways shall be twelve (12) percent.
  - 4. Signs. Property owners shall be required to identify and mark fire lanes to the satisfaction and approval of the local fire protection agency. Signs shall be posted and maintained near the entrances of the access roadways or driveways. Spacing and placement of the signs shall be subject to the approval of the local fire protection agency. Signs shall read "No Parking, Emergency Vehicle Access Road". A sign shall also show the street address of the flag lot.
  - 5. Fire Hydrants / Fire Protection. A fire hydrant shall be installed in accordance with the local fire protection agency requirements at the expense of the owner/developer and shall be connected to a water line approved by the Public Works Director of Hyde Park City. Fire hydrants shall be located on all required access roads or driveways as required by the local fire protection agency and/or Hyde Park City Planning and Zoning Commission and/or Hyde Park City Council and shall be located within five (5) feet of the required access road or driveway. If, in the opinion of the local fire protection agency, fire hydrants are vulnerable to vehicle damage, appropriate crash posts shall be required. Required crash posts shall be as conditioned by the local fire protection agency. No obstruction shall exist within a three (3) foot working area of each fire hydrant. Hydrant shut-off valves shall be located no closer than five (5) feet from the hydrant and no further than twenty (20) feet from the hydrant.
  - 6. Emergency Access Easements. The property owner/developer shall grant unto the City an easement along the full width of the access road or driveway permitting access to City owned/contracted emergency and service vehicles and inspection personnel. In addition, the property owner/developer shall grant unto the City a utility easement extending from the public street to the fire hydrant and having a minimum width of ten (10) feet for the purpose of use, operation, maintenance and repair of such hydrant and water line.
  - 7. Other Conditions. Such other conditions and standards as the Planning and Zoning Commission may deem necessary.
  - 8. All required improvements shall be completed at the expense of the property owner/developer. Bonding shall be required by the City Council as a condition of approval and to insure that improvements are completed in a timely and satisfactory manner.

## 12.30.140 Telecommunication Facilities

**3-14. Telecommunication Facilities Ordinance - Purpose:** The purposes of this ordinance are:

3-14-A To ensure that all telecommunications facilities comply with Federal, State, County and City regulations;

3-14-B To regulate telecommunications services, antennas and support structures, and related electronic equipment and equipment enclosures;

3-14-C To provide for the orderly establishment of telecommunications facilities in the City;

3-14-D To minimize the number of antenna support structures and/or utility towers by encouraging the co-location of multiple antennas on a single structure, and by encouraging the location of antennas on pre-existing support structures;

3-14-E To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications facilities;

3-14-F To comply with the Telecommunications Act of 1996 by establishing regulations that:

(1) Do not unreasonably discriminate among providers of functionally equivalent services,

(2) Do not prohibit or have the effect of prohibiting the provision of telecommunications services;

(3) Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions; and

(4) Ensure that all utility facilities/structures are located, installed, buffered/screened, and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Hyde Park City.

3-14-1. Definitions. The following definitions apply to the regulations on telecommunications facilities, including utility towers used for telecommunications facilities

3-14-1a Ancillary Support Building - A building which is associated with and subordinate to a utility tower, necessary for the normal function of the utility tower and located on the same site as the utility tower.

3-14-1b Antenna - Any system of wires, poles, rods, arms, reflecting discs or similar devices of various sizes, materials, and shapes including but not limited to solid or wire-mesh dish, home, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to the following.

- A. Wall Mounted Antenna. Any antenna mounted directly to the fascia or outside walls of a structure, existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures.
- B. Roof Mounted Antenna. An antenna mounted directly to the roof of a building, mechanical penthouse or parapet enclosure wall, which is on the rooftop of a building.
- C. Top-hat Antenna. Spatial array of antennas, generally located on a freestanding structure, where the visible width of antennas and antenna mounting structures are more than two (2) feet in width as viewed looking directly at the structure.

3-14-1c Antenna Support Structure – A structure which may also be called a utility tower, the principal purpose of which is for location of antennas. Types of antenna support structures may include:

- A. Monopole – a standing antenna support structure placed directly on the ground to support one or more antennas.
- B. Lattice Tower – A multiple sided, open steel frame structure used to support one or more antennas.
- C. Guyed Tower – A communications tower that is supported, in whole or part, by guy wires and ground anchors.

3-14-1d Co-Location – A telecommunications facility that includes a single antenna support structure, but more than one telecommunications provider's antennas and telecommunication equipment.

3-14-1e Cell on Wheels (COW) – A mobile temporary telecommunications facility located in a trailer.

3-14-1f Equipment Enclosure – A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and other telecommunication equipment.

3-14-1g Non-Stealth Design – Any antenna or equipment enclosures not camouflaged in a manner to blend with surrounding land uses, features or architecture. Non-stealth design does not conceal the intended use of the telecommunications facility. A monopole with equipment enclosures above ground and unscreened would be considered non-stealth.

3-14-1h Stealth Design - Antennas, antenna support structures and telecommunication equipment enclosures camouflaged or designed to blend with surrounding land uses, features, and architecture, thus minimizing the aesthetic impact on adjacent uses, thereby concealing the intended use and appearance of the telecommunications facility such as heavy landscaping, or installing telecommunications equipment within existing buildings, behind vegetative screening, or placing equipment enclosures underground, thus preserving or striving to maintain the rural aesthetics. A flush wall mount antenna that is painted the same color as the background and located on a building where the telecommunications equipment is located inside the building would be one example of stealth design. Other examples of stealth design include, but not limited to roof mount antennas, utility pole antennas, light or flagpoles, artificial rocks or trees.

3-14-1i Telecommunications Equipment – Equipment used in a telecommunications facility other than the Antenna, Antenna Support Structure, or Equipment Enclosures. Telecommunications equipment may include, but is not limited to electronic equipment necessary for processing wireless communication signals, air conditioning, backup power supplies, and emergency generators.

3-14-1j Telecommunications Facility- An unmanned structure, which consists of antennas, antenna support structures, telecommunications equipment, equipment enclosures as defined herein, that transmits and/or receives voice and/or data communications through radio signals such as, but not limited to "cellular" or "PCS" (Personal

Communications System) communications and paging systems, whether commercially or privately operated.

3-14-1k Utility Structure and Related Facilities – May include a building/structure that is constructed so as to provide assistance, benefit, aid, directly or indirectly to a service such as electrical power, light and forms of communication; including telephone, telegraph, fiber optic signals, cellular service for other analog and digital signals, radio and television signals to name a few. This list is not intended to be all-inclusive.

3-14-1l Telecommunications Tower – A structure typically higher than its surroundings used to support and/or hold telecommunications facilities including; telephone, telegraph, fiber optic signals, cellular services for both analog and digital signals, radio and television signals to name a few. This list is not intended to be all-inclusive.

3-14-2 Submissions Requirements for Telecommunications Facilities Allowed as a Conditional Use:

3-14-2a Telecommunications Master Plan & Site Justification Study Required. For all new telecommunication facilities or structures, the applicant shall submit a Telecommunications Master Plan along with a completed application, and a Site Justification Study for each proposed telecommunications facility or structure. A Site Justification Study and Telecommunications Master Plan shall be submitted to the Planning Department, which will provide a review of the proposed project to ensure that the provisions of the Hyde Park City Code are being met. If the application is a co-location or stealth, go to Submissions Requirements for Telecommunications Facilities Allowed as a Permitted Use Chapter 3-14-3 for application requirements. The Planning Commission shall perform the required Conditional Use Permit review for any application that requires a Conditional Use Permit. Any conflicts shall be submitted to the Commission. Said Planning Commission shall review, take public comment and render a decision by 1) approving the application, 2) approving the application with conditions, or 3) denying the application. The applicant shall request in written form what, if any, information submitted with application is to be kept confidential from public review.

3-14-2b Telecommunications Master Plan Requirements. Each company submitting an application for a Conditional Use Permit review shall complete a Telecommunications Master Plan. The Telecommunications Master Plan shall:

- A. Show where the applicant's proposed, existing, and future telecommunication facilities are within five miles of Hyde Park City. The Telecommunications Master Plan may be amended as needed by the carrier for future site applications.
- B. Show the number of possible co-locations that can be obtained on the proposed cell tower.
- C. Contain a copy of the applicant's current FCC license to the Hyde Park City Planning Department.
- D. Include an initial indication of where the road or access will be located to their proposed site. Prior to approval of a building permit, the applicant shall provide City Staff with a copy of recorded road easement(s) to the proposed site.
- E. Include a signed agreement, stating that the applicant will:

(a) Encourage co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower;

(b) Restore site to its former condition. (See Chapter 3-14-5 - Non-Maintained or Abandoned Facilities),

- A. Include a security program or system that addresses unauthorized access and vandalism,
- B. Indicate the latitude and longitude of proposed telecommunications facility including any proposed tower location.

3-14-2c Site Justification Study Requirements. A Site Justification Study shall be completed for each telecommunications facility site. The Study shall include the following:

A.

(a) An applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on existing buildings or structures or as a co-location on an existing antenna support structure. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations may be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites.

(b) The Site Justification Study shall also include a description of the elevations, vegetation, and rock formations in the area, a description of the telecommunications facilities proposed to be placed on the site with technical reasons for their design and the efforts made to minimize impacts on the activities found on the land. The applicant shall provide City Staff with propagation information for the proposed site. The applicant shall demonstrate that the telecommunications facility complies with the Hyde Park City General Plan, as well as the required setback, and landscaping requirements of the zoning district in which they are proposed to be located.

2) Co-location. The Study shall also examine the potential for co-location at existing or the proposed site. If co-location is not possible at an existing site or if the proposed new site is not available for co-location then the applicant shall include a written explanation of why co-location is not possible.

3) Equipment Enclosures The Study must include a detailed written explanation and analysis, not limited to fiscal reasons alone, of the potential for the equipment enclosures to be either:

(a) Located in an existing building or

(b) Designed whereby the incorporation of stealth design technology or other visual screening is utilized that readily conceals the appearance of the equipment enclosures, or

4) Visual Analysis On all new sites, applicant shall submit a detailed twenty-four by thirty-six inch (24"x 36") surveyed map, not more than one (1) inch equals one hundred (100) feet, which includes;

(a) The topography of the area (2 ft. elevations) in which tower and/or telecommunication facilities can be located while continuing to communicate with sister tower(s).

(b) Delineation of where telecommunication facilities can be placed so as to minimize:

(i) The placement of structures from being placed on slopes of thirty percent or greater; and,



- (ii) The intrusion of equipment enclosures from being silhouetted against the sky as seen from a public road; and
- (c) Graphical illustration of the coverage of the proposed telecommunication facility.

Once a site is located by the applicant and City Staff the applicant shall provide an illustration which can include photo simulation(s), field mock up(s) or other techniques, which illustrate all possible visual impacts of the proposed telecommunication facility. The analysis should consider views from public areas (streets, parks, etc.) and from private residences. The applicant(s) should identify all reasonable mitigation measures consistent with the technical aspects and requirements of the proposed telecommunications facility to ensure that hill cuts for roads are minimized and, the telecommunication facility can be hidden as best as possible to preserve the rural character of the City. All costs associated with this requirement are to be borne by the applicant.

### 3-14-3 Submissions Requirements for Telecommunications Facilities Allowed as a Permitted Use.

For telecommunications facilities allowed under a Permitted Use, the application shall comply with the requirements in this Chapter. Any request for telecommunications facilities differing from the standards as allowed in this section shall require a Conditional Use Permit review from the Hyde Park City Planning Commission, as set forth in Chapter 3-14-2.

#### 3-14-3a Telecommunications facilities must comply with the Hyde Park City General

Plan, as well as the required setback, height requirements of the zoning district in which they are to be located, and are subject to all provisions as stated in the City's Zoning Ordinance.

#### 3-14-3b All permitted use telecommunication facilities listed in this section must:

- A. Be located on an existing antenna support structure without having to replace or extend said structure, or,

Incorporate stealth design technology and other visual screening that readily conceals all related equipment, as determined by the City. 3-14-3c Telecommunications Master Plan and Site Justification. Each company submitting an application for a Permitted Use telecommunications facility shall complete a Telecommunications Master Plan following the guidelines in Chapter 3-14-2b unless an existing and applicable Telecommunications Master Plan already includes the proposed facility.

- A. Where the applicant's proposed, existing, and future telecommunication facilities are within Hyde Park City, the Telecommunications Master Plan may be amended as needed by the carrier for future site applications.
- B. The Telecommunications Master Plan shall contain a current copy of the applicant's current FCC license to the Hyde Park City Planning Department.

#### 3-14-3d Site Justification Study Requirements. A Site Justification Study shall be completed for each telecommunications facility site. The Study shall include the following

- A. Equipment Enclosures The Study must include a detailed written explanation and analysis, not limited to fiscal reasons alone, of the potential for the equipment enclosures to either:

(a) Be located in an existing building or

(b) Be designed whereby the incorporation of stealth design technology or other visual screening is utilized that readily conceals the appearance of the equipment enclosures or

2) Facility Placement. The study must show a delineation of where telecommunication facilities can be placed so as to minimize:

(a) The placement of structures from being placed on slopes of thirty percent or greater; and

(b) The intrusion of equipment enclosures from being silhouetted against the sky as seen from a public road.

3) Existing roads shall, whenever possible, be upgraded to the minimum amount necessary for non-public use.

#### 3-14-3e Review Procedure

- A. In proposals where either the applicant or the Planning Commission determine that potential issues may arise or additional comment is needed from the community even if the facility is allowed as a permitted use, a public hearing on the application may be scheduled with the Hyde Park City Planning Commission. Following the public hearing, the Planning Commission shall make a recommendation regarding an "approval", "approval with conditions" or denial of the application as based upon Chapter 3-14-2.

#### 3-14-4 Development Standards:

3-14-4a Construction Standards, Building Codes and Safety Standards. To ensure the structural integrity of telecommunications facilities, the owner of a telecommunication facility shall ensure that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time.

#### 3-14-4b General Requirements:

- A. Height shall be minimized as much as reasonably possible. Height of the telecommunication facilities shall be measured from the existing grade to the top of the antenna support structure, or to the highest point of any portion of the telecommunications facility, whichever is greater. If the proposed site is a roof mount or wall mount the City may request that the study verify that the existing or proposed screening will screen telecommunications facility from view.
- B. Monopoles are permitted only in the Industrial, Commercial, or Agricultural zones or in Parks and Recreation areas.
- C. Guyed and Lattice Towers are only allowed in an Agricultural zone.
- D. Any telecommunication facility within the Logan Cache Airport traffic zone shall demonstrate compliance with FAA requirements and receive approval from the Logan Cache Airport Authority for installation of said facility.



#### 3-14-4c Setbacks.

- A. In order to ensure public safety from falling ice, debris, tools or materials, the minimum distance from the base of any tower to any property line, accessory apartment, occupied business or institutional structure and/or parking area, or public recreation area shall be 20' (twenty feet) in all zones.
- B. All telecommunications towers shall be setback a minimum of 100% (one hundred percent) of the pole height from any residential property line. In the Commercial, Planned Professional, and Industrial Zones, the base of the tower shall be setback a minimum of 20' (twenty feet) from any property line. No protrusion or guy wires from the tower may cross any property line. Any associated mechanical or electrical equipment shall be completely screened from view from public right-of-ways and adjacent properties, with a solid screen and landscaping.
- C. Antennas mounted to the sides of a monopole may only be allowed in the case of a co-location in accordance with Chapter 3-14-2c-2

3-14-4d Signage. Warning signs shall be limited to non-illuminated warning and equipment identification signs. Allowed signage shall be classified as "On-Site Informational Signs" and regulated as such in accordance with the City's Sign Ordinance.

3-14-4e Signs, Flags and Lights. All commercial or public service signs, flags, lights, floodlights, and attachments other than those required for emergency identifications, communications operations, structural stability, or as required for flight visibility by the FAA or FCC shall be prohibited on any antenna or antenna structure. This prohibition shall include the attachment to the antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering, or revolving devices, but not including weather devices. Security lighting for on-ground facilities and equipment shall be shielded so that no light

rays are emitted by the installed fixtures at angles above the horizontal plane and have no more than 1 candlepower. It must be controlled by motion sensor.

If signage is required consistent with this standard, such signage shall comply with the requirements of Chapter 9, Sign Regulations.

3-14-4f Access Roads shall be limited to twenty (20) feet in clear width except where safety considerations require otherwise, and they shall have gravel or other non-paved surface, unless they are a grass surface upon which a small truck can access the site. Existing roads shall, whenever possible, be upgraded the minimum amount necessary.

3-14-4g Intent to Use. All applicants who apply to build only a tower shall provide at least one (1) letter of intent from a telecommunications company, which will locate on the tower.

#### 3-14-5 Non-Maintained or Abandoned Facilities.

The Planning Commission shall require each non-maintained or abandoned telecommunication facility to be removed when such a telecommunication facility has not been repaired or put into use by the owner, person having control, or person receiving benefit of such structure within six (6) months after written notice of non-maintenance or abandonment is given to the property owner and tower owner, person having control or person receiving the benefit of such structure.

#### 3-14-6 Approval.

The Land Use Authority and Planning Commission will review for conditions, design and initial approval (as outlined in 3-14-3e). City Council shall give final approval.

Effective Date: This ordinance will become effective immediately upon its adoption by the City Council.

ADOPTED AND APPROVED by the HYDE PARK CITY COUNCIL this 11<sup>th</sup> day of March, 2015.

A.

#### 12.30.150 Stormwater Regulations

##### A. Notice of Intent (NOI) - Exemptions.

1. No person shall be granted a building or excavation permit for land-disturbing activity without a Notice of Intent (NOI) from the State of Utah unless such activity is specifically exempted by state law. No building or excavation permit application will be considered complete until accompanied by proof of the NOI. State's website for information pertaining to NOI is [www.waterquality.utah.gov/updes/stormwater.htm](http://www.waterquality.utah.gov/updes/stormwater.htm).
2. A NOI is generally not required for the following activities; however, it is the responsibility of the person to confirm any and all exemptions:
  - a. Emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - b. Existing nursery and agricultural operations conducted as a permitted main or accessory use.
  - c. Home gardens for family food production and/or pleasure.
  - d. Disturbances less than one (1) acre that are not part of a larger development project.

##### B. Stormwater Management Concept Plan.

1. In addition to and independent of the NOI required herein, and in accordance with State Code, a Stormwater Management Concept Plan shall be required with the preliminary plat for all platted subdivisions, site plans for all housing projects, single family home construction involving soil disturbing activities of one acre or more, mobile home parks, churches, commercial buildings and sites, and industrial buildings and sites and will include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from the development. This plan is not a Storm Water Pollution Prevention Plan required for the NOI.
2. For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Ordinance to the maximum extent practicable.

- C. Landscaping Plans Required. Landscaping shall conform to the intent of the stormwater management concept plan. At a minimum, the landscaping plan shall detail vegetation and grading and shall include any non-standard maintenance requirements that may be associated with the landscaping. The extent of the landscaping plan shall incorporate at a minimum all stormwater facilities and shall be submitted with the final plat submittal. Additional landscaping plan requirements may be required by other ordinances.

D. Municipal Stormwater System Maintenance. Unless otherwise established in writing and agreed to by the City the following stormwater system maintenance arrangements shall be implemented:

1. Landscape maintenance and preservation of land use systems such as detention, retention, and swale features for stormwater management are to be maintained by property owners, homeowner associations, or development groups. Stormwater structures such as pipes, catch basins, and sumps will be maintained by the city. Easements to access and inspect the stormwater system and to perform maintenance of the system shall be established on the plat or recorded with the property title in perpetuity.
2. If a responsible party fails or refuses to meet the maintenance requirements of this ordinance, whether it be the normal or immediate correction time period, after reasonable notice, the City Council may order the Public Works Department to abate or procure the abatement of the violation. In the event that the stormwater management facility becomes a danger to public safety or public health, the Public Works Director shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have ten (10) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the City may assess the owner(s) of the facility for the cost of repair work and any penalties plus appropriate administrative charges; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

E. Inspection.

1. To verify compliance with the NOI, a registered stormwater inspector may conduct field inspections.
2. A registered stormwater inspector shall at all ordinary hours have free access to construction sites permitted under this chapter or other chapters of the Hyde Park City Municipal Code for the purpose of inspecting or evaluating the construction, maintenance, and performance of stormwater features.

F. Post Construction. Applicant shall comply with the post construction provisions of the NOI and provisions of this code.

G. Enforcement. In the event that any person holding an excavation permit, building permit, or platted subdivision approval violates the terms of the permit or the ordinances of this City or conducts site development in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, or places the City in jeopardy of violating the state Municipal Separate Storm Sewer System (MS4) permit requirements, the Stormwater Inspector may immediately suspend the building permit and place a stop order on all work until suitable remedy has been made.

H. Appeal. Any developer or citizen may appeal a stop work order to the Level 4 Land Use Authority with the city council member over stormwater present.

#### **12.30.160 Flood Plain Regulations**

A. Statutory Authorization, Findings Of Fact, Purpose And Methods

1. Statutory Authorization. The Legislature of the State of Utah Code Ann. § 10-3-701 and Utah Code Ann. § 17-53-201 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Hyde Park City, Utah, does ordain as follows:

The city of Hyde Park elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

2. Findings Of Fact

- a. The flood hazard areas of Hyde Park are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

3. 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:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly flood control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. Minimize prolonged business interruptions;
- e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- f. 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
- g. Insure that potential buyers are notified that property is in a flood area.

4. Methods Of Reducing Flood Losses. In order to accomplish its purposes, this ordinance uses the following methods:

- a. 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;
- b. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- d. Control filling, grading, dredging and other development, which may increase flood damage;
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

B. 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 its' most reasonable application.

1. Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.
2. Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 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.
3. Area of special flood-related erosion hazard is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; in preparation for publication of the FIRM, Zone E may be further refined.
4. Area of special flood hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
5. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.
6. Base Flood Elevation (BFE) – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
7. Basement means any area of the building having its floor subgrade (below ground level) on all sides.
8. Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
9. Building--see structure.
10. Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
11. Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.
12. Existing construction, means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
13. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
14. Existing structures--see existing construction.
15. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
16. Flood or Flooding means:
  - a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - (1) The overflow of inland or tidal waters.
    - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
    - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
  - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.
17. Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
18. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
19. Flood Insurance Study or Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
20. Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "flooding").
21. 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.
22. Floodway--see regulatory floodway.
23. Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.
24. Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
25. 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.
26. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
27. Historic Structure means any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
- (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.
28. 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.
  29. 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.
  30. Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor;
  31. Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Sec. 60.3.
  32. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
  33. Manufactured Home Park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
  34. Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.
  35. Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
  36. New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
  37. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
  38. Recreational vehicle means a vehicle, which is:
    - a. Built on a single chassis;
    - b. 400 square feet or less when measured at the largest horizontal projection;
    - c. Designed to be self-propelled or permanently towable by a light duty truck; and
    - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
  39. 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.
  40. Special flood hazard area: see "area of special flood hazard".
  41. Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.
  42. Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
  43. Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means:
    - a. A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;
    - b. A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
    - c. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, which is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.
  44. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
  45. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
    - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
    - b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
  46. Variance means a grant of relief by a community from the terms of a flood plain management regulation.
  47. Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
  48. Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### C. General Provisions

1. Lands To Which This Ordinance Applies. The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Hyde Park.
2. 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 Hyde Park," dated May 24, 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.
3. Establishment Of Development Plan. A Development Plan, following all other development ordinances in the City shall be required to ensure conformance with the provisions of this ordinance.
4. 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.
5. 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.
6. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
  - a. Considered as minimum requirements;
  - b. Liberally construed in favor of the governing body; and
  - c. Deemed neither to limit nor repeal any other powers granted under State statutes.
7. 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 there under.
8. Severability. If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.
9. Automatic Adoption. Hyde Park City automatically adopts effective FEMA Flood Insurance Studies (FIS), and automatically adopts effective FEMA Flood Insurance Rate Maps.

### D. Administration

1. Designation Of The Floodplain Administrator. The Land Use Authority 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.
2. Duties & Responsibilities Of The Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
  - a. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
  - b. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
  - c. Review, approve or deny all applications for development plans required by adoption of this ordinance.
  - d. Review plans 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.
  - e. 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.
  - f. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Utah National Floodplain Coordinator, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - g. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
  - h. When base flood elevation data has not been provided in accordance with Article 3, Section 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 Article 5.
3. Plan Procedures. A Development Plan for construction within a Floodplain shall be presented to the Floodplain Administrator on forms furnished by him/her 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, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
  - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
  - e. Maintain a record of all such information in accordance with Article 4, Section (B)(1). Approval or denial of a Development Plan 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.

#### 4. Variance Procedures

- a. The City Council as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- b. The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- c. Any person or persons aggrieved by the decision of the City Council may appeal such decision in the courts of competent jurisdiction.
- d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
- e. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- f. Upon consideration of the factors noted above and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- g. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- h. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- i. Prerequisites for granting variances:
  - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (2) Variances shall only be issued upon:
    - (C) Showing a good and sufficient cause;
    - (D) Determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - (E) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
    - (F) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- j. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (1) The criteria outlined in Article 4, Section D(1)-(9) are met, and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### E. PROVISIONS FOR FLOOD HAZARD REDUCTION

- 1. GENERAL STANDARDS. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
  - a. 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;
  - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
  - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  - d. 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.
  - e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
  - g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 2. SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(8), or (iii) Article 5, Section C(3), the following provisions are required:
  - a. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least one foot 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 Article 4, Section C(1)a., is satisfied.
  - b. 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 least one foot 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.
  - c. Manufactured Homes - Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

### 3. STANDARDS FOR SUBDIVISION PROPOSALS

- a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
  - b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
  - c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
  - d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
  - e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
4. **PENALTIES FOR NONCOMPLIANCE.** No structure or land located in a flood hazard area 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 misdemeanor and the violator shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Hyde Park City from taking such other lawful action as is necessary to prevent or remedy any violation.

F. **CERTIFICATION.** It is hereby found and declared by Hyde Park City that severe flooding may occur in the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, a flood hazard is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval by the Hyde Park, Utah City Council.

### 12.30.170 Weeds, Brush Piles And Rubbish

A. **Definitions.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

1. Backyard wildlife habitat certification shall mean certification by the Utah Department of Natural Resources under its backyard wildlife habitat programs recognizing a yard as having the necessary components to sustain the desired wildlife species.
2. Brush pile shall mean an accumulation of cuttings or dead portions of trees and shrubs.
3. Compost shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.
4. Ditch shall mean any channel, either man-made or natural, to carry water for drainage or irrigation, including its access and/or maintenance easements on either side.
5. Natural area certification shall mean certification by Federal or State natural areas recognition and certification programs,
6. Open area shall mean real property designated as Open Space pursuant to the Hyde Park City Subdivision Code or other open areas such as designated transition areas or any other undeveloped real property in single, common or joint ownership.
7. Owner or occupant shall mean the owner of record or any agent or representative of such owner and any person entitled, by lease or tenancy, to possession of the premises.
8. Property shall mean in addition to the owner's lot or tract of land whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.
9. Refuse shall mean solid and liquid wastes, except hazardous wastes, whether decayable or non-decayable, combustible or noncombustible, organic or inorganic, including but not limited to wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width or breadth.
10. Rubbish shall mean non-decayable solid wastes of a large size, including but not limited to large pieces of wood, large cardboard boxes or parts, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, dilapidated furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three (3) feet or more in length, width or breadth.
11. Weed shall mean an aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands, including any type of noxious weeds designated by the Utah Noxious Weed Act as amended or Cache County Weed District.
12. Yard shall mean the open space between buildings and property lines at the front, rear and sides of a property.

#### B. Weeds, Regulations.

1. All weeds and un-mowed grasses required to be mowed under Subsection (2) and (3) of this Section, on a property within the City are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the City.
2. Except as is provided in Subsections (4) and (6) of this Section, it is unlawful for the owner of any property to permit weeds and grasses to grow upon such property to a height of more than six (6) inches; provided, however, that this Subsection (2) shall not be applicable to any ornamental grass so long as it is used solely, or in combination with any other ornamental grass or grasses, as a supplement to the property's overall landscaped area.
3. Property owners that share a common boundary with Urban Wildland Interface Lands and open space shall modify the fuel load in areas adjacent to structures to create a fifty-foot (50') defensible space.
4. It is unlawful for the owner of any open area, ditch, ditch right-of-way or railroad right-of-way to allow the growth of weeds or grasses other than those grown for agricultural purposes upon such open area, ditch or right-of-way in excess of twelve inches (12") in height. Agricultural stubble fields, ditch banks and fence lines can be burned upon the obtaining of a permit. All other property listed in this paragraph must be cut.
5. It is unlawful for the owner or occupant of any property to permit the growth of noxious weeds as designated by the Utah Noxious Weed Act as amended or Cache County Weed District regardless of height.



6. An owner of a tract of land that has been certified as a natural area is permitted to have grasses growing in excess of twelve (12) inches high. This exception will be limited to the grass species and areas of the site identified with the certification document.
- C. Refuse and Rubbish, Regulations. It is unlawful for the owner or occupant of any property to permit refuse and rubbish piles to accumulate on any part of the property. All refuse shall be stored for prompt disposal on the premises in refuse containers, and the storage area shall be kept free of loose refuse. Any refuse or rubbish, which, by its nature, is incapable of being stored in refuse containers, may be neatly stacked or stored for disposal within seven (7) days. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are screened from view of the street and are not susceptible to being spilled by animals or wind or other elements.
1. No person shall cause or allow the disposal of refuse and rubbish by burning except as permitted by the Utah Administrative Code Rule R307-202 as modified.
  2. The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse will be prevented from being carried by the elements to adjoining premises. All refuse from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises. No burning of refuse or rubbish on construction sites will be permitted.
  3. The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents is unlawful and is hereby declared to be a nuisance.
- D. Other Waste No person shall, for a period longer than twenty-four (24) hours at any one time, store or permit to remain on any business, commercial or industrial premises owned or occupied by such person, any manure, refuse, animal or vegetable matter or any foul or noxious liquid waste which is likely to become putrid, offensive or injurious to the public health, safety or welfare.
- E. CITY INSPECTOR; NUISANCE ABATEMENT DUTIES; COSTS
1. Every yard, lot or other place or condition found by the city inspector or mayor to constitute a nuisance shall, if not repaired, altered or otherwise abated within the time allowed by and in accordance with the findings of the city inspector or mayor, may thereafter be abated summarily by the city inspector, who may employ any necessary assistance to cause such repair, alteration or other action necessary to abate or remove the nuisance.
  2. The city inspector shall prepare an itemized statement of all expenses incurred in abating the nuisance and shall mail a copy thereof to the owner, purchaser, or occupier of the property demanding payment within twenty (20) days from the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the property owner's, purchaser's or occupier's last known address.
  3. In the event the owner, purchaser or occupier fails to make payment of the amount set forth in the statement to the city treasurer within such twenty (20) days, the city inspector, on behalf of the municipality, may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as hereinafter provided. In the event the collection of such costs are pursued through the court, suit shall be commenced in behalf of the city for all of the costs of repair, alteration, removal or abatement together with reasonable attorney fees, interest and court costs. In the event the city inspector elects to refer the matter to the county treasurer for inclusion in the tax notices of the property owner, the city inspector shall make in quadruplicate an itemized statement of all expenses incurred in the removal and destruction of the same. The city inspector shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after completion of work abating the nuisance.

#### **12.30.180 Outdoor Storage And Maintenance Of Property**

- A. Duties to Maintain Property. The owner or occupant of any premises within the City, whether business, commercial, industrial or residential premises, shall maintain the property in a manner which is safe to human life or health and which does not adversely affect property values. The owner or occupant will not permit the deposit or accumulation of materials other than those ordinarily attendant upon the use for which the premises are legally intended. If a property is used for a purpose (including, without limitation, a junkyard, storage of materials not related to property use, or excessive vehicles and equipment) which, by its fundamental nature, cannot be maintained as required above, then, in lieu thereof, such property, or any affected portion thereof, shall be completely screened from public view and from the view of any abutting property that is used for residential purposes.
1. No owner or occupant of any premises which are adjacent to any portion of an open area, vacant lot, ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.
  2. An occupant of any single-family or two-family residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained as to prevent it becoming a nuisance by putrefying or attracting insects or animals.
- B. Outdoor Storage of Materials. No owner or occupant of any residential premises shall permit the outdoor storage on such premises of materials not customarily stored outdoors in residential neighborhoods, such as, but not limited to, construction materials, tires and household appliances, if such materials, whether or not sheltered or covered or within a carport or other partially enclosed structure, are visible from any public street, sidewalk, alley or from the ground level of abutting properties. The storage of materials within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision. Notwithstanding the foregoing, construction materials may be stored outdoors on residential premises for a period not to exceed nine (9) months, or for such longer period of time as may have been approved by the City Administrator, if such materials are being used in the construction of a structure for which a building permit has been issued by the City.
1. Yard Sale
    - a. Merchandise and goods offered for sale shall not be placed over a public sidewalk or in a public right-of-way.
    - b. Any merchandise for sale shall be removed from public view no later than noon the day after the yard sale has concluded, and the merchandise shall not be displayed earlier than twenty-four (24) hours prior to the start of the yard sale.
    - c. Continuous sales of used or new merchandise at locations used as residences are prohibited.
- C. Junked, Wrecked, Abandoned, Inoperable Motor Vehicles. No owner or occupant of any property shall permit the outdoor storage on such property of junked, wrecked or abandoned motor vehicles whether or not such vehicles are sheltered or covered or within a carport or other partially enclosed structure, are visible from any public street, sidewalk, alley or from the ground level of abutting properties. The storage of such vehicles within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision.
- D. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this Section:
1. Inoperable motor vehicle shall mean any motor vehicle that does not have a current license plate and validation sticker lawfully affixed thereto or that is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed.

2. Motor vehicle shall mean any self-propelled vehicle, which as originally built contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.
  3. Unsheltered shall mean located outside a garage or other building in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.
- E. Unsheltered storage prohibited. The unsheltered storage of an inoperable motor vehicle for thirty (30) days or more on any private property within the City is hereby declared to be a nuisance and dangerous to the public health, safety and welfare. An inoperable motor vehicle, not located in a garage or other fully enclosed building, shall be placed behind screening of sufficient size, strength and density, such as a solid fence, trees or shrubbery, to screen it from ordinary public view and to prohibit ready access to such vehicle by children.
1. Exceptions. This Ordinance does not apply to any person who is conducting an automobile sales, storage or repair enterprise operated in compliance with existing zoning regulations when the storage is necessary to the operation of such business enterprise. These exceptions for certain lawfully conducted business enterprises are affirmative defenses to be pled and proved by the defendant in any judicial proceedings under this Ordinance.
  2. Public nuisances not exempt. Nothing in this Ordinance shall be construed to permit exempt or sheltered storage of inoperable motor vehicles to be conducted in such manner as to constitute a public nuisance under other provisions of this Ordinance, including without limitation allowing accumulation of refuse and rubbish and growth of weeds and brush in and about the storage area, breeding of insects and rodents or direct danger to persons from broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports or explosion hazard.
  3. Removals and Penalties. The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects or refuses to abate the nuisance is also guilty of a Class C Misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The imposition of any sentence does not exempt the offender from compliance with the requirements of this Article. No person, after abatement notification has been given, shall move the inoperable motor vehicle, in question, to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.

### **12.30.190 Accessory Apartments**

3-19. Accessory Apartments. The purpose of this ordinance is to provide regulations and design standards for accessory apartments in residential zones. Accessory apartments may be allowed by conditional use permit in order to make housing units available to moderate income households and also to provide economic benefit to homeowners.

3-19-1. Requirements. The Land Use Authority may grant a conditional use permit for accessory apartments provided that the following requirements are met, in addition to any conditions placed by the Land Use Authority. The granting of a conditional use permit for an accessory apartment shall not exempt the applicant from meeting other applicable ordinances, covenants, codes, or laws recognized by Hyde Park City.

3-19-1a. A letter of application sworn before a notary public shall be provided by the owner(s) stating that such owners will occupy the said dwelling, except for bona fide temporary absences.

3-19-1b. The effective period of the conditional use permit for accessory apartments shall be two years from the date of the original permit. Every two years, a renewal may be granted upon review by the Land Use Authority as long as the owner remains the principal resident of the home and that all other conditions met at the time of the original application remain unchanged. Notification of revocation of the conditional use permit shall be sent to the owner in the event that it becomes evident that the owner no longer resides at the home. Failure to obtain certification that the owner resides at the home may be the basis for revocation of the conditional use permit. The Land Use Authority, at its sole discretion, may require a new application and a demonstration of compliance with all conditions necessary for a conditional use permit.

3-19-1c. A floor plan of ¼ inch to the foot showing the floor in which the accessory apartment will be located shall be provided to the Land Use Authority.

3-19-1d. Standard City utility fees for water, sewer, garbage and dispatch fee shall be charged to the accessory apartment in addition to those currently being charged to the owner of the home. The utilities for the accessory apartment shall fall under the Landlord / Tenant Utility Ordinance and agreements must be signed per ordinance. The Accessory Apartment will be charged the low water user rate.

3-19-1e. It shall be prohibited to construct an accessory apartment within a mobile home.

3-19-1f. No more than twenty- percent (20%) of new homes within a subdivision may have an accessory apartment. The final plat of the subdivision must demonstrate that homes with accessory apartments are not located adjacent to nor directly across the street from another home with an accessory apartment.

3-19-1g. Upon sale of the home or change of primary occupant, the conditional use permit shall expire, that is, the conditional use permit is not transferable.

3-19-1h. The approval of the conditional use permit, including any and all conditions of approval will be recorded by Hyde Park City.

3-19-1i. A fee to cover public hearing notice, publication and building inspection costs must accompany application. See current fee schedule.

#### **3-19-2. Design Standards**

3-19-2a. Only one accessory apartment may be attached to a single-family dwelling and said area shall be clearly a subordinate part of the dwelling having an independent entrance from that of the owners. The accessory apartment shall not occupy any accessory buildings (i.e., guest cottage).

3-19-2b. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family residence, including retention and enhancement of landscaping. All new entrances shall be located on the side or in the rear of the building.

3-19-2c. It shall be prohibited to install separate utility meters. Each accessory apartment must have a separate address as directed by the Post Office.

3-19-2d. In no case shall an accessory apartment comprise more than (50) fifty percent of the building's total floor area nor have more than two bedrooms unless, in the opinion of the Land Use Authority a greater amount of floor area is warranted by the circumstances of the particular building. An accessory apartment is a complete, separate housing unit that shall be within the original dwelling unit.

3-19-2e. The design and size of the apartment shall conform to all applicable standards in the Fire, Building, and Health Codes. The applicant shall obtain all necessary building permits prior to construction of the accessory apartment. If the applicant is unable to comply with the terms of the International Building Code and Uniform Fire Code, as adopted by Hyde Park City, the request for conditional use permit shall be denied.

3-19-2f. Occupancy. The occupants of the accessory apartment shall not sub-lease any portion of the accessory apartment to other individuals.

3-19-2g. At least four (4) off-street parking spaces shall be available for use by the owner of the home and the occupant(s) of the accessory apartment. No more than forty percent (40%) of the front yard shall be used for parking. A single bay garage or carport must be included for new construction of accessory apartments. On-street parking is reserved for guests only. A parking plan must be submitted with conditional use permit application.

3-19-2h. Any other appropriate or more stringent conditions deemed necessary for accessory apartments in protecting public health, safety, welfare, and the single family character of the neighborhood shall be established by the Land Use Authority.

**3-19-3. Procedures for Revoking an Accessory Apartment License or Conditional Use Permit**

3-19-3a. An accessory apartment conditional use permit shall be revocable for non-compliance with any of the provisions of this ordinance or any other ordinance of the city. The city shall notify the owner/permittee in writing of its intent to revoke the conditional use permit, and the reasons therefore, at least fourteen (14) days prior to the action being taken. The permittee shall have the opportunity to correct any problems that caused the notice of intent to revoke to be issued during said fourteen-day period and show proof of such correction to have the permit remain in force. The permittee shall have the right to appeal, in writing, any decision regarding the permit to the City Council. The City Council shall consider any appeal on a permit revocation within thirty (30) days of receipt of the appeal. In the event of an appeal the permit shall remain in effect until after the appeal is considered by the City Council.

**3-19-4. Owners Not Occupying Residence for Prolonged Periods.**

3-19-4a. The city recognizes that people in the community occasionally vacate their residences for longer periods of time than merely vacations. If the owners of the residence elect to leave their home, just one family will be living in the residence and there is no longer any need to have the residence licensed as an accessory apartment. The permit can then lapse while the owners are not living in the residence and the permit shall be re-established upon their return using the existing conditional use permit and by renewing the accessory apartment permit.

**3-19-5 Variances To Accommodate Accessory Dwellings Prohibited.**

3-19-5a. No variance shall be approved in order to accommodate an Accessory Dwelling.

**12.30.200 Disturbing The Peace**

- A. NOISE. It is a class C misdemeanor for any person to disturb the peace or quiet of any neighborhood, family or person by loud or unusual noises, by repetitive noises or offensive conduct.
- B. PROHIBITED ACTS SPECIFICALLY. The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely,

1. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any horn, whistle or other device operated by engine exhaust.
2. Electronic Audio Devices. The using, operating or permitting to be played, used or operated in residential areas any television, radio receiving set, musical instrument, compact disc player or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners hereto. The operation of such any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of thirty (30) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
3. Loud speakers, amplifiers and other sound devices for advertising. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure without or in violation of a permit issued pursuant to section 3-20-4 of this ordinance.
4. Yelling, shouting, etc. Yelling, shouting, whistling or otherwise creating noise on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at anytime or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.
5. Dogs. The keeping of any dog which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
6. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises there from.
7. Defect in vehicle or load. The use of any automobile, motorcycle or other vehicle, which due to lack of repair or improper loading creates loud and unnecessary grating, grinding, rattling or other noise.
8. Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., local prevailing time, except in case of urgent necessity in the interest of public health and safety.
9. Schools, courts, churches, hospital, parks. The creation of noise adjacent to any school, institution of learning, church or court, while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys the users of any city park or facility.
10. Pile drivers, hammers, etc. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is usually attended by loud or unusual noise.
11. Power lawn mowers. The operation of any power mower, cultivator, or like or related device (except snow blowers) in an area zoned residential between the hours of 10:00 p.m. and 7:00 a.m.
12. Motor vehicle noise. The operation of any vehicle having more than two axles, upon any residential street or in any area zoned residential between the hours of 10:00 p.m. and 6:00 a.m.

- C. EMERGENCY EXCEPTIONS. The provisions of this chapter shall not apply to: 1) the emission of sound for the purpose of alerting persons to the existence of an emergency; or 2) the emission of sound in the performance of emergency work.

- D. VARIANCES. The Land Use Authority shall have the authority, consistent with this section, to grant special variances, which may be requested.

1. Any person seeking a special variance pursuant to this section shall file an application with the Land Use Authority. The application shall contain information, which demonstrates that bringing the source of sound, or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Prior to rendering a decision on the application, the city shall make reasonable efforts to give notification of the request to property owners within three hundred feet (300') of the expected source of the noise.
2. Special variances, which are allowed, shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity.

E. Penalty. Any person violating any of the provisions of this noise control ordinance shall be deemed guilty of an infraction. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

## **12.40 Planning Commission**

- 12.40.010 Membership
- 12.40.020 Removal For Cause
- 12.40.030 Members Compensation
- 12.40.040 Contracts And Employment
- 12.40.050 Powers And Duties
- 12.40.060 Record Of Proceedings
- 12.40.070 Rules And Regulations
- 12.40.080 Land Use Authority Designations

### **12.40.010 Membership**

The Land Use Authority (LUA) shall consist of varied members as outlined in 8 below. The term of office of each member will be in connection with the designation of city employee classifications and by appointment by City Council as appointed and qualified.

### **12.40.020 Removal For Cause**

The City Council may remove any member of the LUA for cause, after a public hearing upon written charges.

### **12.40.030 Members Compensation**

Members of the LUA shall serve with no compensation in addition to their regular city salaries. They may be reimbursed for reasonable expenses incurred, with the approval of the City Council.

### **12.40.040 Contracts And Employment**

The LUA may request that the city contract employees, staff, city planners and other consultants, as it may deem necessary for its work. The expenditures of the LUA shall be within the amounts appropriated for that purpose by the City Council.

### **12.40.050 Powers And Duties**

The LUA of Hyde Park shall have such powers and functions and shall perform such duties as are prescribed by Utah Code, as amended annually by the Utah State Legislature. Such powers and duties shall include, but shall not be limited to, the submission to the City Planning Commission recommendations concerning all proposed changes in ordinances pertaining to zoning as provided in General Provisions (Section 1-4) of the Zoning Ordinances of Hyde Park, Utah. The LUA shall have such other powers and duties as prescribed by law.

### **12.40.060 Record Of Proceedings**

The LUA shall keep a public record of its proceedings that shall be filed with the City Recorder.

### **12.40.070 Rules And Regulations**

The LUA shall interpret rules and regulations subject to the provisions of the laws of the State of Utah and the Zoning Ordinances of Hyde Park, Utah, and may suggest amendment to such rules and regulations from time to time to the Planning and Zoning Commission.

### **12.40.080 Land Use Authority Designations**

Land Use Designations may be changed from time to time by resolution of the City Council.

Issue	Level 1	Level 2	Level 3	Level 4	Planning Commission
Allowed Commercial Business	•				
Allowed Home Business License	•				
Annexation Plan Review					•
Building Permit Review		•			
Commercial Building Review*			•		•
Fee Schedule Review					•
Fence Violations / Permits	•				
Landscape Plan					•
Lot Splits / Lot line Adjustments		•			
Master Plans					•
Road					•
Sidewalk					•

Trail					•
Ordinance Amendments					•
Ordinance Writing					•
Policies					•
<b>Public Hearings</b>					
Church in Residential					•
Commercial Business License					•
Corner Lot Fence		•			
Home Occupation Business License			•		
Kennel Permit		•			
Temporary Residence		•			
Preliminary Plat (Subdivision)					•
Review Land Option with Property Owners		•			
Rezone Review					•
Sign Permit		•			
<b>Subdivisions</b>					
Sketch Plan*				•	•
Preliminary Plat / Construction Drawings*				•	•
Final Plat					•

\*LUA will review for compliance and forward onto the Planning Commission.

**Level 1** Building Official & Public Works Director or Planning Commission Chairman or Planning Commission Secretary

**Level 2** Building Official, Public Works Director, Planning Commission Chairman, Planning Commission Secretary

**Level 3** Level 2 members Fire Department Representative

**Level 4** Level 3 members Mayor, Member of City Council, City Engineer

## **12.60 Nonconforming Building And Uses**

- [12.60.010 Nonconforming Buildings: Maintenance, Repairs And Upkeep](#)
- [12.60.020 Nonconforming Buildings: Additions, Enlargements And Moving](#)
- [12.60.030 Nonconforming Buildings: Abandonment By Non-Use](#)
- [12.60.040 Nonconforming Use Of Buildings](#)
- [12.60.050 Nonconforming Use Of Buildings: Abandonment By Non-Use](#)
- [12.60.060 Nonconforming Use Of Land: Abandonment By Non-Use](#)
- [12.60.070 Nonconforming Use Compliance](#)
- [12.60.080 Signs Permitted With Nonconforming Uses](#)
- [12.60.090 Loss Of Nonconforming Use Rights](#)

### **12.60.010 Nonconforming Buildings: Maintenance, Repairs And Upkeep**

- A. A nonconforming building or structure may be maintained.
- B. Repairs and structural alterations may be made to a nonconforming building.
- C. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or Act of God or the public enemy, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction may be continued or resumed, provided that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.

### **12.60.020 Nonconforming Buildings: Additions, Enlargements And Moving**

- A. A building or structure nonconforming as to use regulations shall not be added to or enlarged in any manner, unless such building or structure, including such additions and enlargements, is made to conform to all the regulations of the zone in which it is located.
- B. A building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner unless such addition and enlargement conforms to all the regulations of the zone in which it is located.
- C. A building or structure lacking sufficient automobile parking space in connection therewith as required by this ordinance may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of this ordinance for such alterations or enlargements.
- D. No nonconforming building or structure shall be moved in whole or in part to any other location on the lot, unless every portion of such building or structure is made to conform to all the regulations of the zone in which it is located.

### **12.60.030 Nonconforming Buildings: Abandonment By Non-Use**

### **12.60.040 Nonconforming Use Of Buildings**

- A. The nonconforming use of a building or structure existing at the time the applicable zoning regulations become effective may be continued.
- B. A vacant nonconforming building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one (1) year after the building or structure became nonconforming.
- C. A nonconforming use may be extended to include the entire floor area of the existing building in which it was conducted at the time use became nonconforming.
- D. Except by permit of the Board of Adjustment as provided in Chapter 5, the nonconforming use of a building or structure may not be changed except to a conforming use; but where such change is made to a conforming use, the use shall not thereafter be changed back to a nonconforming use.

#### **12.60.050 Nonconforming Use Of Buildings: Abandonment By Non-Use**

The nonconforming use of a building or structure or portion thereof shall be deemed abandoned by non-use during a continuous period of one year. If a nonconforming use of any such building or structure or portion thereof has been or shall be abandoned, the same shall not thereafter be occupied or used except for a use which conforms to the use regulations of the zone in which it is located.

#### **12.60.060 Nonconforming Use Of Land: Abandonment By Non-Use**

A nonconforming use of a tract of land or portion thereof may be continued. No such nonconforming use of land shall in any way be expanded or extended either on the same or any adjoining tract of land. A nonconforming use of land shall be deemed abandoned by non-use for a period of one year. If a nonconforming use of land has been or shall become abandoned, such land shall not thereafter be used or occupied except for a use which conforms to the use regulations of the zone in which the use is located.

#### **12.60.070 Nonconforming Use Compliance**

Any building structure, or use for which a valid building permit has been issued and actual construction was lawfully begun prior to the effective date of this Ordinance, or amendments to this Ordinance, may be completed and used in accordance with the plans, specifications and permit on which said building permit was granted. Actual construction is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, actual work in excavating a basement or the demolition or removal of an existing structure begun preparatory to rebuilding; provided that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

#### **12.60.080 Signs Permitted With Nonconforming Uses**

Signs permitted with nonconforming uses are outlined in Chapter 9, Sign Regulations, of this Ordinance.

#### **12.60.090 Loss Of Nonconforming Use Rights**

Any property which has a nonconforming use established as to its area may lose the non-conforming use to said property if the owner sells or otherwise disposes of a part of the said nonconforming property which reduces the area size to a smaller size than was in existence at the time the Zoning Ordinance was established on August 23, 1978.

### **12.70 Parking And Loading Space, Vehicle Access Regulations**

#### **12.70.010 Purpose And Intent**

#### **12.70.020 Parking Space For Dwellings**

#### **12.70.030 Parking Space For Non-Dwelling Buildings**

#### **12.70.040 Computation Of Parking Requirements**

#### **12.70.050 Parking Lot Design And Maintenance**

#### **12.70.060 Off-Street Truck Loading Space**

#### **12.70.070 Business Requiring Automobile Access**

#### **12.70.080 Vehicular Traffic To Commercial Or Manufacturing Zones**

#### **12.70.010 Purpose And Intent**

The purpose of this Chapter is to regulate parking and loading spaces, vehicle traffic and access in order to provide orderly and adequate development of these needed amenities, and in so doing promote the safety and well-being of the citizens of the City. Consequently, there shall be provided at the time of the erection of any main building or at the time any main building is enlarged or increased, minimum off-street parking space with adequate provisions for ingress and egress by standard size automobiles. Chapter 17, Planned Commercial Zone of this Ordinance supplements this Chapter.

#### **12.70.020 Parking Space For Dwellings**

In all zones there shall be provided in a private garage or in an area properly located for a future garage:

- A. For a single family dwelling, two (2) parking spaces.
- B. For a two family dwelling, four (4) parking spaces.
- C. For a three family dwelling, six (6) parking spaces.
- D. For a four family dwelling, seven (7) parking spaces.
- E. If any dwelling unit is increased by occupant use after the original building permit is issued, the parking requirements shall reflect that increase.
- F. In addition to the above parking space requirements, one parking space shall be provided for every two paying guests residing in such dwelling unit. Such paying guests refers to the rental of sleeping rooms within the dwelling unit.

#### **12.70.030 Parking Space For Non-Dwelling Buildings**

For new buildings or for any enlargement or increase in seating capacity, floor area or guest rooms of any existing building, there shall be provided:

Apartment Hotel	One Space per two sleeping units
Auditor's Office	One space per staff member, plus three spaces for clients.



Auto Repair Shop	One space per employee, plus five spaces for client use.
Bank	Not less than 30 spaces.
Barber Shop	Two spaces per staff member.
Beautician Shop	Three spaces per staff member.
Boarding House	Three spaces per four persons to whom rooms will be rented.
Business Office	One space per employee on highest shift.
Cafe or Cafeteria	One space per eating booth and table, plus one space per three stools.
Car Wash	Four spaces in approach lane to each wash bay.
Chiropractic Office	Four spaces per professional staff, plus one space per subordinate staff.
Church	One space per five fixed seats.
Clinic	Four spaces per professional staff, plus one space per subordinate staff.
Club, Private	At least 20 client spaces
Dance Hall	One space per 200 square feet of floor space.
Day Care Center	One space per employee, plus four spaces for client use.
Dental Office	Four spaces per professional staff, plus one space per subordinate staff.
Drive-In Food Establishment	One space per 100 square feet of floor space, but not less than 10 spaces.
Dry Cleaner	One space per employee, plus five spaces for client use.
Educational Institution (private)	Two spaces per three student capacity, plus one space per staff member.
Employment Office	One space per employee, plus six spaces for client use.
Furniture Office	One space per staff member, plus three spaces for client use.
Furniture Store	One space per 300 square feet of sales floor space in building.
Hospital	One space per two bed capacity.
Hotel	One space per two sleeping units.
Insurance Office	One space per staff member, plus four spaces for client use.
Laboratory	One space per employee on highest shift.
Laundromat	One space per three coin operated machines.
Legal Office	One space per professional staff, plus four spaces for client use.
Library	At least 30 spaces.
Lodging House	Three spaces per four persons to whom rooms will be rented.
Lounge	At least 20 client spaces.
Medical Office	Four spaces per professional staff, plus one space per subordinate staff.
Mortuary	At least 30 spaces
Motel	One space per sleeping or living unit.
Museum	At least 30 spaces.
Night Club	At least 20 client spaces.
Nursery for Children	One space per employee plus four spaces for client use.
Nursing Home	One space per two bed capacity.
Optometrist Office	Four spaces per professional staff, plus one space per subordinate staff.
Photo Studio	At least six spaces.
Post Office	At least 20 client spaces.
Psychiatric Office	Four spaces per professional staff, plus one space per subordinate staff.
Real Estate Office	One space per employee, plus four spaces for client use.
Reception Center	At least 30 spaces.
Recreation Center	One space per 200 square feet of recreation area.
Rental Establishment	At least four client spaces.
Restaurant	One space per eating booth or table.



Retail Store	One space per 200 square feet of sales floor space in building.
Sanitarium	One space per two bed capacity.
Service Repair Shop, General	At least four client spaces.
Stadium	One space per five fixed seats.
Tavern	At least 15 spaces.
Terminal, Transportation	At least 20 spaces.
Theater	One space per five fixed seats.
Travel Agency	One space per employee, plus four spaces for client use.
Upholstery Shop	One space per employee, plus three spaces for client use.
Used Car Lot	One space per employee, plus four spaces for client use.
Warehouse	Two spaces per three employees.
Wedding Chapel	At least 30 spaces.
Wholesale Business	Two spaces per three employees, plus three spaces for client use.

For other uses not listed above, three spaces per four persons on the highest employment shift.

#### **12.70.040 Computation Of Parking Requirements**

When measurements determining number of required parking spaces result in a fractional space, any fraction up to one-half shall be disregarded, and fraction including one-half and over shall require one parking space.

#### **12.70.050 Parking Lot Design And Maintenance**

- A. Parking Lot Location. Parking space as required in this ordinance shall be on the same lot with the main building or, in the case of buildings other than dwellings, may be located no farther than five hundred (500) feet therefrom.
- B. Public Parking Lot Standards. Every parcel of land hereafter used as a public parking area shall be paved with an asphalt or concrete surface and shall have appropriate bumper guards or curbs where needed, as determined by the Building Official to protect adjacent property owners or persons using a sidewalk. Catch basins and drains shall be provided to collect surface drainage of all paved areas at a minimum rate of one inch an hour rainfall. Surface drainage is not allowable across pedestrian walkways.
- C. Maximum Yard Area to be Used for Parking and Vehicle Access Lanes. For all uses permitted in a residential zone, none of the front and side yard area required by the respective zones shall be used for parking. Access across and over the required front yard is allowed to the side yard or rear yards. In the case of multiple family dwellings, not more than fifty (50) percent of the required side and rear yards shall be used for parking or vehicular access lanes. In such cases where it is deemed necessary to utilize more than fifty (50) percent of the required side and rear yards, any side yard area used in excess of said limits shall be provided in an equivalent amount of land area elsewhere on the same lot as the building, as open green space, patios, play areas or courts.7-5-4. Additional Provisions. The design and maintenance of off-street parking facilities shall be subject to the following provisions:
  1. Each parking space shall encompass not less than one hundred and eighty (180) square feet of area. Each parking space shall be not less than nine (9) feet wide, the width being measured at a right angle to the side lines of the parking space.
  2. All off-street parking spaces and associated access lanes shall be effectively screened on any side adjoining any property in a residential zone by a masonry wall or fences not less than four feet nor more than seven feet high, except that some type of hedge-row shrubs may be used in place of a wall or fence provided the hedge is continuous along adjoining property and at maturity is not less than five feet nor more than seven feet high. Hedge-row shrubs shall be maintained and replaced where necessary in order that the hedge may become an effective screen from bordering property within a maximum of five-year period. Front yard and corner lot fences or plantings shall maintain height requirements of their respective zones.
  3. Lighting and signs shall conform to the requirements set forth in this ordinance.
  4. Parking requirements for dwellings will be located on the same lot with the dwelling.

#### **12.70.060 Off-Street Truck Loading Space**

On the same premises with every building or use involved in the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of streets or alleys. Such space, unless otherwise adequately provided, shall include a ten (10) foot by twenty-five (25) foot loading space with fourteen (14) feet height clearance for every twenty thousand (20,000) square feet or fraction thereof in excess of three thousand (3,000) square feet of land use for above-mentioned purposes.

#### **12.70.070 Business Requiring Automobile Access**

Service stations, roadside stands, public parking lots, and all other businesses requiring motor vehicle access shall meet the following requirements:

- A. Access to the station or other structure or parking lot shall be by not more than two roadways for each one hundred feet or fraction thereof of frontage on any street, no two of said roadways shall be closer to each other than twelve (12) feet; each of said roadways shall be not more than thirty-four (34) feet in width and shall not be closer than twenty (20) feet to the point of intersection of two property lines or at any street corner; and a curb, hedge, or fence of not more than two (2) feet in height shall be provided by the owner to limit access to the permitted roadway.
- B. Gasoline pumps shall be set back at least twenty (20) feet from any property line bordering a street, provided that a pump island parallel to and adjoining a street may be located not less than fifteen (15) feet from the property line bordering said street.

#### **12.70.080 Vehicular Traffic To Commercial Or Manufacturing Zones**

Privately owned land within an area zoned for residential purposes shall not be used as a regular means of vehicular passage to and from property in commercial or manufacturing zones.

#### **12.80 Special Uses**

12.80.010 Purpose And Intent

12.80.020 Special Use Permit

12.80.030 Review Procedure

12.80.040 Determination

12.80.050 Basis For Issuance Of Special Use Permits

12.80.060 Appeal

12.80.070 Building Permit

12.80.080 Expiration

#### **12.80.010 Purpose And Intent**

The purpose and intent of Special Uses is to allow in certain areas compatible integration of uses which are related to the permitted uses of the zone, but which may be suitable and desirable only in certain locations in that zone due to conditions and circumstances peculiar to that location and/or upon certain conditions which make the use suitable and/or only if such uses are designed, laid out, and constructed on the proposed site in a particular manner.

#### **12.80.020 Special Use Permit**

A Special Use Permit shall be required for all uses listed as Special Uses in the zone regulations. A Special Use Permit may be revoked by the City Council after review and recommendation by the Land Use Authority, upon failure to comply with the conditions imposed with the original approval of the permit. "Special Use" is used interchangeably with "Conditional Use".

#### **12.80.030 Review Procedure**

- A. Application for a Special Use Permit shall be made to the appropriate Land Use Authority. (See ordinance 2007-5 for Land Use Authority designations.)
- B. Detailed location, site and building plan shall accompany the complete application forms provided by the City. For structures in existence, only a location plan need be provided.
- C. The application, together with all pertinent information, shall be considered by the Land Use Authority at its next regularly scheduled meeting.
- D. The Land Use Authority may call a specific public hearing, if it is deemed in the public interest, on any application after giving adequate notice of said public hearing, by letter, to all property owners within 300 feet at least ten (10) days prior to the scheduled meeting. The Land Use Authority shall take action on the application by the second meeting of the appropriate Land Use Authority after the application filing date.

#### **12.80.040 Determination**

The Land Use Authority may deny or permit a use to be located within any zone in which the particular Conditional Use is permitted. In authorizing any Special Use, the Land Use Authority shall impose such requirements and conditions necessary for the protection of adjacent properties and the public welfare.

#### **12.80.050 Basis For Issuance Of Special Use Permits**

The Land Use Authority shall not authorize a Special Use Permit unless evidence is presented to establish that:

- A. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the community, and
- B. Such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvement in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings, and structures when considering traffic generation, parking, building design and location, landscaping and signs, and
- C. The proposed use will comply with the regulations and conditions specified in this Ordinance for such use, and
- D. The proposed use conforms to the goals, policies and governing principles and land use of the Master Plan for Hyde Park City, and
- E. The proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public or private property, including the operation of existing uses thereon, in the immediate vicinity or the community or area as a whole.

#### **12.80.060 Appeal**

The decision of the Land Use Authority may be appealed to the City Council by filing such appeal within fifteen (15) days after the date of the notice of decision sent the applicant. The City Council may uphold or reverse the decision of the Land Use Authority and impose any additional conditions that it may deem necessary in granting an appeal. The decision of the City Council shall be final.

#### **12.80.070 Building Permit**

Upon receipt of a Special Use Permit, the developer shall take such permit to the Building Official who will review the permit and conditions attached. Based on this review and compliance with any other items that might develop in the pursuance of his duties, the Building Official may approve an application for a building permit and shall insure that development is undertaken and completed in compliance with said permit and conditions pertaining thereto.

- A. Corner lot fences. Any owner of a corner lot desiring to fence the same must designate at the time of obtaining a building permit for construction of a dwelling the front yard and side yard of said lot. Any fence constructed on said owner's lot cannot exceed seven (7) feet in height, and will be constructed at the twelve (12) foot setback line of the front and side yard property line of said lot. No fence along the side yard, higher than three and one-half (3 ½) feet, shall be constructed closer than twelve (12) feet from the side yard property line other than those allowed by the fence ordinance. The appropriate Land Use Authority must determine that the

installation of said fence will not create any hazard to automobile or pedestrian traffic in the area where the side yard fence is to be located. (See also Chapters 2-38 and 3-8.)

- B. Ninety-nine (99) foot right-of-ways. Any owner of a lot within the original grid of town on a ninety-nine (99) foot right-of-way, with the exception of Center Street, may build a side yard fence to a height of seven (7) foot within one (1) foot of property line. A conditional use permit will be required if there is an existing sidewalk. The Land Use Authority must determine that the installation of said fence will not create any hazard to automobile or pedestrian traffic in the area where the side yard fence is to be located.

#### **12.80.080 Expiration**

Unless there is substantial action under a Special Use Permit within a period of one year of its issuance, as determined by the Land Use Authority, the Special Use Permit shall expire. The Land Use Authority may grant a maximum extension of six months under exceptional circumstances.

### **12.90 Sign Regulations**

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#### **12.90.140 Temporary Sign Permits (Private Property)**

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#### **12.90.160 Time Of Compliance: Nonconforming Signs And Signs Without Permits**

#### **12.90.170 Violations**

#### **12.90.180 Enforcement And Remedies**

#### **12.90.190 Fee Schedule**

#### **12.90.010 Purposes**

The purposes of these sign regulations are: to encourage the effective use of signs as a means of communication in the City of Hyde Park; to maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth; to benefit the business community by providing a means to enhance business visibility; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. This sign ordinance is adopted under the zoning authority of the City and to further the more general purposes set forth in the zoning ordinance.

#### **12.90.020 Provisions**

A sign may be erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions and other requirements of this Ordinance. Provisions of this Ordinance, as more specifically set forth herein, are:

- A. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedure of this ordinance;
- B. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;
- C. To provide for temporary signs without commercial messages in limited circumstances in the public right-of-way;
- D. To provide for temporary signs containing commercial messages on private property within the commercial zoning district;
- E. To generally prohibit all signs not expressly permitted by this ordinance; however, the City Council, upon recommendation from the Land Use Authority, may allow an exception to the regulations of this Chapter, if in its opinion, the intent of the ordinance and the integrity of the zone are maintained;
- F. To provide for the enforcement of the provisions of this Ordinance.

#### **12.90.030 Definitions And Interpretation**

Words and phrases used in this Ordinance shall have the meanings set forth in this Section. Words and phrases not defined in this section but defined in the Zoning Ordinance of the City shall be given the meanings set forth in such Ordinance. Principles for computing sign area and sign height are contained in 9-4. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this Ordinance.

- A. Animated sign. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- B. Banner. Any sign of lightweight fabric or similar material that is mounted to a pole, building, or other structure by a frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
- C. Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lots as the light source; also, any light with one or more beams that rotate or move.
- D. Building marker. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- E. Building sign. Any sign attached to any part of a building, as contrasted to a freestanding or monument sign.
- F. Canopy sign. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or

outdoor service area. A marquee is not a canopy.

- G. Changeable copy sign. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face of the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered the "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.
- H. Commercial message. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- I. Facade. The face of a building including all sides.
- J. Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
- K. Freestanding sign. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
- L. Incidental sign. A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- M. Legal – Nonconforming sign. A sign or signs that were legally installed and permitted prior to the adoption of this ordinance, but which do not meet the requirements of the current ordinance.
- N. Lot. Any piece or parcel of land or a portion of a subdivision that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and the boundaries of which have been approved by the City and established by some legal instrument of record.
- O. Marquee. A roof-like or overhang structure, often bearing a signboard, projecting over an entrance to a theater or other building.
- P. Marquee sign. Any sign attached to, in any manner, or made a part of a marquee.
- Q. Monument sign. A sign supported by its own foundation and internal support system independent of any other structure. A monument sign typically does not have visible support structure (i.e. posts), rather it consists of a monolithic structure from the foundation to the sign similar in appearance to a "monument".
- R. Nonconforming sign. Any sign that does not conform to the requirements of this Ordinance.
- S. Parapet. A short wall or barrier projecting beyond the roofline of a building intended to screen rooftop equipment or used as an architectural treatment.
- T. Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- U. Person. Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.
- V. Portable sign. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. Political sign. A sign that contains a message promoting a candidate or measure placed on a ballot containing no commercial message.
- W. Principal building. The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.
- X. Projecting sign. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building wall or parapet.
- Y. Residential sign. Any sign located in a district zoned for residential uses that contains no commercial message, except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the Zoning Ordinance.
- Z. Roof sign. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof. Roof signs are strictly prohibited.
- AA. Roof sign, integral. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.
- AB. Setback. The distance from the back of the curb of the nearest street fronting the property to the nearest part of the applicable buildings main exterior wall, structure, or sign, measured perpendicularly to the property line.
- AC. Sign. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity, or to communicate information of any kind to the public.
- AD. Street. A strip of land, public or private, subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails, or other thoroughfares.
- AE. Street frontage. All the property fronting one (1) side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.
- AF. Suspended sign. A sign that is suspended from the underside of a horizontal lane surface and is supported by such surface.
- AG. Temporary sign. Any signs used for a period of time less than 6 months and are not permanently mounted on a lot.
- AH. Wall sign. Any sign attached parallel to a building wall or parapet, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure.
- AI. Window sign. Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

#### 12.90.040 Computations

The following principles shall control the computation of sign area and sign height:

- A. Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by measurement of the smallest square, circle, rectangle, triangle, or combination thereof that encompasses the extreme limits of the writing, representation, emblem, artwork or other display, together with any material or color forming an integral part of the background of the display. In the case of monument signs, the entire structure of the sign shall be included in the sign area. For other sign types, the sign area does not include any supporting framework, bracing, poles, or decorative fence or wall when such fence or wall otherwise meets Zoning Ordinance regulations and is clearly incidental to the display itself. Of the total sign area allowed, only a certain portion of the total may be used for freestanding or monument signs placed on the frontage of a lot. Any remaining sign area may be used on building signs.
- B. Computation of Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- C. Computation of Height. The height of a sign shall be computed as the distance from the nearest point of the top back of curb of the nearest public street fronting the lot on which the sign will be placed to the top of the highest attached component of the sign. In cases in which the top back of curb cannot reasonably be determined, sign

height shall be computed on the assumption that the elevation of the top back of curb is equal to the elevation of the nearest point of the crown of the public street fronting the lot on which the sign will be placed.

- D. Computation of Maximum Total Permitted Sign Area for a Lot. The permitted sum of the area of all individual signs on a lot shall be computed by applying the formula contained in Tables B, Maximum Total Sign Area, to the lot frontage, or building area, as appropriate, for the zone in which the lot is located. Lots fronting on two or more streets are allowed only the permitted sign area for each street frontage.

#### **12.90.050 Signs Allowed On Private Property With And Without Permits**

Signs shall be allowed on private property in the City only in accordance with Table A. If the letter “P” appears for a sign type in a column, such a sign is allowed without prior permit approval in the zone represented by that column. If the letter “S” appears for a sign type in a column, such a sign is allowed only with prior permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the letter “N” appears for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances.

Although permitted under the previous paragraph, a sign designated by an “S” or “P” in Table A shall be allowed only if:

- A. The sum of the area of all building, freestanding, or monument signs on the lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is located as specified in Table B.

**Table A**  
**PERMITTED SIGNS BY TYPE AND ZONING DISTRICT**

Sign Type	All Residential Zoning Districts <sup>f</sup>	Institutional Uses in Residential <sup>a</sup>	All Commercial Zoning Districts	All Industrial Zoning Districts
<b>Freestanding/Monument</b>				
Residential <sup>b</sup>	P	S	N	N
Other	N	S	S	S
Incidental <sup>c</sup>	N	S	P	P
<b>Building</b>				
Banner <sup>h</sup>	N	S	S	S
Building Marker <sup>c</sup>	P	P	P	P
Canopy	N	N	S	S
Identification <sup>d</sup>	P	P	P	P
Incidental <sup>c</sup>	N	S	P	P
Marquee <sup>g</sup>	N	N	S	S
Projecting <sup>g</sup>	N	N	S	S
Residential <sup>b</sup>	P	N	N	N
Roof	N	N	N	N
Roof Integral	N	N	N	N
Suspended <sup>g</sup>	N	N	S	S
Temporary <sup>h</sup>	N	S	S	S
Wall	N	N	S	S
Window	N	N	S	S
<b>Miscellaneous</b>				
Animated <sup>k</sup>	N	N	S	S
Banner <sup>h</sup>	N	S	S	S
Changeable Copy	N	S	S	S
Flag <sup>i</sup>	P	P	P	P
Illuminated, Internal	N	S	S	S
Illuminated, External <sup>j</sup>	N	N	S	S
Illuminated, Exposed Bulbs or Neon <sup>i</sup>	N	N	N	N
Portable	N	N	N	N
Political	P	P	P	P

P = permitted, allowed without a sign permit S = allowed only with a sign permit N = not allowed

- a. This column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential districts. Such uses may include but are not limited to churches, schools, funeral homes, and cemeteries.
- b. No commercial message allowed on sign, except for a message drawing attention to an approved activity offered on the premises.
- c. No commercial message of any kind allowed on signs.
- d. Only address and name of occupant allowed on sign.
- e. May include only building name, date of construction, or historical data on the historic site: must be cut or etched into masonry, bronze, or similar material.
- f. No commercial message of any kind allowed on sign.
- g. If such a sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining and maintaining in force liability insurance for such a sign, in such form as is acceptable to the city.
- h. The conditions of Chapter 9-15 of this ordinance.
- i. Flags of the United States, the State, the City, provided that such flags shall not exceed 60 square feet in area and shall not hang from a pole, taller than 40 feet in height. Flags must be flown according to protocol.
- j. Neither the direct nor the reflected light from any light sources shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares. Such light shall not blink, flash, scintillate, flicker, vary in intensity or color or use electrical pulsations, with the exception of those approved by conditional use. Maximum illumination is 3000 NIT daytime with an auto dimmer after dark and a maximum nighttime illumination of 500 NIT.
- k. Animated signs may be no greater than 100 square feet. Moving graphic or message must remain displayed for a minimum of 5 seconds.

**Table B**  
**Maximum Total Sign Area Per Lot by Zoning District**

	All Residential Zoning Districts	All Commercial Zoning Districts	Institutional Uses in Residential Zones <sup>a</sup>	All Industrial Zoning Districts
The maximum total area of all signs on a lot except incidental, building marker, and identification signs and flags shall conform to one of the following with a maximum total of 400 square foot of signage for any one business:				
Maximum number of total square feet	6	400	50	400
Percentage of ground floor area of principal building	NA	3%	NA	2%
Square feet of signage per linear foot of street frontage	NA	0.75 sq.ft.	0.05	0.75 sq.ft.

- a. This column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential districts. Such uses may include but are not necessarily limited to, churches, schools, funeral homes, and cemeteries.
- b. Flags of the United States, the State, the City, provided that such flags shall not exceed 60 square feet in area and shall not be flown on a pole taller than 40 feet in height. Flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one of these conditions shall be considered a banner sign and shall be subject to regulations for such.

Where allowed signage is under 200 square feet, freestanding and monument signs shall not exceed 50% of the total allowed square footage for the total lot application.

Where allowed signage is over 200 square feet, freestanding and monument signs shall not exceed 33% of the total allowed square footage for the total lot application. An animated sign can be no larger than 100 square feet per k in Table A.

All freestanding and monument signs shall have a minimum setback of twenty (20) feet from the front property line. The Land Use Authority shall have the ability to manipulate the placement of signs based on existing signs on adjacent parcels to allow equal visibility to all signs.

Maximum height for freestanding signs along Highway 91 shall not exceed the height of the building it serves. Signs along all other streets in the commercial and industrial zone shall not exceed twenty (20) feet. Maximum height for monument signs shall not exceed eight (8) feet from the planted surface.

The Land Use Authority may modify or be more restrictive on the above requirements for extraordinary circumstances for existing business areas, especially in the case of Master Sign Planning.

#### **12.90.060 Permits/Inspection Required**

If a sign requiring a permit under the provision of this ordinance is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of this ordinance.

**Permit for New Sign or for Sign Modification.** An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Sign Plan then in effect for the lot. One application and permit may include multiple signs on the same lot.

In addition to permits, inspections will also be required at various stages of sign construction or installation. A final inspection approval must be granted by the City Building Official prior to the City's final acceptance of any sign. Penalties consistent with this ordinance may be imposed for any sign not in compliance with inspections or approvals. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with this ordinance.

No sign shall be erected in the public right-of-way except in accordance with Section 9-10.

No sign permit of any kind shall be issued for an existing or proposed sign unless such a sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect and with the Master Sign Plan in effect for the property.



#### **12.90.070 Special Event Permits**

The City may issue special event permits for periods of time not to exceed a total of 15 days per year. Such a permit shall allow the applicant to erect in a safe manner a sign normally prohibited by this Ordinance in Section 9.12. Such signs shall only be allowed for the duration of time shown on the permit. Such special event permits may only be issued in commercial zones.

#### **12.90.080 Design, Construction, And Maintenance**

All signs shall be designed, constructed, and maintained in accordance with the following standards:

- A. All signs shall comply with applicable provisions of the Uniform Building Code and the electrical code of the City at all times.
- B. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to rigid wall, frame, or structure.
- C. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times so that it does not constitute any danger or hazard to public safety, or a visual blight, and is free of peeling paint, non-operating lighting, major cracks, or loose and dangling materials.
- D. Individual sign plans shall be submitted for the lot upon which the sign is to be located, and shall contain all the information required under the master sign plan.

#### **12.90.090 Master Sign Plan**

No permit shall be issued for an individual sign requiring a permit unless and until a Master Sign Plan for the lot on which the sign will be erected has been submitted and approved by the Land Use Authority as conforming with this Section. The intent of the Master Sign Plan is to provide sign planning for multiple tenants on any parcel. If the Land Use Authority determines a parcel has no potential of multiple tenants, the Master Sign Plan requirement may be waived.

- A. Master Sign Plan. For any lot on which the owner proposes to erect one or more signs requiring a permit, unless such lot is included in a Master Sign Plan, the owner shall submit to the Land Use Authority a Master Sign Plan containing the following:
  - 1. An accurate plot plan of the lot, at such scale as the Land Use Authority may reasonably require.
  - 2. Location of buildings, parking lots, driveways, and landscaped areas on such lot.
  - 3. The address of the lot upon which the sign is to be located along with identification of individual businesses within the master sign plan area.
  - 4. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding or monument signs, the height of signs and the number of freestanding or monument signs allowed on the lot(s) included in the plan under this Ordinance.
  - 5. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.
- B. Window Signs on Master Sign Plan. A Master Sign Plan including window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window signs (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside window) and need not specify the exact dimension or nature of every window sign.
- C. Limit on Number of Freestanding/Monument Signs Under Master Sign Plan. The Master Sign Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs. Multiple user signs shall be designed in such a manner to create harmony between the different elements of the sign. It may be modified pertaining to number of businesses in the Master Plan. A business which can show the need of establishing a sign on a permanent location off of a major road, adjacent to the access to their property and the sign is acceptable to the land owner may be approved by the Land Use Authority. This sign will not count towards the allowed amount of signage for the land owner. This sign will be a directional sign only and can be no larger than a maximum of 20 square feet in size.
- D. Other Provisions of Master Sign Plans. The Master Sign Plan may contain such other restrictions as the owners of the lots may reasonably determine.
- E. Consent. The Master Sign Plan shall be signed by all owners or their authorized agents in such form as the Land Use Authority shall require.
- F. Procedures. A Master Sign Plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the City for the proposed development and shall be processed simultaneously with such other plan.
- G. Amendment. A Master Sign Plan may be amended by filing a new Master Sign Plan that conforms with all requirements of the ordinance then in effect.
- H. Existing Signs Not Conforming to Master Sign Plan. If any new or amended Master Sign Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing existing signs into conformance. An existing sign may be made to conform to this Ordinance at such time as there is a change of ownership or lease, a building permit issued to expand or modify a structure, a material modification to the sign, a change in business requiring a new business license.
- I. Binding Effect. After approval of a Master Sign Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such a plan and any other provision of this ordinance, the ordinance shall control.

#### **12.90.100 Signs In The Public Right-Of-Way**

No Signs shall be allowed in the public right-of-way, except for the following:

- A. Permanent Signs include:
  - 1. Public signs erected by or on behalf of a governmental body to post legal notices, signs that identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
  - 2. Bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
  - 3. Awnings, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Table A of this ordinance.
- B. Temporary Signs. A permit is required for all temporary signs. A sign permit shall be issued only for temporary signs meeting the following conditions and requirements:
  - 1. Signs shall contain no commercial message.
  - 2. Signs shall be no more than six square feet in area.
  - 3. Signs shall not be placed in a manner as to create an unsafe situation.
  - 4. The term of such permit shall be 6 months. Only one sign is permitted for the same applicant on the same lot in any calendar year.
  - 5. No more than 20 signs may be erected under one permit.



6. Any temporary sign not removed within 15 days of the expiration date on the sign permit will be subject to removal by the City and ownership of the sign shall be forfeited.

- C. Emergency Signs. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.
- D. Other Signs Forfeited. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

#### **12.90.110 Signs Exempt From Regulation Under This Ordinance**

The following signs shall be exempt from regulation under this ordinance:

- A. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located;
- B. Works of art that do not include a commercial message;
- C. Holiday lights and decorations with no commercial message, but only in the appropriate season; and
- D. Traffic control signs on private property, such as “Stop”, “Yield” and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort.

#### **12.90.120 Signs Prohibited Under This Ordinance**

All signs not expressly permitted under this Ordinance or exempt from regulation hereunder in accordance with the previous section are prohibited in the City (except as permitted under section 9-7, Special Event Permits). Such signs include, but are not limited to:

- A. Beacons;
- B. Pennants;
- C. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section; and
- D. Inflatable signs and tethered balloons.

#### **12.90.130 General Permit Procedures**

The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, and the submission and review of Master Sign Plans.

- A. Applications. All applications for sign permits of any kind and for approval of a Master Sign Plan shall be submitted to the Land Use Authority on an application form or in accordance with application specifications published by Hyde Park City.
- B. Fees. Each application for a sign permit or for approval of a Master Sign Plan shall be accompanied by the applicable fees, which shall be established by the governing body of the City from time to time by resolution.
- C. Completeness. Within five days of receiving an application for a sign permit or for a Common or Master Sign Plan, the City shall review it for completeness. If the City finds that it is complete, the application shall then be processed. If the City finds that it is incomplete, the City shall, within such five-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.
- D. Action. Within fourteen days of the submission of a complete application for a sign permit, the Land Use Authority shall either:
  - 1. Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this Ordinance and of the applicable Master Sign Plan; or
  - 2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this Ordinance and of the applicable Master Sign Plan. In case of a rejection, the Land Use Authority shall specify in the rejection the Section or Sections of the Ordinance or applicable plan with which the sign(s) is inconsistent.  
On any application for approval of a Master Sign Plan, Land Use Authority shall take action on one of the following dates:
    - 3. Fourteen (14) days after the submission of a complete application if the application is for signs of existing buildings; or
    - 4. On the date of final action on any related application for building permit, site plan, or development plan for signs involving new construction.  
On or before such applicable date, the Land Use Authority shall either:
      - a. Approve the proposed plan if the sign(s) as shown on the plan and the plan itself conforms in every respect with the requirements of this ordinance; or
      - b. Reject the proposed plan if the sign(s) as shown on the plan or the plan itself fails in any way to conform to the requirements of this Ordinance. In case of a rejection, the Land Use Authority shall specify in the rejection the Section or Sections of the Ordinance with which the plan is inconsistent.

#### **12.90.140 Temporary Sign Permits (Private Property)**

Temporary signs on private property shall be allowed only upon the issuance of a Temporary Sign Permit, which shall be subject to the following requirements:

- A. Term. A temporary sign permit shall allow the use of a temporary sign for a specified one hundred eighty (180) day period.
- B. Number. Only one temporary sign is permitted for the same business license holder on the same lot in any calendar year.
- C. Other Conditions. A temporary sign shall be allowed only in districts with a letter “S” for “Temporary Signs” on Table A and subject to all of the requirements for temporary signs as noted therein.
- D. Maximum Size Temporary Signs shall be no more than six (6) square feet unless otherwise approved.

#### **12.90.150 Political Signs**

Political or campaign signs are allowed on private property without a permit and shall not be erected earlier than sixty (60) days prior to the voting date. Any such political sign shall not be placed in any public right-of-way or public property except signs that identify a polling place. All political signs shall be removed within fifteen (15) days after the political event. Any such signs shall not exceed six (6) feet in height or six square feet in area

#### **12.90.160 Time Of Compliance: Nonconforming Signs And Signs Without Permits**

Except as otherwise provided herein, the owner of any lot or other premises with a sign that does not conform with the requirements of this Ordinance or for which there is no current and valid sign permit shall be obligated to remove such sign or, in the case of a nonconforming sign, to bring it into conformity with the requirements of this Chapter.

**Legal Non-Conforming Signs.** A sign that would be permitted under this Ordinance, which was in existence on April 24, 2001, which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this Ordinance, shall be considered a legal non-conforming sign. Such a sign or signs must have been constructed according to the Ordinance and other applicable laws in effect at the time of its construction prior to April 24, 2001. The City shall allow such sign(s) which were made legal non-conforming by the adoption of this Ordinance, to remain in place and be maintained until such time building permits or business licenses are required to expand, modify, establish, or occupy existing facilities, provided that no action is taken which increases the degree or extent of the nonconformity. A change in the information on the face of a legal non-conforming sign shall either be eliminated or made to conform with the requirements of this Chapter when any proposed change, repair, or maintenance would constitute an expense of more than 25 percent of the lesser of the original value or replacement value of the

**Sign Removal Required.** A sign that was constructed, painted, installed, or maintained in conformance with a permit under this Ordinance, but for which the permit has lapsed or not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall be forthwith removed without notice or action from the City. Any sign that is found to be in a condition of disrepair, not serving a useful purpose, unsafe, or a hazard, may be removed or caused to be removed by the City without notice.

#### 12.90.170 Violations

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by the Zoning Ordinance and by State law. Each sign installed, created, erected, or maintained in violation of this Ordinance shall be considered a separate violation when applying the penalty portions of this Ordinance.

- A. To install, create, erect, change, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located;
- B. To install, create, change, erect, or maintain any sign requiring a permit without such a permit;
- C. To fail to remove any sign that is installed without a permit, created, changed, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed; or
- D. Continued violations. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.

#### 12.90.180 Enforcement And Remedies

Any violation or attempted violation of this Ordinance or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to State law. A violation of this Chapter shall be considered a violation of the Zoning Ordinance of the City. The remedies of the City shall include the following:

- A. Issuing a stop-work order for any and all work on any signs on the same lot.
- B. Issuing a citation for violation of this Ordinance.
- C. Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the nonconformity;
- D. Imposing any penalties that can be imposed directly by the City under the Zoning Ordinance;
- E. Seeking in court the imposition of any penalties that can be imposed by such court under the Zoning Ordinance;
- F. In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the City under the applicable provisions of the Zoning Ordinance and building code for such circumstances.
- G. The City shall have such other remedies as are and as may from time to time be provided for or allowed by State law for the violation of the Zoning Ordinance.

All such remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

#### 12.90.190 Fee Schedule

As adopted from time to time by resolution of the City Council.

### 12.100 Zones

12.100.010 Establishment Of Zones

12.100.020 Boundaries Of Zones

12.100.030 Rules Applicable Where Boundaries Uncertain

#### 12.100.010 Establishment Of Zones

For the purpose of this Zoning Ordinance, the City may be divided into the following Zones in which land uses shall be limited as specified in this Ordinance. Classification will be determined on the basis of location, topographic features and other reasonable considerations to guide the orderly physical growth, neighborhood compatibility and overall stability of the City:

Chapter 11	Agricultural Zone A-1
Chapter 12	Residential Estate Zone RE-20
Chapter 13	Single Family Residential Zone R-1
Chapter 14	Two Family Residential zone R-2
Chapter 15	Reserved for Future Use

Chapter 16	Commercial and Industrial Overlay Zone
Chapter 17	Planned Commercial Zones CP-1 and CP-2
Chapter 18	Planned Industrial Zone IP
Chapter 19	Open Space Zone O-1
Chapter 20	Residential Estate Zone RE

### **12.100.020 Boundaries Of Zones**

The boundaries of each of the said zones are hereby established as described herein or as shown on the map entitled, "Zoning Map of Hyde Park City, Utah", or as hereafter amended, a copy of which is attached hereto and all boundaries, notations, and other data shown on said map are made by this reference as much a part of this Ordinance as if fully described and detailed herein. Said map shall be filed in the custody of the City Recorder and may be examined by the public subject to any reasonable regulations established by the City Recorder.

### **12.100.030 Rules Applicable Where Boundaries Uncertain**

Where uncertainty exists as to the boundary of any zone, the following rules shall apply:

- A. Wherever the zone boundary is indicated as being approximately upon the centerline of a street, alley, or block, or along a property line, then unless otherwise definitely indicated on the map, the centerline of such street, alley or block, or such property line shall be construed to be the boundary of such zone.
- B. Wherever such boundary line of such zone is indicated as being approximately at the line of any river, irrigation canal, or other waterway, or railroad right-of-way, or public park or other public land, or any section line, then in such case the center of such stream, canal, or waterway or the boundary line of such railroad right-of-way or the boundary line of such public land or such section line shall be deemed to be the boundary of such zone.
- C. Where such zone boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing upon the map.
- D. Where the application of the above rules does not clarify the zone boundary location, the Board of Adjustment shall interpret the map.

### **12.110 Agricultural Zone A-1**

#### 12.110.010 Purpose And Intent

#### 12.110.020 Permitted Uses

#### 12.110.030 Special Uses

#### 12.110.040 Prohibited Uses

#### 12.110.050 Site Development Standards Requiring One Acre

#### 12.110.060 Site Development Standards Requiring Two Acres

#### 12.110.070 Site Development Standards Requiring Five Acres

#### 12.110.080 Sign Regulations

### **12.110.010 Purpose And Intent**

The purpose of the A-1 Zone is to designate areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment.

### **12.110.020 Permitted Uses**

In the A-1 Zone, any and all permitted and conditional uses require minimum lot sizes of one, two or five acres respectively. No building or land shall be used and no building shall be erected which is arranged, intended or designed to be used for other than one or more of the following uses and which does not comply with the minimum lot size designation.

#### **A. Permitted Uses Requiring One (1) Acre Minimum Lot Area.**

1. Agriculture, tilling of the soil, the raising of crops and gardening, but not including the keeping of animals or fowl except as otherwise herein provided.
2. Animals or fowl kept for family food production.
3. Corral, stable or other enclosure or building incident to keeping those animals permitted herein.
4. Greenhouse and nursery that deals in the wholesale market only and does not sell to the public and further provided that only materials produced and grown on the premises are sold.
5. Home Occupations permitted:
  - a. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  - b. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  - c. Bookkeeping and other similar activities.
  - d. Independent computer contractor work.
  - e. Horses kept for private use only, provided that no more than three (3) horses are kept for each one acre or additional fraction thereof within any lot.
  - f. Household pets.
  - g. Parking spaces accessory to uses permitted in this Zone.
  - h. Public buildings, public park, public recreational building and grounds, and building structures associated with the foregoing.
  - i. Single family dwellings.
  - j. Uses and buildings of an accessory nature customarily incident to the above uses, including temporary buildings or uses incidental to construction of any permitted use, structure or building, provided that temporary buildings shall be removed and temporary uses terminated upon completion or abandonment of a construction project.

#### **B. Permitted Uses Requiring Two (2) Acres Minimum Lot Area.**

1. Agricultural experiment station.
2. Animal hospital or clinic, provided that such uses, including any enclosures or buildings incident thereto, shall be maintained at least 75 feet from any public street and at least 50 feet from any side and any rear lot line and at least 75 feet from any dwelling on an adjacent lot.
3. Chinchilla raising.
4. Dog breeding, dog kennel, dog training school, horse breeding and horse training school, provided that not more than three (3) horses are kept for each one acre or additional fraction thereof within any lot.
5. Fruit or vegetable stand for retail sale to the public of fruit and/or vegetables, provided that only fruit and vegetables produced and grown on the premises are sold.
6. Home Occupations permitted:
  - a. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  - b. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  - c. Bookkeeping and other similar activities.
  - d. Independent computer contractor work.
7. Raising of hogs, provided that no hogs can be kept which are more than 16 weeks old and no more than eight (8) hogs can be placed on any two-acre lot; though for each additional one acre of property on any lot, four additional hogs may be kept. No hogs shall be fed any market refuse, any house refuse, garbage or offal other than that produced on the premises.

**C. Permitted Uses Requiring Five (5) Acre Minimum Lot Area**

1. Breeding or raising of the following small animals or fowl: chickens, game birds, rabbits, fish or frogs.
2. Cemetery.
3. Dairy farm, milk processing plant, retail sales of milk, provided that at least 50% of the milk processed and sold is produced on the premises.
4. Fruit and/or vegetable storage and packing, provided that only fruits and vegetables produced and grown on the premises are sold.
5. Golf course, excepting miniature golf.
6. Home Occupations permitted:
  - a. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  - b. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  - c. Bookkeeping and other similar activities.
  - d. Independent computer contractor work.
7. Private park, private playground, and private recreation areas, excluding privately owned commercial amusement parks and businesses.
8. Raising and grazing of the following animals: horses, cattle, sheep, or goats. Any one animal specified herein or combination of the same shall be limited in number to 15 head per one acre of used land area or additional fraction thereof. In the event that any of the aforesaid animals are raised or grazed in conjunction with any livestock feed yard, livestock sales yard, or slaughter house, any building or enclosure connected with the same shall not be closer than 300 feet to any dwelling or to any public or semi-public building, and any livestock feed yard, livestock sales yard or slaughter house shall not erect any permanent fences, corrals, chutes or other structures normally associated with commercial feed lots and any such operation shall be carried on only during the period commencing September 15 and ending April 15 of the immediately subsequent year.
9. Riding stables, provided that not more than two horses are kept for each one acre or additional fraction thereof within any lot.

**12.110.030 Special Uses**

The following uses shall be permitted only when authorized by a Special Use Permit as provided in Chapter 8 of this ordinance.

- A. Airport, private or public
- B. Church, synagogue or other similar building used for regular religious worship.
- C. Circus or transient amusement.
- D. Educational institution, public or private.
- E. Gun clubs, private or public.
- F. Home Occupations permitted by conditional use permit only:
  1. Home occupations that require a client to come to the home for service, including barbers, beauticians, tax accountants, therapists, portrait photographer, home instruction of musical instruments, voice, and educational subjects and similar personal or professional services may be authorized by the City Council as an accessory use only Conditional Use Permit pursuant to the provisions of this Ordinance.
  2. General contractors, subcontractors and independent truck haulers also require a Conditional Use Permit.
  3. A public hearing will be required for home occupations requiring a Conditional Use Permit. City Council will hold the public hearing.
- G. Public utility substation or water storage reservoir developed by a public or private agency.
- H. Radio or television station tower.
- I. Wastewater treatment or disposal facilities meeting the requirements of the Utah State Division of Health waste Regulation Code.
- J. Rodeo grounds.

**12.110.040 Prohibited Uses**

Home Occupations prohibited:

- A. Auto repairs.
- B. Welding or machine shops.
- C. Major appliance or equipment repair or service.

D. Cabinet making.

#### **12.110.050 Site Development Standards Requiring One Acre**

A. Minimum Lot Area 1 Acre, except 20,000 square feet if the lot is in a Planned Residential Subdivision with preserved open space.

B. Minimum Lot Width 150 feet, except 100 feet if the lot is in a Planned Residential Subdivision with preserved open space.

C. Minimum Yard Setbacks

Principal Buildings

- |               |  |
|---------------|--|
| 1. Front      | 30 feet  |
| 2. Rear       | 30 feet (An encroachment of a maximum of two and one-half (2 ½') feet projection into the rear setback with no more than sixty (60) square feet of total encroachment, as measured at the outside dimensions will be allowed.) |
| 3. Side yards | 20 feet, except 10 feet and 15 feet if the lot is in a Planned Residential Subdivision with preserved open space.  |

D. **Accessory Buildings**

Requirements are the same for One Acre, Two Acres and Five Acres.

1. Any detached accessory building or structure which does not require a building permit per the adopted International Building Code shall comply with the setback dimensions stated for each zone in which it is to be located (1 foot off of property line). This will include any temporary structures of the same size, and in accordance with building codes any temporary structure must be removed after 180 days. The same temporary structure may not be set up on the property after the 180 days without a permit from the LUA allowing an extended use.
2. Any Class A detached accessory building or structure, which is defined as any detached accessory building or structure requiring a building permit per the adopted International Building Code but less than 450 square feet in area, must be set back a minimum of 5 feet from any lot or property line, and in accordance to the adopted building code.
3. Any Class B detached accessory building or structure, which is defined as any detached accessory building or structure having at least 450 or more square feet in area or exceeding 16 feet in height, shall be allowed only as a conditional use, for which a conditional use permit must be obtained, after review and public hearing held by the Planning Commission. The minimum setback shall be 5 feet from any rear lot line and 10 feet from any side yard line, with rear setback distances to be determined in direct relation to the height of the detached accessory building or structure as follows: Additional 2 foot setback for each 1 foot in building height above 12 feet.  
At no time shall any detached accessory building or structure be built within 30 feet of any front yard. No accessory building may be built closer than the required main building side setback until it is a minimum of six (6) feet behind the main building.
4. Any accessory building or structure, which is a portion of a main building or structure, shall comply with the same setback requirements as are provided in each zone for the main building.

a. **Building Heights.**

Requirements are the same for One Acre, Two Acres and Five Acres.

Maximum height 35 feet

Minimum height 10 feet

b. **Additional Regulations.**

Requirements are the same for One Acre, Two Acres and Five Acres.

Corner lots shall be deemed to have two front yards and two side yards. On corner lots, the designated front yard must maintain a 30-foot setback and the street side yard shall be a minimum of 20-feet for main and accessory buildings.

A building which rears on the side yard on an adjacent corner lot requires a rear yard of ten (10) feet.

No animals or fowl shall be kept or maintained closer than forty (40) feet from any dwelling and not closer than seventy-five (75) feet from any dwelling on an adjacent lot. Any barn, building, stable, coop, pen, corral, or enclosure for the housing or keeping of animals or fowl shall be kept, constructed, or maintained not less than seventy-five (75) feet from any public street and not less than twenty (20) feet from any lot line.

#### **12.110.060 Site Development Standards Requiring Two Acres**

A. Minimum Lot Area 2 Acres

B. Minimum Lot Width 150 feet

C. Minimum Yard Setbacks

Principal Buildings

Front 30 feet

Rear 30 feet

Side Yards 20 feet

Accessory Buildings, see above.

Building Heights, see above.

Additional Regulations, see above.

#### **12.110.070 Site Development Standards Requiring Five Acres**

A. Minimum Lot Area 5 Acres, except 1 Acre if the lot is in a Planned Residential Subdivision with preserved open space.

B. Minimum Lot Width 150 feet, except 125 feet if the lot is in a Planned Residential Subdivision with preserved open space.

C. **Minimum Yard Setbacks**

Principal Buildings

Front	30 feet
Rear	30 feet
Side Yards	20 feet, except 12 feet and 12 feet if the lot is in a Planned Residential Subdivision with preserved open space.
Accessory Buildings, see above.	
Building Heights, see above.	
Additional Regulations, see above.	

#### **12.110.080 Sign Regulations**

Any signs in the Agriculture Zone A-1 shall conform to Chapter 9, Sign Regulations of this Ordinance.

### **12.120 Residential Estate Zone RE-20**

#### 12.120.010 Purpose And Intent

#### 12.120.020 Permitted Uses

#### 12.120.030 Special Uses

#### 12.120.040 Prohibited Uses

#### 12.120.050 Site Development Standards

#### 12.120.060 Sign Regulations

#### **12.120.010 Purpose And Intent**

The major purpose of the RE-20 zone is to provide and protect residential development at a low density in a semi-agricultural or rural environment. It is also to provide for certain rural amenities, on larger minimum lots, in conjunction with the primary residential nature of the zone.

#### **12.120.020 Permitted Uses**

- A. Accessory building or use customarily incidental to a permitted use.
- B. Agriculture.
- C. Cemetery
- D. Golf course, except miniature golf.
- E. Greenhouse and nursery limited to sale of material produced on premises and with no retail shop operation.
- F. Home Occupations Permitted:
  - 1. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  - 2. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  - 3. Bookkeeping and other similar activities.
  - 4. Independent computer contractor work.
- G. Household pets.
- H. Parking lot accessory to use permitted in this zone.
- I. Public building, public park, recreation grounds and associated buildings.
- J. Single family dwelling.
- K. Temporary building or use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.
- L. **Permitted Uses Requiring 20,000 Square Feet Minimum Lot Area.**
  - 1. Animals and fowl kept for family food production.
  - 2. Corral, stable or building for keeping of animals or fowl, provided such building shall be located not less than one hundred (100) feet from a public street, and not less than twenty-five (25) feet from any side lot line.
  - 3. Private stables; horses for private use only and provided that not more than three (3) horses may be kept for each one (1) acre within any lot.

#### **12.120.030 Special Uses**

The following uses shall be permitted only when authorized by a Special Use Permit as provided in Chapter 8 of this Zoning Ordinance. These uses require a minimum lot size of 40,000 square feet.

- A. Church, synagogue or similar building used for regular religious worship.
- B. Educational institution – public or private.
- C. Private park, playground or recreation area not open to the general public and to which no admission is made, and not including privately owned commercial amusement business.
- D. Public utility substation or water storage reservoir developed by a public agency.

#### **12.120.040 Prohibited Uses**

The following businesses are prohibited as Home Occupations.

- A. Auto repairs.
- B. Kennels.
- C. Welding or machine shops.
- D. Major appliance or equipment repair or service.
- E. Cabinet making.
- F. Stables.

### **12.120.050 Site Development Standards**

- A. Minimum lot area – 20,000 square feet, except 12,000 square feet if the lot is in a Planned Residential Subdivision with preserved open space.
- B. Minimum lot width – 115 feet, except 95 feet if the lot is in a Planned Residential Subdivision with preserved open space.
- C. Minimum yard setbacks.
  - 1. Front – 30 feet.
  - 2. Side.  
Dwelling – 10 feet minimum with total width of two side yards not less than 24 feet; 10 feet minimum with total width of two side yards not less than 24 feet in a Planned Residential Subdivision with preserved open space. Other main building – 20 feet each side.
  - 3. Corner lots shall be deemed to have two front yards and two side yards. On corner lots, the designated front yard must maintain a 30-foot setback and the street side yard shall be a minimum of 20-feet for main and accessory buildings.
  - 4. Rear – 30 feet.  
Main building – 30 feet. (An encroachment of a maximum of two and one-half (2 ½') feet projection into the rear setback with no more than sixty (60) square feet of total encroachment, as measured at the outside dimensions will be allowed.)
  - 5. Setbacks for buildings in a cemetery will be reviewed to determine impact on adjacent property owners and are subject to approval by the Land Use Authority or the Planning Commission.

#### **D. Accessory Buildings –**

- 1. Any detached accessory building or structure which does not require a building permit per the adopted International Building Code shall comply with the setback dimensions stated for each zone in which it is to be located (1 foot off of property line). This will include any temporary structures of the same size, and in accordance with building codes any temporary structure must be removed after 180 days. The same temporary structure may not be set up on the property after the 180 days without a permit from the LUA allowing an extended use.
- 2. Any Class A detached accessory building or structure, which is defined as any detached accessory building or structure requiring a building permit per the adopted International Building Code but less than 450 square feet in area, must be set back a minimum of 5 feet from any lot or property line, and in accordance to the adopted building code.
- 3. Any Class B detached accessory building or structure, which is defined as any detached accessory building or structure having at least 450 or more square feet in area or exceeding 16 feet in height, shall be allowed only as a conditional use, for which a conditional use permit must be obtained, after review and public hearing held by the Planning Commission. The minimum setback shall be 5 feet from any rear lot line and 10 feet from any side yard line, with rear setback distances to be determined in direct relation to the height of the detached accessory building or structure as follows: Additional 2 foot setback for each 1 foot in building height above 12 feet.  
At no time shall any detached accessory building or structure be built within 30 feet of any front yard. No accessory building may be built closer than the required main building side setback until it is a minimum of six (6) feet behind the main building.
- 4. Any accessory building or structure, which is a portion of a main building or structure, shall comply with the same setback requirements as are provided in each zone for the main building.

#### **E. Building Height.**

- 1. Minimum – One (1) story.
- 2. Maximum – Two and one-half (2 ½) stories or 35 feet.

### **12.120.060 Sign Regulations**

Any signs in the Residential Estate Zone RE-20 must conform to Chapter 9, Sign Regulations, of this Ordinance.

### **12.130 Single Family Residential Zone R-1**

- [12.130.010 Purpose And Intent](#)
- [12.130.020 Purpose And Intent, Core Residential](#)
- [12.130.030 Permitted Uses](#)
- [12.130.040 Special Uses](#)
- [12.130.050 Prohibited Uses](#)
- [12.130.060 Site Development Standards](#)
- [12.130.070 Core Residential Infrastructure](#)
- [12.130.080 Sign Regulations](#)

#### **12.130.010 Purpose And Intent**

The purpose of the R-1 zone is to provide regulated areas for single family residential use. The R-1, Single Family Residential Zone, is no longer to be considered for new subdivision development, except for minor subdivisions. There are many existing blocks within the City with these site development standards. All additions and modifications to lots, dwellings and structures within this zone shall be required to follow the conditions of this Chapter. (See P & Z minutes 3/18/03)

#### **12.130.020 Purpose And Intent, Core Residential**

This area is defined by the city blocks bordered by 300 North, 200 South, 200 West, and 200 East, except for the southwest block in this rectangle as it is wholly developed as the Ollie's Place Subdivision. Also this zone is defined by its 10 acre blocks and 99' road ROW's that were laid out by the city founders. The purpose of the Core Residential area is to provide regulated infill development possibilities in the 19 block area of the historic city core. This area will use the same lot requirements as the R-1 zone and is only for the addition of single family housing. Only minor subdivisions will be considered for this infill development.

#### **12.130.030 Permitted Uses**

- A. Accessory building and use customarily incidental to any permitted use.
- B. Agriculture.



- C. Cemetery
- D. Golf course, except miniature golf course.
- E. Greenhouse, non-commercial only.
- F. Home Occupations Permitted:
  1. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  2. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  3. Bookkeeping and other similar activities.
  4. Independent computer contractor work.
- G. Household pets.
- H. Parking lot accessory to uses permitted in this zone.
- I. Public building; public park, recreational grounds and associated buildings.
- J. Single family dwelling.
- K. Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.
- L. **Permitted Uses Requiring 20,000 square feet Minimum Lot Area.**  
 Animals and fowl kept for family food production. Private stables; horses for private use only and provided that a maximum of two (2) horses may be kept on parcels of 20,000 square feet or more and one additional horse may be kept for each additional 10,000 square feet in the parcel. No more than ten (10) horses shall be permitted at any one time on any one parcel in this zone, no matter how large the parcel may be.

#### **12.130.040 Special Uses**

The following uses shall be permitted only when authorized by a Special Use Permit as provided in Chapter 8 of this Ordinance.

- A. Animals and fowl kept for family food production on lots less than 20,000 square feet; with the approval of adjacent neighbors.
- B. Private park, playground or recreation area, but not including privately owned commercial amusement business.
- C. Public utility substation or water storage reservoir.
- D. Day care centers.
- E. Church, synagogue or other similar building used for regular religious worship.
- F. Educational Institution – public or private.

#### **12.130.050 Prohibited Uses**

The following businesses are prohibited as Home Occupations.

- A. Auto repairs.
- B. Kennels.
- C. Welding or machine shops.
- D. Major appliance or equipment repair or service.
- E. Cabinet making.
- F. Stables.

#### **12.130.060 Site Development Standards**

- A. Minimum lot area – 13,000 square feet
- B. Minimum lot width – 95 feet
- C. Minimum yard setbacks.
  1. Front – 30 feet, except average of existing building where 50% frontage is developed, but not less than 20 feet.
  2. Side.  
 Dwelling – 10 feet minimum with total width of two side yards not less than 24 feet  
 Other main building – 20 feet each side
  3. Corner lots shall be deemed to have two front yards and two side yards. On corner lots, the designated front yard must maintain a 30-foot setback and the street side yard shall be a minimum of 20-feet for main and accessory buildings.
  4. Rear.  
 Main building – 30 feet. (An encroachment of a maximum of two and one-half (2 ½') feet projection into the rear setback with no more than sixty (60) square feet of total encroachment, as measured at the outside dimensions will be allowed.)
  5. Setbacks for buildings in a cemetery will be reviewed to determine impact on adjacent property owners and are subject to approval by the Land Use Authority or the Planning Commission
- D. Accessory Buildings –
  1. Any detached accessory building or structure which does not require a building permit per the adopted International Building Code shall comply with the setback dimensions stated for each zone in which it is to be located (1 foot off of property line). This will include any temporary structures of the same size, and in accordance with building codes any temporary structure must be removed after 180 days. The same temporary structure may not be set up on the property after the 180 days without a permit from the LUA allowing an extended use.
  2. Any Class A detached accessory building or structure, which is defined as any detached accessory building or structure requiring a building permit per the adopted International Building Code but less than 450 square feet in area, must be set back a minimum of 5 feet from any lot or property line, and in accordance to the adopted building code.
  3. Any Class B detached accessory building or structure, which is defined as any detached accessory building or structure having at least 450 or more square feet in area or exceeding 16 feet in height, shall be allowed only as a conditional use, for which a conditional use permit must be obtained, after review and public hearing held by the Planning Commission. The minimum setback shall be 5 feet from any rear lot line and 10 feet from any side yard line, with rear setback

distances to be determined in direct relation to the height of the detached accessory building or structure as follows: Additional 2 foot setback for each 1 foot in building height above 12 feet.

At no time shall any detached accessory building or structure be built within 30 feet of any front yard. No accessory building may be built closer than the required main building side setback until it is a minimum of six (6) feet behind the main building.

4. Any accessory building or structure, which is a portion of a main building or structure, shall comply with the same setback requirements as are provided in each zone for the main building.
5. 13-6-4. Building height.
  - a. Minimum – One (1) story
  - b. Maximum - Two and one-half (2 ½) stories or 35 feet.

#### **12.130.070 Core Residential Infrastructure**

- A. Water – a separate meter must be provided for each dwelling.
- B. Sewer – a separate connection must be provided for each dwelling.
- C. Sidewalk to be provided for the street that is in front of the building lot (or lots in minor subdivision)
- D. In the event a sidewalk is not required across the frontage, per the master sidewalk/ trail plan, payment of a sidewalk fee shall be made to the City in lieu of the sidewalk, per Hyde Park City fee schedule.
- E. Street improvements will consist of replacing any asphalt damaged during utility improvements or during construction.
- F. Center street pavement will be widened to 39-feet asphalt with flat or standard curb as per Land Use Authority directives.

#### **12.130.080 Sign Regulations**

Any signs in the Single Family Residential Zone R-1 must conform to Chapter 9, Sign Regulations, of this Ordinance.

#### **12.140 Two Family Residential Zone R-2**

##### 12.140.010 Purpose And Intent

##### 12.140.020 Permitted Uses

##### 12.140.030 Special Uses

##### 12.140.040 Prohibited Uses

##### 12.140.050 Site Development Standards

##### 12.140.060 Sign Regulations

#### **12.140.010 Purpose And Intent**

The purpose of the R-2 Zone classification is to accommodate a need for moderate density residential district incorporating both single family and two-family dwelling units.

#### **12.140.020 Permitted Uses**

- A. Accessory building and use customarily incidental to any permitted use.
- B. Agriculture.
- C. Golf course, except miniature golf course.
- D. Greenhouse, non-commercial only.
- E. Home Occupations Permitted:
  1. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  2. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  3. Bookkeeping and other similar activities.
  4. Independent computer contractor work.
- F. Household pets.
- G. Parking lot accessory to uses permitted in this zone.
- H. Public building; public park, recreation grounds and associated buildings.
  - I. Single family dwelling.
- J. Temporary building and use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.
- K. Two family dwelling.

#### **12.140.030 Special Uses**

The following uses shall be permitted only when authorized by a Special Use Permit as provided in Chapter 8 of this ordinance.

- A. Cemetery, with customary incidental uses including, but not limited to mortuary, mausoleum, crematory, staff housing, service shops and chapel.
- B. Home Occupations Requiring a Special Use Permit:
  1. Occupations that require a client to come to the home for service, including barbers, beauticians, tax accountants, therapists, portrait photographer, home instruction of musical instruments, voice, and educational subjects and similar personal or professional services may be authorized by the City Council as an accessory use only by Special Use Permit pursuant to the provisions of Chapter 8 of this ordinance.
  2. General contractors, subcontractors and independent truck haulers also require a Special Use Permit.
- C. Private park, playground or recreation area, but not including privately owned commercial amusement business.
- D. Public utility substation or water storage reservoir developed by a public agency.

#### **12.140.040 Prohibited Uses**

The following businesses are prohibited as Home Occupations:

- A. Auto repairs.
- B. Kennels.
- C. Welding or machine shops.
- D. Major appliance or equipment repair or service.
- E. Cabinet making.
- F. Stables.

#### **12.140.050 Site Development Standards**

- A. Minimum lot area
  - Single family dwelling – 13,000 square feet.
  - Two-family dwelling or other main building – 15,000 square feet.
- B. Minimum lot width – 95 feet.
- C. Minimum yard setbacks
  - 1. Front – 25 feet, except average of existing building where 50% frontage is developed, but not less than 20 feet.
  - 2. Side
    - a. Main building – 8 feet, with total width of two sides of not less than 18 feet for single family dwelling or two-family dwelling, and 20 feet each side for other main building.
    - b. Accessory building – 8 feet, except 1 foot if located at least 6 feet in rear of main building; but not closer than 8 feet to dwelling on adjacent lot.
  - 3. Corner lots shall be deemed to have two front yards and two side yards.
  - 4. Rear
    - a. Main building – 30 feet.
    - b. Accessory building – 1 foot, except 8 feet where accessory building rears on side yard of adjacent corner lot.
  - 5. Building height.
    - a. Minimum – 1 story.
    - b. Maximum – 2 ½ stories or 35 feet.
  - 6. Lot coverage. No building or accessory building shall cover more than forty (40) percent of the lot area.
  - 7. Open green space. At least forty (40) percent of the lot area shall be left in open green space.

#### **12.140.060 Sign Regulations**

Any signs in the Two Family Residential Zone R-2 shall conform to Chapter 9, Sign Regulations, of this Ordinance.

#### **12.150 Senior Citizen Housing Planned Unit Development (PUD)**

[12.150.010 Purpose](#)

[12.150.020 Definitions](#)

[12.150.030 Conditional Use](#)

[12.150.040 Location](#)

[12.150.050 Unified Control](#)

[12.150.060 Standards And Conditions](#)

[12.150.070 Time Limit](#)

[12.150.080 Procedures](#)

#### **12.150.010 Purpose**

In accordance with the General Plan of Hyde Park City the housing needs of senior citizens are a priority. It is the intent of this ordinance to allow development in a unified and coordinated manner for the benefit of senior citizens, including higher density and increased availability. Tracts of land suitable in size, location, and character for the uses and structures proposed can be planned and developed as units.

In such circumstances where municipal planning and development may effectively proceed together, it is necessary and appropriate that there be requirements and regulations other than lot-to-lot or subdivision basis so as to provide flexibility and innovation in site planning and land use relationships while also insuring substantial compliance with the intent, objectives and purpose of this ordinance and the City's General Plan—2000.

#### **12.150.020 Definitions**

For the purpose of this ordinance:

Planned Unit Development (PUD) means a development based upon integrated design in which one or more of the regulations of the zone in which the development is to be situated is waived, substituted or varied for development of higher densities in accordance with an approved plan and imposed general requirements as specified in this ordinance. A PUD may be:

- 1. The development of compatible land uses arranged in such a way as to provide desirable senior citizen living environments that may include private and common open spaces for access, recreation, aesthetic or other uses;
- 2. The development of desirable amenities associated with senior housing not otherwise possible by typical or lot-to-lot development standards.

Common areas means:

1. All land, other than individual units or lots, within the PUD boundaries;
2. Any buildings or structures intended or reserved for the common use of the residents and owners of the PUD;
3. Installations of/ or easements for central utility services or streets;
4. Such community and commercial facilities as may be provided for in the declaration of the PUD;
5. All other parts of the PUD necessary for or normally in common use

Senior citizen means citizens over the age of fifty-five (55) years of age or older. One resident of a PUD must be a senior citizen.

#### **12.150.030 Conditional Use**

- A. Senior citizen PUD's shall be allowed as a conditional use in all residential zones.
- B. Accessory uses may be included in PUD's to provide necessary services to the occupants of the development as determined by the Planning Commission, provided that agreements and restrictive covenants controlling the proposed uses, ownership, characteristics and design are filed by and entered into by the developer and approved by the Planning Commission and City Council to assure that the approved necessary services are maintained.

#### **12.150.040 Location**

In making decisions and/or recommendations as to the approval of a senior citizen PUD, the Land Use Authority, Planning Commission and City Council shall apply the following standards for location:

- A. The concept of the PUD is an important factor in the implementation of the City's General Plan—2000.
  - B. The PUD should be so located with respect to streets and public ways as to provide easy access to the senior citizen occupants, their visitors and public transportation.
  - C. The site should be suitable for development without hazards to persons or property, on or off the tract, from flooding, erosion, or other dangers nor annoyances.
  - D. A slopes report and a preliminary title report shall be required.
  - E. Planned Unit Developments must be a minimum of 1800 feet apart from each other. (Straight-line distance from each other)
- a. The purpose of these guidelines is to create a PUD that enhances that area of the City.

#### **12.150.050 Unified Control**

All land included in the development shall be under the legal control of the applicant, whether the applicant is an individual, partnership, corporation or a group; such control to be in the form of ownership or the option to purchase dependent on project approval. Evidence of unified control of the entire tract comprising the development in written legal form establishing that applicant has the unrestricted right to impose all of the covenants; conditions and restrictions (CC&R's) upon the land as are contemplated by the provisions of this ordinance shall be delivered to the City prior to approval. Any future changes to the CC&R's must be approved by the City Council.

One resident of each PUD unit shall be fifty-five (55) years of age or older.

#### **12.150.060 Standards And Conditions**

- A. Area. A tract of land proposed for development as a senior citizen PUD shall contain acreage in accordance with the following table:

Minimum Acreage	Maximum Acreage	
4 Acres	6 Acres	All Zones

- B. Density. The maximum number of lots and/or units shall not exceed five (5) units per acre.
- C. Occupancy. One resident of each living unit must be a senior citizen age fifty-five (55) or older. No more than two (2) persons may occupy each living unit unless all such persons are a family and are related by blood, marriage, or adoption, and then no more than four (4) such persons may occupy each living unit. Of those who are so related, no more than two (2) of those persons may be children of one or both of the other said persons. This restriction is to be understood to limit the occupancy of each home to four (4) persons. A person shall be deemed a resident for purposes of this section upon residing within the development for a period of fourteen (14) days in any thirty (30) day period. Renters are considered to be residents and are subject to these same restrictions.
- D. Lot Requirements. Lot area, width, setback, yard coverage and building height and location requirements shall be determined by the standards outlined in item 10; (Arrangements) of this section along with approval of the site plan.
  1. The minimum side yard required for each structure will be eight (8) feet or
  2. A zero lot line on one side of the lot, with a minimum of 16 feet (16') between each single family dwelling.
- E. Landscaping. All areas not covered by building, by off-site parking or streets shall be landscaped to be compatible with adjacent properties and the community, with a minimum of three trees and six shrubs per unit or lot.
- F. Access. Every unit, lot or other permitted use in the PUD shall have access to a public street by an approved private road or area dedicated to public use guaranteeing access. It is the intent of the City, where possible, that all roads and streets within a PUD be built to City construction specifications. All streets within the PUD will be private and maintained (snow removal, etc.) by the PUD.
- G. Parking. Two parking spaces in the garage and two off-street parking spaces shall be provided for each unit. Visitor parking shall be provided at a ration of 1 space per 2 units.
- H. Open Space. Functional and aesthetic usable open spaces for use by the senior citizen occupants are deemed essential to and may be included within a PUD in accordance with the following:
  1. There shall be a minimum of usable open space of thirty (30) percent of the total gross area of the PUD, including all walkways, sidewalks and greenways.
  2. The preservation, maintenance and ownership of usable open space within the PUD must be held by an entity or association that includes all owners within the PUD in a manner evidenced by appropriate legal documentation approved by the City Council and City attorney.
- I. Utilities. All utilities within the PUD shall be installed underground with all appurtenances above ground installed in a manner that will allow adequate screening with

natural landscaping. All utilities will be installed in accordance with City standards and will be placed in dedicated Public Utility Easements for City and/or utility supplier maintenance. Water lines to the meter and sewer main lines within the PUD will be maintained by the City once the developer's warranty period has been completed and inspection demonstrates they have been installed in accordance with City standards. All service lines (water and sewer) will be maintained privately. Each unit will pay water and sewer impact fees and have an individual water meter.

J. Arrangements. Arrangement of structures, lots or units, and usable open space within the PUD shall be such as to assure that adjacent properties and their uses will not be adversely affected. Lots with frontage on a City street must meet the same requirements as adjacent properties and in accordance with a planned residential subdivision. Rear and side lots adjacent to existing properties will maintain the setback requirements of those zones.

K. Changes.

1. Minor changes in the location, sitting or character of buildings and structures may be authorized by the Land Use Authority and / or the City engineer if required by engineering or other circumstances not foreseen at the time of final plan approval.
2. All other changes in the project, including changes in the site plan and in the development schedule must be approved by the Land Use Authority, Planning Commission and City Council.
3. Deviations from the approved plans or failure to comply with any requirements imposed by the Land Use Authority, Planning Commission or City Council in approving the PUD shall constitute a violation of the ordinance.

L. Postal Delivery. All postal mail will be delivered to a common site as agreed with the United States Postal Service.

M. Signage. A sign specifying that the PUD is a Senior Citizen PUD and that at least one resident of each unit must be 55 years of age or older must be posted in a visible area in all approved Planned Unit Developments and as approved by the Land Use Authority. This sign will be the responsibility of the developer or the Homeowners Association.

#### **12.150.070 Time Limit**

- A. The applicant must begin and substantially complete the development of the PUD within two (2) years from the date of approval of written authorization to proceed.
- B. If the applicant does not substantially complete the development within the time limits imposed, the Land Use Authority and Planning Commission shall review the PUD and may extend the time limit, revoke the approval or amend the plan. The developer may appeal the decision of the Land Use Authority and Planning Commission to the City Council which shall review the record and decision of the Land Use Authority and Planning Commission and affirm, set aside, remand or modify the Land Use Authority and Planning Commission's decision. Such appeal must be filed in writing within ten (10) calendar days of the date of the decision.
- C. Phasing a PUD project may be permitted and will be considered on a case-by-case basis.

#### **12.150.080 Procedures**

A. Application.

1. An application for a senior citizen PUD shall be on a form approved by the City and be duly executed and filed jointly by all owners and persons or entities having legal control of the property.
2. The required filing fee shall be paid at the time of filing and before the application may be considered.
3. The application shall be accompanied by a preliminary development plat for the PUD which shall contain or show the following:
  - a. The name or title of the PUD
  - b. The names of any professional planner or engineer for the project and the names of all owners or persons or entities having legal control of the property
  - c. Scale, date, North arrow and general location map of the project
  - d. The boundaries and legal description of the property to be included in the PUD and the legal descriptions, owners and tax numbers of all individual tracts comprising the proposed development
  - e. Unified and organized arrangement and location of buildings, structures and building groups
  - f. Provisions for off-street parking
  - g. Internal and external traffic circulation
  - h. Proposed density
  - i. Proposed street cross-sections
  - j. Proposed usable open space, parks and public areas
  - k. Location and type of proposed landscaping
  - l. Relation to future land use and development of the surrounding area as proposed by the General Plan
  - m. Proposed location of utilities
  - n. Easements
  - o. Schematic drawings demonstrating the design and character of the PUD
  - p. Drainage and water retention
4. The applicant shall also:
  - a. Provide the owner's name and address and a brief description of each adjacent property;
  - b. State the waivers or modifications requested from the zone in which the PUD will be located as well as waivers or modifications requested from other City ordinances and the reasons thereof.
5. The City shall confirm that the application has been duly executed and filed, the filing fee paid and that the preliminary plat complies with the above requirements and upon such confirmation shall place the application upon the agenda of the next regularly scheduled meeting of the Land Use Authority and Planning Commission which shall be no sooner than ten (10) days from the date of filing.

B. Land Use Authority and Planning Commission Review and Approval

1. Upon its initial review of an application for approval of a senior citizen PUD, the Land Use Authority and Planning Commission shall:
  - a. Meet with the applicant and assist the applicant in bringing the application and attachments as nearly as possible into conformity with the requirements of this ordinance and/or define specifically those variations from such requirements which appear justified in the circumstances; and
  - b. Establish a public hearing date in not more than thirty (30) days and direct the Planning Commission Secretary to give at least fifteen (15) days notice by mail to all adjacent landowners and by publication at least once in the newspaper of the time, date, place and purpose of the public hearing.

2. The Land Use Authority and Planning Commission may require additional materials, information or maps, which it deems necessary to make the necessary findings and recommendations. The applicant shall submit all evidence deemed necessary by the Land Use Authority and Planning Commission of his ability to undertake the project.
3. After the public hearing the Planning Commission may recommend to the City Council that the application for approval of the PUD be granted as requested or be granted subject to specific conditions and stipulations. The Planning Commission may also disapprove the application in which case the application will not be considered by the City Council, except on appeal.
4. The Planning Commission, in order to approve the application, with or without conditions or stipulations, must find specifically that:
  - a. The application and the proposed PUD comply with all the requirements imposed by this ordinance;
  - b. The proposed PUD is consistent with the objectives and purpose of this ordinance;
  - c. The proposed PUD is designed to be compatible with the adjacent and surrounding properties and with the physical features of the proposed site;
  - d. The desired waiver or modification of City ordinances applied to the particular case would be justified and appropriate;
  - e. Adequate usable open space over conventional development is provided for the occupants of the PUD and the general public;
  - f. Desirable natural and cultural features indigenous to the site are to be preserved.
5. The amount of security for performance for all improvements within the PUD will be required as outlined in the Subdivision Ordinance, Chapter IV.

#### C. City Council Approval

1. Within fifteen (15) days of the date of approval of the Planning Commission, the application shall be submitted to the City Council for its consideration. The City Council, without the necessity of a public hearing, shall review the application and the Planning Commission's findings and recommendation and may give preliminary approval to the PUD application, with or without modification, including stipulations and/or conditions for approval and development, remand the matter to the Planning Commission with instructions for further action or consideration, or disapprove the application.
2. The City Council shall state its reasons for disapproval or remand.
3. The City Council may require additional information or materials from the applicant or Planning Commission before taking action.
4. The City Council may at its discretion require a public hearing to give the public additional information based on changes required by the Council to the PUD or based on the desire to hear additional comments from its citizens.
5. The City Council shall, in the event of approval, set the amount of security for performance to be required of the applicant.

#### D. Construction Drawings

1. Construction Drawings as required by the Subdivision Ordinance shall be submitted to the Land Use Authority for review and approval.

#### E. Final Plat and Approval

1. A final development plat, conforming to all stipulations, conditions and requirements imposed by the City Council and this ordinance shall be submitted and shall show in detail the unified and organized arrangements of buildings, off-street parking, all other details required on the preliminary plan, as well as the final grading, irrigation and landscaping plans.
2. No building permit shall be issued until the final development plan has been approved by the Land Use Authority, Planning Commission and the City Council and has been duly recorded in the office of the Cache County Recorder by the City Recorder.
3. The final development plat must have the signature of the City engineer approving the plat and the signature of the City attorney approving the plat as to form.
4. The City Council shall require that all restrictive covenants or other agreements or appropriate documents be recorded in the office of the County Recorder along with the final plat.
5. Copies of the final plat and the CC&R's as approved and recorded shall be kept on file in the office of the City Recorder.

#### F. Fees and Costs

1. The applicant shall pay a preliminary plat fee and a final plat fee in accordance with the most recent prevailing fee schedule adopted by resolution of the City Council for a subdivision.
2. In addition to these fees, the applicant shall reimburse the City for all costs incurred, but not limited to, reproduction costs, attorney's fees, recording fees, engineering fees, mailing and advertising costs and other costs specifically incurred by the City with regards to the subject application and project.

### **12.160 Landscaping**

#### 12.160.010 Purpose

#### 12.160.020 Scope Of Requirements

#### 12.160.030 Installation Of Landscaping

#### 12.160.040 Maintenance

#### 12.160.050 Plot Plan Required

#### 12.160.060 Non-Conforming Status Of Existing Buildings

#### 12.160.070 Material Displayed In The Landscaped Area

#### **12.160.010 Purpose**

The purpose of the landscaping requirements in this Ordinance is to encourage attractive surroundings in areas of the city that are not in single family or agricultural zones. Landscaping contributes to the relief of heat, noise, and glare and assists in creating a more consistent look and feel in zones that can have quite different property uses. Safety and functionality should have priority in placement of landscaping features.

#### **12.160.020 Scope Of Requirements**

In the Commercial and Industrial zones there shall be landscaping provided and maintained along the public right-of-way in accordance with a detailed landscaping plan prepared by the owner/lessee and approved by the Land Use Authority. A minimum of 10% of the development on any public right of way must be landscaped. The percentage of landscaping on inner block development will be determined on a case-by-case basis as recommended by the Land Use Authority to the Planning Commission. Landscaping shall be visible to vehicular traffic along the public right of way. Landscaping shall also be provided adjacent to the front of the building and where public/customer access is provided. The plan will include the type of irrigation system, proposed number, location, size, and type of plants, and other factors as provided below:



- A. Corner Lots: Where a parcel is on a corner lot, the landscaping shall not exceed thirty inches (30") in height within a triangular area formed by the street property lines and a line connecting them at points thirty feet (30') from the intersection.
- B. Driveway Areas: No landscaping shall be required where vehicular accesses are permitted. However, the area of landscaping which is eliminated due to vehicular accesses shall be included in another location of the lot.
- C. Screening: When a development abuts any residential zone, there shall be provided along the adjoining property line a six foot (6') privacy fence and a ten foot (10') wide landscape strip. This strip will be planted with trees planted a minimum distance of four feet (4') from the fence, or any other hard surface and spaced no more than thirty feet (30') on center.

Landscaping may also be used as screening and would include an evergreen hedge and/or mix of evergreen shrubs and trees of a type, density and spacing so that sight and illumination will be obscured year-round. Plantings must provide screening within 3 years of planting and ultimately be maintained at a height of not less than six feet (6').

The Land Use Authority will review the landscape plan to assure that continuity is maintained with the adjoining property owners in the type of screening provided.

- D. Trees: No street trees will be planted in the landscape strips in the right-of-way, as they create a visibility hazard at access points. Shrubs are allowed if they are limited to 30" in height. Any trees will not be located any nearer the right-of-way than 4' from the sidewalk, or any other hard surface. Trees will be planted at the minimum amount of two (2) trees for every one thousand (1,000) square feet of landscaped area.
- E. Tree Size: All required trees, shall be at least one and one half inches (1 ½") in caliper, trunk measurement 12" above ground grade, and shall be at least eight feet (8') in height, when planted. Any trees planted under or near overhead utility lines shall be of the types that do not exceed fifteen (15') in height when mature.
- F. Parking Areas (Parking Lots): A landscaped median running the length of a major access through the parking shall be provided. Also, for every 4 contiguous parking aisles there shall also be provided a median running the length of said aisles. These medians shall be a minimum of ten feet (10') wide.
- G. Plant Selection: Plants selected for landscaped areas shall consist of those that are suited for this climate and soil type. Plants with similar water needs shall be grouped together as much as possible. Areas with slopes greater than 30 % shall use deep rooting plants that require minimum water and provide soil stabilization for erosion control. Mulch and other ornamental products may be used in a landscape design that is approved by the Land Use Authority. It is suggested that all landscape plants be from the Water Wise Plant List published by the state of Utah.
- H. Irrigation Plan: An irrigation plan including water source shall be included in the landscape plan.

#### **12.160.030 Installation Of Landscaping**

Landscaping and site development in accordance with the plans submitted shall be installed within thirty days following occupancy of the building. If occupancy occurs such that the thirty days of completion is during the dormancy season (Oct.-Mar.), landscape completion may be postponed until the following spring, the last day of April. In no case should the landscape completion date be more than one hundred and twenty (120) days after the date of occupancy based on the growing season as stated above. In any instance where the completion date is extended beyond thirty days a bond or other surety shall be required to ensure compliance. The amount of the bond shall be equal to \$2,500 or one and one-half (1.5) times the cost to complete the approved landscaping based on a written contract submitted by the developer.

#### **12.160.040 Maintenance**

Required landscaped areas shall be maintained in a neat, clean, and orderly condition. This is meant to include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary and the regular watering of all plantings. Required landscaped areas shall be provided with suitable permanent method for water or sprinkling of plants. Failure to maintain the landscaping as provided herein shall be a violation of this chapter and enforceable as provided by law.

In no instance shall plants intrude into the right-of-way or onto the sidewalk to create a safety hazard

All areas of the parcel on which development is taking place are regulated by this chapter. Land which is not presently being developed shall as a minimum be restored to its natural vegetation and maintained so as not to create a weed nuisance. The same area may also be maintained as agricultural land.

#### **12.160.050 Plot Plan Required**

Where landscaping is required in this Ordinance, a plot plan showing the proposed landscaping development, watering system and use of the property shall be submitted to the Land Use Authority. The same plot plan used to show parking layout or other requirements for the issuance of a Building Permit may be used providing all proposed landscaping is adequately detailed on said plot plan. The Land Use Authority may disapprove such plans if it determines that they are not consistent with the purpose of this Ordinance.

#### **12.160.060 Non-Conforming Status Of Existing Buildings**

Landscaping of buildings and lots existing at the time of the adoption of this ordinance shall not be required to meet these requirements. If there should be improvements to and/or expansion of these buildings or grounds at any time following the adoption of this ordinance, compliance to this ordinance shall be required. Any landscaping that physically cannot be improved to meet this ordinance may be approved by the Land Use Authority providing the intent of this ordinance is met.

#### **12.160.070 Material Displayed In The Landscaped Area**

Any product displayed in connection with the business must be organized in an orderly manner and not create any traffic visibility problems. All such items may be displayed on a temporary basis covering no more than 50 % of the landscaped setback area and during business hours only. Permanent displays may be allowed based on approval of the Land Use Authority. No items will be allowed on the sidewalk or in the right-of-way. Items that are not a part of the business will not be allowed.

### **12.170 Planned Commercial Zones CP-1 And CP-2**

12.170.010 Purpose And Intent

12.170.020 Permitted Uses In Commercial Zone

12.170.030 Special Uses In Commercial Zone

12.170.040 Special Regulations Applicable To Commercial Zone

12.170.050 Accessory Caretaker Unit



[12.170.060 Sign Regulations Applicable To Commercial Zone](#)  
[12.170.070 Site Development Standards](#)  
[12.170.080 Parking Requirements](#)  
[12.170.090 Architectural Design And Materials](#)  
[12.170.100 Procedures](#)  
[12.170.110 Protection Of Adjoining Residential Properties](#)  
[12.170.120 Requirements For Existing Businesses And Property Owners](#)  
[12.170.130 Commercial Development Incentives](#)  
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[12.170.150 Time Limitation](#)  
[12.170.160 Enforcement](#)  
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#### **12.170.010 Purpose And Intent**

The intent of the Planned Commercial Zones is to permit the establishment of a well designed attractive complex of commercial facilities for a neighborhood or a community that will provide goods and services for the people to be served, minimize traffic congestion on public streets in the vicinity, and that shall best fit the general environment and land use patterns of the area to be served. The protective standards contained in this Chapter are intended to minimize any adverse effect of the Planned Commercial Zone on nearby property by achieving maximum compatible integration of land uses by preserving the aesthetic qualities of the area, and to provide a safe and efficient use of the Planned Commercial Zone itself.

#### **12.170.020 Permitted Uses In Commercial Zone**

Uses similar in nature, design or impact as those listed below may also be permitted, pending approval.

- A. Retail. Grocery, Apparel, Department, Restaurant, Electronic, Office, Appliance, Sporting Goods, Building Supplies, Farm Supply and Equipment, Auto Parts, Industrial Equipment
- B. Service. Legal, Medical, Professional, Repair, Gym, Reception Center, Rental, Leasing, Laundry, Cleaning, Construction / Industrial / Agricultural related service, Food Service

#### **12.170.030 Special Uses In Commercial Zone**

The following uses shall be permitted only when authorized by a Special Use Permit obtained as provided in Chapter 8 of this Ordinance.

- A. Accessory Caretaker Unit (See 17-5.)
- B. Amusement enterprises.
- C. Animal hospital, small animals only and provided conducted within completely enclosed building.
- D. Assisted Living / Nursing Home
- E. Automobile repair, including paint, body and fender, brake, muffler, upholstery or transmission work, provided conducted within completely enclosed building.
- F. Auction establishment.
- G. Carpenter and cabinet shop.
- H. Car wash, subject to the following restrictions:
  - 1. Shall be for automobiles and trucks of maximum of one-ton capacity.
  - 2. Not more than four washing bays for a manual spray car wash.
  - 3. Off-street vehicle storage of not less than four spaces in the approach lane for each wash bay shall be provided.
- I. Church, temporary revival.
- J. Circus, carnival or other transient amusement.
- K. Dance hall.
- L. Express and transfer service.
- M. Government buildings or uses, non-industrial.
- N. HVAC, provided all operations conducted within completely enclosed building.
- O. Hospital
- P. Knitting mill.
- Q. Lumber yard.
- R. Manufacture of goods retailed on premises.
- S. Massage therapy.
- T. Miniature golf.
- U. Museum.
- V. Nursery school.
- W. Ornamental iron sales or repair.
- X. Pallet Manufacturing
- Y. Parking lot or garage for passenger automobiles.
- Z. Penny arcade.
- AA. Public utilities substation.
- AB. Rental equipment agency
- AC. Service Station / Garage
- AD. Sheet metal shop and re-tinning, provided all operations conducted within completely enclosed building.
- AE. Theatre, outdoor.
- AF. Tire recapping or re-treading, sales and service.

- AG. Tool design (precision), repair and manufacture.
- AH. Truck Terminal.
- AI. Welding shop.

#### **12.170.040 Special Regulations Applicable To Commercial Zone**

Permitted and Special Uses shall be permitted only when the following conditions are complied with:

- A. All uses shall be free from objection because of odor, dust, smoke, or noise.
- B. All manufacturing shall be done within a completely enclosed building.
- C. Sexually oriented businesses are prohibited.

#### **12.170.050 Accessory Caretaker Unit**

A caretaker facility is allowed as a conditional use in the commercial zone provided the following conditions are met:

- A. Only one dwelling shall be allowed per lot (land parcel).
- B. Dwelling units must be located within the structure of principal use.
- C. Only one family may occupy the dwelling unit.
- D. Dwelling unit cannot be rented or leased, but may be considered part of the compensation of the caretaker.
- E. A minimum of two parking spaces must be dedicated for the caretaker facility.
- F. The Business Owner is responsible to submit to the City a plan, which addresses the safety of all residents of the caretaker apartment with special emphasis on the safety of children.
- G. The special use permit for accessory caretaker apartments will be renewed each year.
- H. A fee to cover public hearing notice, publication and building inspection costs must accompany application. See current fee schedule.

#### **12.170.060 Sign Regulations Applicable To Commercial Zone**

The design and placement of signs and their lighting are very important and shall be thoroughly reviewed by the LUA and the Planning Commission. All current city zoning requirements for signing shall be maintained. (See Chapter 9, Sign Regulations.)

#### **12.170.070 Site Development Standards**

- A. Minimum lot area
  - 1. None.
- B. Maximum lot area
  - 1. None.
- C. Minimum yard setbacks
  - 1. Front, Highway 91            60 feet
  - 2. Front, All other roads      40 feet
  - 3. Side Rear, Must comply with current fire code regulations for setbacks
  - 4. Side facing street on corner lot      20 feet
  - 5. Side facing street when the lot does not front a public road and the side yard is parallel to a public road      20 feet
  - 6. Secondary road, side or rear      10 feet
- D. Building height.
  - 1. Minimum One story
  - 2. Maximum 35 feet, Buildings taller than 35 feet will be considered by the LUA and the Planning and Zoning Commission with a minimum 2 horizontal to 1 vertical setback, however no building or structure in the Commercial Zone shall be erected to a height in excess of that allowed within the Horizontal Zone or Traffic Patterns Zone (as defined by the FAA) of the Logan Cache Airport. Approval from the FAA and the Logan Cache Airport Authority must be obtained.
- E. Lot coverage. Coverage for both buildings and paved areas (parking, loading, and circulation) shall not exceed 90 percent, thereby reserving a minimum of 10 percent for landscaped areas after completion of any future expansion. Landscaping shall occur in the front setback as required by ordinance. The landscaped amount shall be a minimum of 40' or 10% of the lot, whichever is greater. Existing developments may expand only to the extent of the coverage limits above. If such existing developments currently exceed the above coverage limits, expansion shall not occur.
- F. Site layout. The site layout will comply with the Landscape Ordinance.

All frontage and approaches shall be furnished with concrete curb and gutter.

Existing site amenities, natural features, trees, waterways, wetlands, and historical elements shall be preserved in the layout of the site unless approved by the Planning commission. (See Landscape Ordinance – Chapter 16)

- G. Grading & Drainage. All drainage from any lot must follow all other current City of Hyde Park requirements and conform to State and Federal Standards governing water runoff. Drainage caused by the development of any parcel shall not be allowed to flow upon adjoining lots unless the owner of the lot upon which the water flows has granted an easement for such purpose.

A site plan with grading, drainage, and clearing plans must be approved by the LUA and the Planning Commission before any building permit may be issued.

- H. Roadway Access. The access approach or drive, which allows vehicles access to the property shall be graded at a 3% or less vertical gradient from the existing roadway paving for a distance of forty (40) feet from the property line. One access drive will be allowed for each development parcel or property unless shared at

property lines where two access drives will be allowed. These shared accesses shall be centered on the adjoining property line. The width of access drives shall be a total of not less than forty (40) feet, with a minimum of twenty (20) feet of width on each side of the property line. The total width shall not exceed eighty (80) feet. On corner lots no more than one access drive shall be allowed on each frontage and access shall be at property lines or at least 300 feet from the intersecting property line closer to the corner, on Collector Roads. On minor or secondary roads, the access shall be at property lines or at least 150 feet from the intersection. If there are questions regarding safety, a traffic study shall be done.

Whenever commercial or industrial parcels are subdivided as part of an approved subdivision, access will be shared at lot lines as shown on the subdivision plat.

Except on major streets such as the north/south collector road west of the highway, (200 West County addressing) and collector roads at Center Street (Hyde Park Lane), 450 North/ 4200 North, 600 South/ 3100 North only one access or two shared accesses will be allowed for each original development parcel. One additional access in created subdivisions may be allowed for every 400 feet of street frontage per parcel.

- I. Highway 91 Acceleration and Deceleration Lanes. On all State highways the property owner/ developer shall meet all requirements of the Utah Department of Transportation.
- J. Utilities. All utility lines and services shall be underground in designated easements. No pipe, conduit, cable, line, drainage, stream, or any other energy or service shall be installed or maintained upon any lot, outside of any building, above the surface of the ground except for hoses or moveable pipes used for irrigation or other purposes during construction. Transformers shall be grouped with other utility meters where possible and shall be screened with vegetation or other approved method.

Each contractor and owner/developer shall be responsible to know the whereabouts of all underground utilities. Protection of such utilities shall also be their responsibility.

- K. Sidewalks. A sidewalk shall be required along the entire frontage of property which abuts a street. Sidewalks shall be a minimum of four (4) feet in width and shall be constructed to meet the standards specified in the Subdivision Ordinance. The outside edge of walks shall be located one (1) foot outside of the property line, and the minimum wide park strip must be provided in accordance with the road cross section for the appropriate road size between the walk and the permanent location of the street curb. If adequate space does not exist for the walk and park strip, additional property must be dedicated to the road right-of-way. Snow removal on walkways shall be the responsibility of the adjacent property owner. Developers must comply with all ADA requirements.
- L. Outdoor Lighting. Site Lighting. All street light fixtures are to be selected and installed to prevent light glare from adversely affecting adjacent properties. Exterior wall mounted floodlights are expressly prohibited. For parking lot lighting, pole mounted fixtures are required. Lighting of all pedestrian pathways is required. Lighting of a building façade and site identification signs is permitted when consistent with this section.

Lighting will be judged as to how adequately it meets its intended purpose. Design and location of standards and fixtures shall be specified on the site development drawings. Intensities shall be controlled so that neighboring areas will not be adversely affected by glare or excessive direct light. Lighting may not exceed 1-candle power as measured at ground level.

#### **12.170.080 Parking Requirements**

Notwithstanding the provisions of Chapter 7 of this Ordinance, there shall be provided off-street parking facilities in the ratio of not less than five off-street parking stalls per 1,000 square feet of gross leasable area in the building.

- A. Parking Setbacks. The LUA and the Planning Commission will determine at design review the appropriate parking setback. The placing of building and parking elements on a site shall be evaluated by the LUA and the Planning Commission on the basis of the following factors:
  - 1. Relationship to other buildings both horizontally and vertically.
  - 2. Natural land features, such as slopes or trees.
  - 3. Physical features such as rail lines and controlled ingress and egress.
  - 4. Visibility from vehicular approaches and distant highways.
  - 5. Type of use and structure.
  - 6. Building height.
- B. Connection of Interior Parking Lots. Private parking lots, within any development, shall be required to provide interior access to adjacent parking lots and interior private roadways. When new developments are being constructed adjacent to existing businesses the project shall be required to join existing drives and parking lots at property lines. When new developments are proposed adjacent to undeveloped land or underdeveloped businesses the new development shall be required to construct connections, which will allow joining of future roads or parking lots. All access between interior lots and roads shall be open to the public for customer parking and access.

The LUA shall provide planning guidance for the location of future connections. All present or future connections must be shown on drawings and approved by the LUA and the Planning Commission.

- C. Additional Parking and Service Area Requirements. Loading and refuse collection areas shall not be permitted to front on public streets, and must be screened from view from public roads. Public roads shall not be used directly for loading, unloading or refuse collection. Building and improvements upon lots must be designed to accommodate loading, unloading, and refuse collection. Structures used to screen these facilities shall meet all standards stated herein.

#### **12.170.090 Architectural Design And Materials**

The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building and site. Requirements applicable to the design and approval of buildings shall be:

- A. General Requirements.
  - 1. All sides of individual buildings shall be designed with materials, shapes, and forms consistent with one another.
  - 2. Buildings shall be designed to relate to grade conditions with a minimum of grading and exposed foundation walls.
  - 3. Mechanical equipment shall be located or screened so as not to be visible from public streets. Screens shall be aesthetically incorporated into the design of the building and shall meet the standards for screens if located on the ground or on the roof. Screen materials shall be compatible with those of the building.

4. Plans for exterior modifications to any existing structures must be submitted to the LUA and the Planning Commission for approval and must meet the same requirements as all other structures within the Commercial Zone.

**B. Exterior Building Finish Requirements.**

1. Surface materials shall be limited to no more than three types of materials per building and all buildings within the development shall possess a similar architectural theme. Building styles and design shall be reviewed during the design process and shall be approved by the LUA and the Planning Commission.
2. The color scheme of exterior building materials shall be approved by the LUA and the Planning Commission.
3. Special Requirements for all Commercial Street Frontages.
  - a. The design of all buildings shall be prepared by an architect licensed in the State of Utah.
  - b. All exterior building materials must be finished.
4. The Following finished are NOT allowed in any Commercial Zone:
  - a. Corrugated galvanized metal.
  - b. Unpainted or unfinished surfaces, such as masonry block, wood, metal, and/or unfinished concrete.

**12.170.100 Procedures**

The LUA and the Planning Commission will meet on a regular basis to review proposals. All exterior construction visible from the adjacent properties or public streets must be reviewed and approved by the LUA and the Planning Commission. Prior to the LUA and the Planning Commission taking action five (5) copies of the required information shall be submitted for complete review and recommendations. One copy will remain on file at the City office and the second copy will be returned with comments. Communication with the LUA and the Planning Commission may be directed to the Chair of the Planning Commission. All development proposals shall be delivered to the City offices no later than fifteen (15) days prior to the LUA and the Planning Commission meeting where the proposal shall be considered. Plans shall be submitted in conformance to the current requirements for submission of plans and specifications. The following submission process shall be required.

- A. Pre-application Discussion. The applicant and the project designer/engineer shall meet with the LUA to discuss the concept for the project. The applicant should provide property ownership information. Any other information deemed pertinent by the applicant may also be presented. The LUA and the Planning Commission and City Engineer will review the proposal and review with the applicant the ordinances and expectation of the City prior to the commencement of design for the project.
- B. Preparation of Existing Features Plan. Existing Features (site analysis) Plans analyzing each site's special features is required for all proposed developments within the Overlay Zone. The applicant or his/her representative shall bring a copy of the Existing Features (site analysis) Plan to the site visit. Requirements for the Existing Features (site analysis) Plan must include: 1) a contour map; 2) the location of significant features such as tree lines, open fields or meadows, scenic view into or out from the property, watershed divides and drainage way, fences, rock outcrops, and existing structures, roads, tracks and trails, and any designated historical sites. All plans shall be prepared to scale and contain enough detailed information for proper evaluation.
- C. Site Visit. After the Existing Features (site analysis) Plan has been prepared, the Planning Commission or a representative may schedule a mutually convenient date to walk the property with the applicant and his/her site designer. The purpose of this visit is to familiarize the LUA and the Planning Commission with the property's special features, and to provide them an informal opportunity to offer guidance (or at least a response) to the applicant regarding the tentative location of the critical preservation areas, building locations, parking layout, and street alignments.
- D. Total Design Plan. All areas and properties under the provisions of Commercial Chapter of the Zoning Ordinance shall be guided by a total design plan to include all property intended for development. The City shall require the developer to be the owner or an official representative of the owner and to provide the City with complete information about the size and scope of the project. The total design plan shall include all development requirements as herein stated and shall be drawn to scale, showing all proposed and future buildings, roads, parking, and landscaping.
- E. Preliminary Plan. A plan shall be prepared to illustrate initial agreements of the layout for buildings, service area, parking layout, street alignments, landscape areas (showing tree, shrub, and turf areas), and preservation areas. This is the stage where drawings are tentatively illustrated, before final engineering is initiated. The Preliminary Plan shall indicate adherence to all requirements of this Ordinance.
- F. Engineering Certification. Prior to approval of the Preliminary Plan, the applicant shall submit to the Planning Commission a "Preliminary Engineering Certification" that the approximate layout of proposed streets, lots, buildings, parking, landscaping, service areas, open space lands, and all other aspects of the development proposal complies with all zoning and subdivision ordinances of the City. This certification requirement is meant to provide the City with assurance that the proposed plan can be accomplished within the current regulations of the City of Hyde Park. The certification shall also note any waivers needed to implement the plan as drawn. A surveyed plat is required to be submitted on all commercial development.
- G. Any deviations in the approved plans must be approved prior to any site work or construction of facilities.

**12.170.110 Protection Of Adjoining Residential Properties**

Where planned commercial development will be developed adjacent to existing residential areas, special consideration shall be made to protect the privacy of residents and requirements shall be at the discretion of the LUA and the Planning Commission. As a minimum, the negative effects of noise, odor and artificial lighting shall be minimized to protect existing residents. Service areas shall be screened, outdoor lighting shall be designed to prevent exposure of light source to the view of residents, and facilities that allow late night customers and activities shall be located away from residential areas to reasonably prevent disruption of privacy.

No person, wherever located, shall cause or allow the emission of odorous air contaminants from any single source such as to result in detectable odors which are measured in excess of the following limits: For all areas, it is a violation when odors are detected after the odorous air has been diluted with one hundred (100) or more volumes of odor-free air.

Fences or walls will be reviewed for their effectiveness in screening a view, and for their color and texture in relationship to building materials. The minimum requirement for fences or walls shall be to screen loading, refuse collection, storage sites, mechanical equipment areas, or others as identified by the LUA and the Planning Commission.

**12.170.120 Requirements For Existing Businesses And Property Owners**

In an effort to improve the environment for new businesses and to create compatibility between established business and new businesses, existing businesses and property owners are encouraged to upgrade their facilities (buildings, landscaping, parking, etc.), to meet the full requirements of this ordinance. However, when a building permit is required to expand or modify existing facilities, where it is impossible to come into compliance with the ordinance within the commercial zones (i.e. Building exists too close to the road, narrow or shallow lot, etc.), the property must comply with the following minimum requirements prior to issuance of any permit or license. The property owner shall be ultimately responsible for any and all required improvements.

All improvements shall be completed or secured prior to any occupancy permits or business license being issued.

- A. Setbacks. The minimum setback required on lots fronting a public road may be designed to match the existing buildings but shall not be less than twenty (20) feet. A concrete curb and gutter will be installed around the setback area that shall be entirely landscaped according to the requirements of this title.
- B. Access All frontages and approaches shall be furnished with concrete curb and gutter. Only one forty (40') foot wide access drive will be allowed unless access is shared with adjoining property. These shared accesses shall be a total of not less than forty (40) feet, with a minimum of twenty (20) feet of width on each side of the property line. The total width shall not exceed eighty (80) feet. Two curb cuts for each property will only be allowed when access is shared at both adjacent property lines that are perpendicular to the frontage highway or roadway. On corner lots, no more than one access drive shall be allowed on each frontage and access shall be at property lines or at least 300 feet from the corner, on Collector Roads. On minor or secondary roads, the access shall be at property lines or at least 150 feet from the intersection. If there are questions regarding safety, a traffic study shall be done.
- C. Highway 91 Acceleration and Deceleration Lanes. On all State highways the property owner/ developer shall meet all requirements of the Utah Department of Transportation.
- D. Signage. All signage for existing business shall be modified, replaced or removed to meet the signage requirement for the Commercial Zone.
- E. General Requirements. The requirements for existing businesses shall conform to requirements of the Commercial Zone Ordinance sections as listed below:
  - 1. Procedures.
  - 2. Site landscaping.
  - 3. Outdoor lighting.
  - 4. Signs.
  - 5. Maintenance.
- F. Hardships and Added Improvements. When an existing business or property owner is able to provide evidence of a hardship to conform to the requirements of this Chapter, the City Council may modify the requirements only if one or more of the following requirements are met:
  - 1. Improvements are provided which will mitigate the adverse effects of non-conformance.
  - 2. Upgrades to the project are provided, consistent with the intent of this Ordinance.
- G. In determining if an existing business or property owner claims a hardship and is eligible for relief through this Chapter, all of the following criteria must be met:
  - 1. The hardship is not self-imposed and is a result of the actions of others.
  - 2. The result of conformance to the Ordinance will significantly reduce or prevent the use of the property for a productive endeavor and there are no means, in the opinion of the LUA and the Planning Commission, to modify the site to meet the requirements.
  - 3. Business or use of property existed before the adoption of Ordinance 96-4 on December 10, 1996 and no unauthorized improvements have been made to the property since that time.
- H. The extent of the modifications shall be determined from the following:
  - 1. Hardship to Provide
    - a. Front yard Setback. The front yard setback may be reduced by no more than 50% (not less than 10 feet) when one or more improvements are made: 1) required street trees are planted at 3" trunk diameter with automatic sprinkler system installed for entire landscape setback; 2) Access driveway is reduced to one shared access (20' maximum) at property line; 3) If on a corner lot, access is limited to one driveway from a street other than Highway 91.
    - b. Sign. One existing non-conforming sign may be retained when all improvements are made: 1) All other signs or advertisements which are not in compliance are permanently eliminated; 2) Sign remains the same and is not changed; 3) Sign was originally installed less than 10 years ago.

#### **12.170.130 Commercial Development Incentives**

Commercial Development Incentives. The City Council of Hyde Park, at its sole discretion, may elect to reimburse all or part of any development fee or assessment and public infrastructure and service improvements associated with a new business development. In addition, the City may also elect, at its sole discretion, to provide public infrastructure and service improvements within the Hyde Park City limits as an incentive to attract new business that will enhance the tax revenue base of the City.

To provide such incentives and reimbursements, the City Council must find that the financial benefit derived by the City will outweigh the costs associated with reimbursements and any associated service or infrastructure improvements.

Applicants will indicate their intention to be considered for reimbursement under the Commercial Development Incentive Ordinance in writing and by showing projected tax revenues in a professionally prepared four-year business plan. If an existing business, the request must be accompanied by a tax payment history of the most recent two years. These will be submitted to the City Council for their review.

Administration. All fees and infrastructure improvements will be paid by the applicant requesting consideration under the Commercial Development Incentive Ordinance. All documentation, including invoices and cancelled checks will be presented to the City verifying the amounts paid on fees and infrastructure improvements. The City will obtain sales tax revenue amounts from the report from the State Tax Commission of the State of Utah. Reimbursement will be paid quarterly after the city receives its portion from the state up to the maximum number of years allowed by State Code. Within that predesignated period of time 50% of the sales tax revenue from the business received by Hyde Park City may be reimbursed to the business, up to the total cost of the fees and improvements made, or the total costs of those items that the City Council previously agreed to reimburse under this ordinance. A development agreement will be presented for city infrastructure, describing said infrastructure and parties paying for it; also naming business, whether owned or leased, whose sales tax will be applied for this incentive. All agreements shall be in writing.

Effective Date: This ordinance will become effective immediately upon its adoption by the City Council.

ADOPTED AND APPROVED by the HYDE PARK CITY COUNCIL this 11<sup>th</sup> day of February, 2015.

#### **12.170.140 Maintenance**

All owners of property shall maintain all buildings, landscaping, fences, walls, drives, parking lots, signs or other structures located upon said property in good and sufficient repair and shall keep such premises painted, windows glazed, and otherwise maintain the property in a safe and aesthetically pleasing manner. Lawns shall be kept in a mowed condition. Roads and pavements shall be kept true to line and grade and in good repair. Drainage ditches shall be kept clean and free of any obstacles.

Remedial action shall be taken by the property owner to repair and prevent soil erosion on the property. No unsightly condition will be allowed. Any undeveloped property in a development parcel shall be either maintained as cultivated agriculture, mowed regularly during the growing season, or landscaped or paved within one year from occupancy of the first phase.

Any structure, planting, driveway, parking lot, or service area that is damaged by the elements, by vandals, by vehicles, or from fire or any other cause shall be repaired as promptly as the extent of damage will permit.

Vacant buildings shall be kept locked and the windows glazed.

#### **12.170.150 Time Limitation**

- A. A building permit shall be secured and construction begun in accordance with the approved final development plan within 18 months from said approval. Application may be made for not more than six (6) months extension of the time limit for commencement of construction. Use and building permits shall be issued only for those uses and buildings indicated on the approved final development plan.
- B. In the event that construction is not started within the specified time limits, the LUA shall withdraw the approval and the applicant shall resubmit his development plan as desired.
- C. All construction authorized in the approved final development plan shall be completed within three (3) years of the date construction has commenced. A plan for stage development which will require more time than the limits contained herein may be approved by the City Council, after recommendation by the LUA and the Planning Commission.
- D. In the event that construction is not completed within the time limits specified, the LUA shall review the development which has taken place and may make recommendation to the City Council to take appropriate legal action.

#### **12.170.160 Enforcement**

Each landowner within the Commercial Zone shall have the duty and responsibility of conforming to the requirements of this Chapter as administered and interpreted by the Planning Commission. If, in the opinion of the LUA, an owner shall fail in his duty and responsibility, the LUA may give the owner written notice of such violation. If the owner fails to properly restore any violation within the time limit specified in the notice, the LUA or its designee shall have the right and power to stop construction, withdraw the business license, and/or pursue ordinance enforcement as otherwise specified in the City Code.

#### **12.170.170 Appeals**

Any applicant and/or property owner shall have the right to appeal the action of the Planning and Zoning Commission to the City within ten (10) business days of the date of such action. Any action taken and not appealed within said ten (10) business days shall be final. When the City receives a written appeal within ten (10) business days of the time the action was taken, the City will schedule an appeal hearing, to be conducted within thirty (30) days. Action by the City Council will be final.

#### **12.170.180 Validity**

Should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part hereof other than the part specifically so declared to be invalid.

**EFFECTIVE DATE.** This ordinance will become effective upon passage by the City Council of Hyde Park, Utah.

**PASSED AND ADOPTED** by the City Council of Hyde Park City, State of Utah, this

\_\_\_\_\_ day of \_\_\_\_\_, 2012

**HYDE PARK CITY**, A Municipal Corporation

\_\_\_\_\_  
Bryan L. Cox

**ATTEST:**

\_\_\_\_\_  
Donja Wright, Recorder

#### **12.180 Planned Industrial Zone IP**

12.180.010 Purpose

12.180.020 Permitted Uses And Prohibited Uses

12.180.030 Accessory Caretaker Unit

12.180.040 Procedures

12.180.050 Building Height

12.180.060 Site Development Standards

12.180.070 Architectural Design And Materials

12.180.080 Special Provisions

12.180.090 Performance Standards

12.180.100 Requirements For Existing Businesses And Property Owners



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#### **12.180.010 Purpose**

The IP Planned Industrial Zone designation is primarily for industrial uses, which are planned, and implemented within the City of Hyde Park to provide for employment and the production of goods and services consistent with this title.

#### **12.180.020 Permitted Uses And Prohibited Uses**

In the Planned Industrial Zone, all buildings and premises may be used for any purpose permitted in the Commercial Zone, and also for any other trade, industry or use, except the following, which are prohibited:

- A. Any single family dwelling, multiple-family dwelling, apartment, boarding house, etc. (but not including motels or hotels), except as provided for herein.
- B. Manufacture or storage of regulated quantities of hazardous chemicals such as ammonia, chlorine, insecticides, herbicides, fertilizer, potash, fireworks, explosives, cement, lime, etc.
- C. Metal ore smelters and blast furnaces
- D. Petroleum refining or petroleum distillate manufacture and storage, including asphalt and tar.
- E. Animal slaughter and byproducts facilities.
- F. Arsenals.
- G. Crematory, or other crematory located in a cemetery.
- H. Incineration or reduction of garbage, offal or refuse.
- I. Any other trade, industry or use that is noxious or offensive by reason of the emission of odor, smoke, gas, vibration or noise.

#### **12.180.030 Accessory Caretaker Unit**

A caretaker facility is allowed as a conditional use in the industrial zones provided the following conditions are met:

- A. Only one dwelling shall be allowed per lot (land parcel).
- B. Dwelling units must be located within the structure of principal use.
- C. Only one family may occupy the dwelling unit.
- D. Dwelling unit cannot be rented or leased, but may be considered part of the compensation of the caretaker.
- E. A minimum of two parking spaces must be dedicated for the caretaker facility.
- F. The Business Owner is responsible to submit to the City a plan which addresses the safety of all residents of the caretaker apartment with special emphasis on the safety of children.
- G. The special use permit for accessory caretaker apartments will be renewed each year.
- H. A fee to cover public hearing notice, publication and building inspection costs must accompany application. See current fee schedule.

#### **12.180.040 Procedures**

The LUA and the Planning Commission will meet on a regular basis to review proposals. All exterior construction visible from the adjacent properties or public streets must be reviewed and approved by the LUA and the Planning Commission. Prior to the LUA and the Planning Commission taking action, five (5) copies of the required information shall be submitted for complete review and recommendations. One copy will remain on file at the City office and the second copy will be returned with comments. Communication with the LUA and the Planning Commission may be directed to the Chair of the Planning Commission. All development proposals shall be delivered to the City offices no later than fifteen (15) days prior to the LUA and the Planning Commission meeting where the proposal shall be considered. Plans shall be submitted in conformance to the current requirements for submission of plans and specifications. The following submission process shall be required.

- A. Pre-application Discussion. The applicant and the project designer/engineer shall meet with the LUA to discuss the concept for the project. The applicant should provide property ownership information. Any other information deemed pertinent by the applicant may also be presented. The LUA and the Planning Commission and City Engineer will review the proposal and review with the applicant the ordinances and expectation of the City prior to the commencement of design for the project.
- B. Preparation of Existing Features Plan. Existing Features (site analysis) Plans analyzing each site's special features is required for all proposed developments within the Overlay Zone. The applicant or his/her representative shall bring a copy of the Existing Features (site analysis) Plan to the site visit. Requirements for the Existing Features (site analysis) Plan must include: 1) a contour map; 2) the location of significant features such as tree lines, open fields or meadows, scenic view into or out from the property, watershed divides and drainage way, fences, rock outcrops, and existing structures, roads, tracks and trails, and any designated historical sites. All plans shall be prepared to scale and contain enough detailed information for proper evaluation.
- C. Site Visit. After the Existing Features (site analysis) Plan has been prepared, the LUA and the Planning Commission or a representative may schedule a mutually convenient date to walk the property with the applicant and his/her site designer. The purpose of this visit is to familiarize the LUA and the Planning Commission with the property's special features, and to provide them an informal opportunity to offer guidance (or at least a response) to the applicant regarding the tentative location of the critical preservation areas, building locations, parking layout, and street alignments.
- D. Total Design Plan. All areas and properties under the provisions of the Industrial Chapter of the Zoning Ordinance shall be guided by a total design plan to include all property intended for development. The City shall require the developer to be the owner or an official representative of the owner and to provide the City with complete information about the size and scope of the project. The total design plan shall include all development requirements as herein stated and shall be drawn to scale, showing all proposed and future buildings, roads, parking, and landscaping.
- E. Preliminary Plan. A plan shall be prepared to illustrate initial agreements of the layout for buildings, service area, parking layout, street alignments, landscape areas (showing tree, shrub, and turf areas), and preservation areas. This is the stage where drawings are tentatively illustrated, before final engineering is initiated. The Preliminary Plan shall indicate adherence to all requirements of this Ordinance.
- F. Engineering Certification. Prior to approval of the Preliminary Plan, the applicant shall submit to the LUA and the Planning Commission a "Preliminary Engineering Certification" that the approximate layout of proposed streets, lots, buildings, parking, landscaping, service areas, and all other aspects of the development proposal complies with all zoning and subdivision ordinances of the City. This certification requirement is meant to provide the City with assurance that the proposed plan can be



accomplished within the current regulations of the City of Hyde Park. The certification shall also note any waivers needed to implement the plan as drawn. A surveyed plat is required to be submitted for all industrial development.

G. Any deviations in the approved plans must be approved prior to any site work or construction of facilities.

#### **12.180.050 Building Height**

No building or structure in the Industrial Zone shall be erected to a height in excess of that allowed within the Horizontal Zone or Traffic Patterns Zone (as defined by the FAA) of the Logan Cache Airport. Approval from the FAA and the Logan Cache Airport Authority must be obtained.

#### **12.180.060 Site Development Standards**

The following are minimum area requirements with regard to the size of lots and setbacks for property in the Industrial Zone.

- A. Lot coverage. The minimum lot area shall be based on building use and the ability to provide adequate parking. Coverage for both buildings and paved areas (parking, loading, and circulation) shall not exceed 90%, thereby reserving a minimum of 10% for landscaped areas after completion of any future expansion. Existing developments may expand only to the extent of the coverage limits above. If such existing developments currently exceed the above coverage limits, expansion shall not occur.
- B. Site Layout. The front yard shall be landscaped and maintained.

All frontage and approaches shall be furnished with concrete curb and gutter.

Existing site amenities, natural features, trees, waterways, wetlands, and historical elements shall be preserved in the layout of the site, unless approved by the Planning Commission. (See the Landscape Ordinance – Chapter 16)

- C. Front yard. Minimum distance of any building from the front property line shall be forty (40) feet. No fences shall be erected within this forty (40) foot area. When a commercial property is on a corner lot it is deemed to have two front yards. One front setback shall be a minimum of forty (40) feet and the second shall be a minimum of thirty (30) feet.
- D. Side yard / Rear yard. Minimum distance of any building from the side or rear property line shall conform to prescribed fire code. In cases where the side yards are used for storage, loading or parking facilities, they shall be screened from the view of the public rights-of-way. Side facing on street on a corner lot shall be a minimum of thirty (30) feet.
- E. Landscaping. See Landscape Ordinance.
- F. Grading & Drainage. All drainage from any lot must follow all other current City of Hyde Park requirements and conform to State and Federal Standards governing water runoff. Drainage caused by the development of any parcel shall not be allowed to flow upon adjoining lots unless the owner of the lot upon which the water flows has granted an easement for such purpose.

A site plan with grading, drainage, and clearing plans must be approved by the Planning Commission before any building permit may be issued.

- G. Roadway Access. The access approach or drive, which allows vehicles access to the property shall be graded at a 3% or less vertical gradient from the existing roadway paving for a distance of forty (40) feet from the property line. One access drive will be allowed for each development parcel or property unless shared at property lines where two access drives will be allowed. These shared accesses shall be centered on the adjoining property line. The width of access drives shall be a total of not less than forty (40) feet, with a minimum of twenty (20) feet of width on each side of the property line. The total width shall not exceed eighty (80) feet. On corner lots no more than one access drive shall be allowed on each frontage and access shall be at property lines or at least 300 feet from the corner, on Collector Roads. On minor or secondary roads, the access shall be at property lines or at least 150 feet from the intersection. If there are questions regarding safety, a traffic study shall be done.

Whenever commercial or industrial parcels are subdivided as part of an approved subdivision, access will be shared at lot lines as shown on the subdivision plat.

Except on major streets such as the north/south collector road west of the highway, (200 West County addressing) and collector roads at Center Street (Hyde Park Lane), 450 North/ 4200 North, 600 South/ 3100 North only one access or two shared accesses will be allowed for each original development parcel. One additional access in created subdivisions may be allowed for every 400 feet of street frontage per parcel.

- H. Parking Setbacks. The front yard shall be landscaped and maintained. The Planning Commission will determine at site plan review the appropriate parking setback. The placing of building and parking elements on a site shall be evaluated by the Planning Commission on the basis of the following factors:
  - 1. Relationship to other buildings both horizontally and vertically.
  - 2. Natural land features, such as slopes or trees.
  - 3. Physical features such as rail lines and controlled ingress and egress.
  - 4. Visibility from vehicular approaches and distant highways.
  - 5. Type of use and structure.
  - 6. Building height.

Customer parking may occur within the minimum 40' planting strip, if a minimum 15' landscaped strip is provided with a visual screen of 30" high shrubs or equivalent, and the total 10% landscaped area for the project is still met.

- I. Connection of Interior Parking Lots. Private parking lots, within any

development, shall be required to provide interior access to adjacent parking lots and interior private roadways. When new developments are being constructed adjacent to existing businesses the project shall be required to join existing drives and parking lots at property lines. When new developments are proposed adjacent to undeveloped land or underdeveloped businesses the new development shall be required to construct connections, which will allow joining of future roads or parking lots. All access between interior lots and roads shall be open to the public for customer parking and access.

The LUA and the Planning Commission shall provide planning guidance for the location of future connections. All present or future connections must be shown on

drawings and approved by the LUA and the Planning Commission.

- J. Utilities. All utility lines and services shall be underground in designated easements. No pipe, conduit, cable, line, drainage, stream, or any other energy or service shall be installed or maintained upon any lot, outside of any building, above the surface of the ground except for hoses or moveable pipes used for irrigation or other purposes during construction. Transformers shall be grouped with other utility meters where possible and shall be screened with vegetation or other approved method.

Each contractor and owner/developer shall be responsible to know the whereabouts of all underground utilities. Protection of such utilities shall also be their responsibility.

- K. Sidewalks. A sidewalk shall be required along the entire frontage of property which abuts a street. Sidewalks shall be a minimum of four (4) feet in width and shall be constructed to meet the standards specified in the Subdivision Ordinance. The outside edge of walks shall be located one (1) foot outside of the property line, and park strip must be provided, in accordance with the road cross section pertaining to the fronted road, between the walk and the permanent location of the street curb. If adequate space does not exist for the walk and park strip, additional property must be dedicated to the road right-of-way. Snow removal on walkways shall be the responsibility of the adjacent property owner. Developers must comply with all ADA requirements.

#### **12.180.070 Architectural Design And Materials**

The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building and site. Requirements applicable to the design and approval of buildings shall be:

A. General Requirements.

1. All sides of individual buildings shall be designed with materials, shapes, and forms consistent with one another.
2. Buildings shall be designed to relate to grade conditions with a minimum of grading and exposed foundation walls.
3. Mechanical equipment, loading areas, refuse collection, storage sites or other areas identified by the Planning Commission shall be located or screened so as not to be visible from public and private streets. Screens shall be aesthetically incorporated into the design of the building and shall meet the standards for screens if located on the ground or on the roof. Screen materials shall be compatible with those of the building.
4. Plans for exterior modifications to any existing structures must be submitted to the Planning Commission for approval and must meet the same requirements as all other structures within the Industrial Zone.

B. Exterior Building Finish Requirements.

1. Surface materials shall be limited to no more than three types of materials per building and all buildings within the development shall possess a similar architectural theme. Building styles and design shall be reviewed during the design process and shall be approved by the Planning Commission.
2. The LUA shall approve the color scheme of exterior building materials.
3. Special Requirements for all Industrial Street Frontages.
  - a. The design of all buildings shall be prepared by an architect licensed in the State of Utah.
  - b. All exterior building materials must be finished.
4. The Following finishes are NOT allowed in any Industrial Zone:
  - a. Corrugated galvanized metal.
  - b. Unpainted or unfinished surfaces, such as masonry block, wood, metal, and/or unfinished concrete.

#### **12.180.080 Special Provisions**

All development in the Industrial Zone must comply with the following requirements.

- A. Fences and Walls. Fences or walls will be reviewed for their effectiveness in screening a view and for their color and texture in relationship to building materials. Any premises that are used or intended to be used for open storage of raw materials, manufactured goods, auto wrecking, materials recycling, or for the open storage of auto bodies, or other metal, glass, bottles, rags, cans, sacks, rubber, paper or other articles commonly discarded by consumers, or for any articles known as secondhand goods, wares or merchandise, must be kept orderly and not present a fire hazard. Any such area not paved must be kept weed free at all times. There shall be no open burning of any of the above mentioned or similar articles without Fire Marshall approval and burn permit.
- B. Driveways and curbing. No portion of any lot shall be used or designed or surfaced in such a way as to make possible the parking, storage or driving of cars or other vehicles in a manner that will allow them to project or drive over the sidewalk at other than approved driveway locations. When any parking or loading areas or driveways adjoin a street, concrete curbs shall be installed in such a location as to prevent any car or vehicle or any portion of a car or vehicle from maneuvering or projecting over the front property line or within the required landscape areas, except at approved driveway locations.
- C. Sign regulations. The design and placement of signs and their lighting are very important and shall be thoroughly reviewed by the LUA and the Planning Commission. All current city zoning requirements for signing shall be maintained. (See Chapter 9, Sign Regulations)
- D. Outdoor Lighting. All street light fixtures are to be selected and installed to prevent light glare from adversely affecting adjacent properties. Exterior wall mounted floodlights are expressly prohibited. For parking lot lighting, pole mounted fixtures are required. Lighting of all pedestrian pathways is required. Lighting of a building façade and site identification signs is permitted when consistent with this section.

Lighting will be judged as to how adequately it meets its intended purpose. Design and location of standards and fixtures shall be specified on the site development drawings. Intensities shall be controlled so that neighboring areas will not be adversely affected by glare or excessive direct light. Lighting may not exceed 1-candle power as measured at ground level.

#### **12.180.090 Performance Standards**

All uses allowed in the Planned Industrial Zone shall conform to the performance standards in this Section. The purpose of such standards is to permit potential industrial nuisances to be measured, factually and objectively; to ensure that all industries will provide methods to protect the community from hazards and nuisances which can be prevented by processes of control and nuisance elimination; and to protect industries from arbitrary exclusion or persecution based solely on the nuisance production by any other type of industry. The performance standards are as follows:

- A. Glare and heat. Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line.
- B. Vibration. Industrial operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Transportation facilities or temporary construction are excluded from this restriction.
- C. Smoke and particulate emissions. All vented air must meet federal, state and county regulations.
- D. Odor emissions. No person, wherever located, shall cause or allow the emission of odorous air, and or other air contaminants from any single source such as to result in detectable odors which are measured in excess of the following limits: For all areas, it is a violation when odors are detected after the odorous air has been diluted with one hundred (100) or more volumes of odor-free air.
- E. Fugitive dust. Dust resulting from the site or processes of the industrial use must be prevented from traveling to adjacent properties, except during construction at which time ordinary dust suppression practices shall be used.
- F. Hazardous materials. If the proposed uses of tenants of the project use and/or store hazardous materials (including hazardous wastes) on-site, the project shall be designed to comply with all fire and building codes for the hazardous materials release, using best available technology. A hazardous materials impacts analysis shall be required to determine potential off-site impacts and required mitigation precautions. All local, State, and Federal regulations of hazardous materials shall be followed in the construction and operation of all facilities.

#### **12.180.100 Requirements For Existing Businesses And Property Owners**

In an effort to improve the environment for new businesses and to create compatibility between established business and new businesses, existing businesses and property owners are encouraged to upgrade their facilities (buildings, landscaping, parking, etc.), to meet the full requirements of this ordinance. However, when a building permit is required to expand or modify existing facilities, where it is impossible to come into compliance with the ordinance within the commercial zones (i.e. Building exists too close to the road, narrow or shallow lot, etc.), the property must comply with the following minimum requirements prior to issuance of any permit or license. The property owner shall be ultimately responsible for any and all required improvements.

All improvements shall be completed or secured prior to any occupancy permits or business license being issued.

- A. Setbacks. The minimum setback required on lots fronting a public road may be designed to match the existing buildings but shall not be less than twenty (20) feet. A concrete curb and gutter will be installed around the setback area that shall be entirely landscaped according to the requirements of this title.
- B. Access All frontages and approaches shall be furnished with concrete curb and gutter. Only one forty (40') foot wide access drive will be allowed unless access is shared with adjoining property. These shared accesses shall be a total of not less than forty (40) feet, with a minimum of twenty (20) feet of width on each side of the property line. The total width shall not exceed eighty (80) feet. Two curb cuts for each property will only be allowed when access is shared at both adjacent property lines that are perpendicular to the frontage highway or roadway. On corner lots, no more than one access drive shall be allowed on each frontage and access shall be at property lines or at least 300 feet from the corner, on Collector Roads. On minor or secondary roads, the access shall be at property lines or at least 150 feet from the intersection. If there are questions regarding safety, a traffic study shall be done.
- C. Highway 91 Acceleration and Deceleration Lanes. On all State highways the property owner/ developer shall meet all requirements of the Utah Department of Transportation.
- D. Signage. All signage for existing business shall be modified, replaced or removed to meet the signage requirement for the Commercial Zone.
- E. General Requirements. The requirements for existing businesses shall conform to requirements of the Commercial Zone Ordinance sections as listed below:
  - 1. Procedures.
  - 2. Site landscaping.
  - 3. Outdoor lighting.
  - 4. Signs.
  - 5. Maintenance.
- F. Hardships and Added Improvements. When an existing business or property owner is able to provide evidence of a hardship to conform to the requirements of this Chapter, the City Council may modify the requirements only if one or more of the following requirements are met:
  - 1. Improvements are provided which will mitigate the adverse effects of non-conformance.
  - 2. Upgrades to the project are provided, consistent with the intent of this Ordinance.
- G. In determining if an existing business or property owner claims a hardship and is eligible for relief through this Chapter, all of the following criteria must be met:
  - 1. The hardship is not self-imposed and is a result of the actions of others.
  - 2. The result of conformance to the Ordinance will significantly reduce or prevent the use of the property for a productive endeavor and there are no means, in the opinion of the LUA and the Planning Commission, to modify the site to meet the requirements.
  - 3. Business or use of property existed before the adoption of Ordinance 96-4 on December 10, 1996 and no unauthorized improvements have been made to the property since that time.
- H. The extent of the modifications shall be determined from the following:
  - 1. Hardship to Provide
    - a. Front yard Setback. The front yard setback may be reduced by no more than 50% (not less than 10 feet) when one or more improvements are made: 1) required street trees are planted at 3" trunk diameter with automatic sprinkler system installed for entire landscape setback; 2) Access driveway is reduced to one shared access (20' maximum) at property line; 3) If on a corner lot, access is limited to one driveway from a street other than Highway 91.
    - b. Sign. One existing non-conforming sign may be retained when all improvements are made: 1) All other signs or advertisements which are not in compliance are permanently eliminated; 2) Sign remains the same and is not changed; 3) Sign was originally installed less than 10 years ago.

#### **12.180.110 Maintenance**

All owners of property shall maintain all buildings, landscaping, fences, walls, drives, parking lots, signs or other structures located upon said property in good and sufficient repair and shall keep such premises painted, windows glazed, and otherwise maintain the property in a safe and aesthetically pleasing manner. Lawns shall be kept in a mowed condition. Roads and pavements shall be kept true to line and grade and in good repair. Drainage ditches shall be kept clean and free of any obstacles.

Remedial action shall be taken by the property owner to repair and prevent soil erosion on the property. No unsightly condition will be allowed. Any undeveloped property in a development parcel shall be either maintained as cultivated agriculture, mowed regularly during the growing season, or landscaped or paved within one year from occupancy of the first phase.

Any structure, planting, driveway, parking lot, or service area that is damaged by the elements, by vandals, by vehicles, or from fire or any other cause shall be repaired as promptly as the extent of damage will permit.

Vacant buildings shall be kept locked and the windows glazed

#### **12.180.120 Time Limitations**

- A. A building permit shall be secured and construction begun in accordance with the approved final development plan within 18 months from said approval. Application may be made for not more than six (6) months extension of the time limit for commencement of construction. Use and building permits shall be issued only for those uses and buildings indicated on the approved final development plan.
- B. In the event that construction is not started within the specified time limits, the LUA shall withdraw the approval and the applicant shall resubmit his development plan as desired.
- C. All construction authorized in the approved final development plan shall be completed within three (3) years of the date construction has commenced. A plan for stage development which will require more time than the limits contained herein may be approved by the City Council, after recommendation by the LUA .
- D. In the event that construction is not completed within the time limits specified, the LUA shall review the development which has taken place and may make recommendation to the City Council to take appropriate legal action.

#### **12.180.130 Enforcement**

Each landowner within the Industrial Zone shall have the duty and responsibility of conforming to the requirements of this Chapter as administered and interpreted by the LUA .

If, in the opinion of the LUA, an owner shall fail in his duty and responsibility, the LUA may give the owner written notice of such violation. If the owner fails to properly restore any violation within the time limit specified in the notice, the LUA or its designee shall have the right and power to stop construction, withdraw the business license, and/or pursue ordinance enforcement as otherwise specified in the City Code.

#### **12.180.140 Appeals**

Any applicant and/or property owner shall have the right to appeal the action of the LUA to the City within ten (10) business days of the date of such action. Any action taken and not appealed within said ten (10) business days shall be final. When the City receives a written appeal within ten (10) business days of the time the action was taken, the City will schedule an appeal hearing, to be conducted within thirty (30) days. Action by the City Council will be final.

#### **12.180.150 Validity**

Should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part hereof other than the part specifically so declared to be invalid.

**EFFECTIVE DATE.** This ordinance will become effective upon passage by the City Council of Hyde Park, Utah.

**PASSED AND ADOPTED** by the City Council of Hyde Park City, State of Utah, this

\_\_\_\_\_ day of \_\_\_\_\_, 2012

**HYDE PARK CITY, A Municipal Corporation**

\_\_\_\_\_  
Bryan L. Cox

**ATTEST:**

\_\_\_\_\_  
Donja Wright, Recorder

#### **12.190 Open Space Zone O-1**

12.190.010 Purpose And Intent

12.190.020 Permitted Uses

12.190.030 Special Uses

12.190.040 Site Development Standards

12.190.050 Sign Regulations

#### **12.190.010 Purpose And Intent**

The Open Space Zone is specifically intended to encourage the preservation of a natural environment in an otherwise urban setting; to hold for future generations open space in which plants and animals can be protected and studied; to inhibit erection of unnecessary buildings on a flood plain, on areas of severe slope and areas of fault line and rock slides; to provide suitable areas for recreation and relaxation, and to alleviate stream pollution.

#### **12.190.020 Permitted Uses**

- A. Agriculture.
- B. Botanical or zoological garden.
- C. Cemetery.
- D. Conservation areas, botanical or zoological.
- E. Fishing ponds, private or public.
- F. Golf course.
- G. Horse raising, provided conducted in a pasture of at least one (1) acre in size and with a maximum density of three (3) horses per acre.
- H. Private park, playground or recreation area.
- I. Public park, public recreation grounds and associated buildings, but not including privately owned and commercial amusement business.
- J. Public service buildings.
- K. Wildlife sanctuaries.

#### **12.190.030 Special Uses**

The following uses shall be permitted only when authorized by a Special Use Permit as provided in Chapter Eight of this Zoning Ordinance.

- A. Accessory building and use customarily incidental to any permitted use.
- B. Public utility substation or water storage reservoir developed by a public agency.

#### **12.190.040 Site Development Standards**

- A. Minimum lot area – one acre.
- B. Minimum lot width – 150 feet.
- C. Minimum yard setbacks for structures:
  - 1. Front – 30 feet.
  - 2. Side – 20 feet each side.
  - 3. Rear – 30 feet.
- D. Building height.
  - 1. Minimum – one story.
  - 2. Maximum – two and one-half stories (2 ½) or 35 feet.

#### **12.190.050 Sign Regulations**

Any signs in the Open Space 0-1 Zone shall conform to Chapter 9, Sign Regulations, of this Ordinance.

### **12.200 Residential Estate Zone RE**

#### **12.200.010 Purpose**

#### **12.200.020 Permitted Uses**

#### **12.200.030 Conditional Uses**

#### **12.200.040 Prohibited Uses**

#### **12.200.050 Site Development Standards**

#### **12.200.060 Modifying Regulations**

#### **12.200.010 Purpose**

To provide areas for large residential estate neighborhoods of a rural character together with a limited number of livestock for the benefit and/or enjoyment of the residents of the neighborhood.

#### **12.200.020 Permitted Uses**

- A. Agriculture as defined herein.
- B. Animals and fowl for family food production. (See Chapters 2-37 and 3-6.)
- C. Household pets.
- D. Home occupations permitted:
  - 1. Artists, illustrators, writers, photographers, editors, drafters, publishers, and other similar activities where work of the business does not require clientele to come to the home for services.
  - 2. Consultants, private investigators, field representatives and other similar activities where the entire work of the business, except for record keeping and telephone, are conducted off of the premises.
  - 3. Bookkeeping and other similar activities.
  - 4. Independent computer contract work.
- E. Single family dwelling.
- F. Stable, private, provided not more than one horse per acre.
- G. Accessory buildings and uses.

#### **12.200.030 Conditional Uses**

- A. Church.
- B. Home occupations permitted with a special use permit:
  - 1. Barbers, beauticians, tax accountants, therapists, portrait photographer, home instruction of musical instruments, voice, and educational subjects and similar

- personal or professional services.
- 2. General contractors, subcontractors, independent truck haulers.

- C. Public school.
- D. Public park and playground.
- E. Public buildings.
- F. Public riding stable.
- G. Public utility.
- H. Two-family dwelling.

#### **12.200.040 Prohibited Uses**

The following home occupations are prohibited:

- A. Auto repairs.
- B. Kennels.
- C. Welding or machine shops.
- D. Major appliance or equipment repair or service.
- E. Cabinet making.
- F. Stables.

#### **12.200.050 Site Development Standards**

- A. Height regulations. No building shall exceed two and one-half stories or 35 feet in height.
- B. Lot area. 5 acres.
- C. Lot width. 375 feet.
- D. Yard setbacks.
  - 1. Front – 30 feet
  - 2. Sides – 190 and 12 feet
  - 3. Rear – 30 feet

#### **12.200.060 Modifying Regulations**

- A. Side yards. Main buildings other than dwellings shall have a minimum side yard of 20 feet and the total of the two side yards shall be 40 feet. Private garages and other accessory buildings located at least 10 feet behind the main building may have a side yard of one foot, except the street side yard of a corner lot shall be a minimum of 20 feet for main and accessory buildings.
- B. Rear yards. Private garages and accessory buildings located at least 10 feet behind the main building may have a rear yard of one foot provided that on corner lots rearing on the side yard of another lot, the minimum rear yard for all buildings shall be 10 feet.
- C. Distance between buildings. No building, structure, or enclosure housing animals or fowls shall be constructed closer to a dwelling on the same or adjacent lot than 100 feet.

#### **12.210 Appeal Authority**

##### 12.210.010 Appeal Authority

##### 12.210.020 Appointment Of Administrative Appeals Hearing Officer

##### 12.210.030 Appealing Land Use Authority's Decision

##### 12.210.040 Variances

#### **12.210.010 Appeal Authority**

The authority to hear requests for variances from the terms of the zoning ordinances and appeals from decisions applying the zoning ordinances shall be vested in the Hyde Park City Administrative Appeals Hearing Officer.

#### **12.210.020 Appointment Of Administrative Appeals Hearing Officer**

The mayor shall appoint the Administrative Appeals Hearing Officer with the advice and consent of the City Council. The Administrative Appeals Hearing Officer may serve until a replacement is appointed.

#### **12.210.030 Appealing Land Use Authority's Decision**

An applicant, a board or officer of the City, or any person adversely affected by the land use authority's decision applying any zoning ordinance may, within the time period provided in subsection (1) below, appeal that decision to the administrative appeals hearing officer by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the zoning ordinance.

- A. Time to Appeal. Any appeal, pursuant to section (C) above, must be filed in writing with the City Recorder within (14) fourteen calendar days of the issuance of the written decision applying the zoning ordinance.
- B. Time for Hearing Appeal. The Administrative Appeals Hearing Officer should hear the appeal within 30 (thirty) days of the date the appeal was filed.
- C. Filing Fee. Upon filing of any appeal or application to the City Recorder, the appellant or applicant shall pay to the City a fee prescribed by the City Council. The Appeal Authority shall consider no appeal or application unless and until such fee has been paid.
- D. Written Statement Setting Forth Theories of Relief Required. The appellant shall deliver to the Administrative Appeals Hearing Officer and all other participants, five business days prior to the hearing, a written statement setting forth each and every theory of relief he intends to raise at the hearing, along with a brief statement of facts in support thereof.
- E. Condition Precedent to Judicial Review. No person, board or officer of the City may seek judicial review of any decision applying the zoning ordinance until after

challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the District Court unless it was timely and specifically presented to the Administrative Appeals Hearing Officer.

- F. Standard of Review and Burden of Proof on Appeal. The Administrative Appeals Hearing Officer shall, on appeal, presume that the decision applying the zoning ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.
- G. Due Process Rights. The Administrative Appeals Hearing Officer shall respect the due process rights of each participant.
- H. Direct Appeal to District Court. Notwithstanding the forgoing, decisions of the City Council relative to adopting or amending the general plan or any other land use ordinance may only be appealed directly to the district court.

#### **12.210.040 Variances**

Any person or entity desiring a waiver or modification of the requirements of a zoning 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 Administrative Appeals Hearing Officer for a variance from the terms of the ordinance.

- A. The Administrative Appeals Hearing Officer may grant a variance only if:
  - 1. 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;
  - 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
  - 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
  - 4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
  - 5. The spirit of the zoning ordinance is observed and substantial justice done.
    - a. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (D)(1), the Administrative Appeals Hearing Officer may not find an unreasonable hardship unless the alleged hardship:
      - (1) Is located on or associated with the property for which the variance is sought; and
      - (2) Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
    - b. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (D)(1), the Administrative Appeals Hearing Officer 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 (A)(1), the Administrative Appeals Hearing Officer may find that special circumstances exist only if the special circumstances:
      - (1) Relate to the hardship complained of; and
      - (2) Deprive the property of privileges granted to other properties in the same zone.
- B. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- C. Variances run with the land.
- D. The appeal authority may not grant a use variance.
- E. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
  - 1. Mitigate any harmful affects of the variance; or
  - 2. Serve the purpose of the standard or requirement that is waived or modified.

#### **12.220 Planned Professional**

- [12.220.010 Purpose And Intent](#)
- [12.220.020 Permitted Uses In A Professional Zone](#)
- [12.220.030 Special Regulation Applicable To Professional Zone](#)
- [12.220.040 Special Regulation Applicable To Professional Zone](#)
- [12.220.050 Sign Regulations](#)
- [12.220.060 Site Development Standards](#)
- [12.220.070 Special Parking Requirements](#)
- [12.220.080 Protection Of Adjoining Residential Properties](#)
- [12.220.090 Site Lighting](#)
- [12.220.100 Accessory Caretaker Unit](#)
- [12.220.110 Procedures](#)
- [12.220.120 Time Limitations](#)

#### **12.220.010 Purpose And Intent**

The intent of the Planned Professional Zone is to permit the establishment of an area for various professional services and specialized retail services which are in harmony with adjacent residential zones. Special emphasis is given to harmonious hours of operation, landscaping and design standards. This zone serves as a buffer between all residential zones and more intensive commercial zones. The protective standards contained in this Chapter are intended to minimize any adverse effect of the Planned Professional Zone on nearby property by achieving maximum compatible integration of land uses by preserving the aesthetic qualities of the area and to provide a safe and efficient use of the Planned Professional Zone itself.

#### **12.220.020 Permitted Uses In A Professional Zone**

The following uses shall be permitted in Planned Professional Zone subject to the requirements and limitations of these regulations.

- A. Employment Uses.
  - 1. Offices, administrative, business or professional.
  - 2. Research and development.
- B. Commercial Uses.



1. Banks or other financial institutions.
2. Health and fitness center.
3. Offices, medical and dental.
4. Adult day care center.
5. Business service establishment.
6. Personal service establishments.
7. Retail sales establishments.
8. Restaurants.
9. Convenience food stores.
10. Art gallery.

C. Public, Civic, Institutional Uses

1. Educational institution.
2. Public use, excluding schools.
3. Park, Neighborhood.
4. Community center.
5. Cultural center.

**12.220.030 Special Regulation Applicable To Professional Zone**

The following uses shall be permitted only when authorized by a Special Use Permit obtained as provided in Chapter 8 of this Ordinance

- A. Government buildings or uses, non-industrial
- B. Church, synagogue, temple or mosque
- C. Museum
- D. Nursery school
- E. Businesses that have operating hours beyond 7:00 a.m. to 7:00 p.m.

**12.220.040 Special Regulation Applicable To Professional Zone**

All development in the Professional Zone shall conform to the supplemental regulations of Chapter 16, Landscaping and Chapter 17, Planned Commercial Zone. Permitted and Special Uses shall be permitted only when the following conditions are complied with:

- A. All uses shall be free from objection because of odor, dust, smoke or noise.
- B. Sexually oriented businesses are prohibited.

**12.220.050 Sign Regulations**

All signs in the professional zone shall conform to Chapter 9, Sign Regulations, of this Ordinance. In addition, maximum height of freestanding signs shall not exceed five (5) feet and maximum area of freestanding signs shall not exceed 60 square feet.

**12.220.060 Site Development Standards**

- A. Minimum lot area: None
- B. Maximum lot area: None
- C. Minimum yard setbacks.
  1. Front: 40 feet for main building from any public road
  2. Side: Must meet fire code regulations but a minimum of 10 feet adjoining a residential zone
  3. Side facing a corner lot: 30 feet
  4. Rear: none, except 10 feet adjoining a residential zone
- D. Building height
  1. Minimum—one story
  2. Maximum—35 feet
  3. Lot coverage. Coverage for both buildings and paved areas (parking, loading and circulation) shall not exceed 90 percent, thereby reserving a minimum of 10 percent for landscaped areas after completion of any future expansion. Landscaping shall occur in the front setback as required by Chapter 16, Landscape Ordinance. The landscaped amount shall be a minimum of 40 feet, or 10% of the lot, whichever is greater. Existing developments may expand only to the extent of the coverage limits above. If such existing developments currently exceed the above coverage limits, expansion shall not occur.
- E. Architectural Design and Materials. In addition to requirements stated in Chapter 17 Planned Commercial Zone, all exterior finishes shall be of the type used in residential construction, such as brick, stucco or siding.
- F. Site layout. Buildings shall be located on the property to face the principle highway or roadway.
- G. Other site development standards as listed in Chapter 17, Planned Commercial Zone. Sign regulations are given in Chapter 9.

**12.220.070 Special Parking Requirements**

Notwithstanding the provisions of Chapter 7 of the Ordinance, there shall be provided off-street parking facilities in the ratio of not less than five off-street parking stalls per 1,000 square feet of gross lease area in the building. This regulation is supplemented with Chapter 17, Section 17-8. Parking Requirements.

**12.220.080 Protection Of Adjoining Residential Properties**

Where a Planned Professional development adjoins any lot in any residential zone, there shall be provided and maintained along such property line either a wooden, vinyl or

ornamental masonry fence of not less than six feet in height and not more than seven feet in height, provided, however, that such fence shall be three and one-half feet in height along the property line which bounds the front yard of adjoining residential lots. At least fifty (50) percent of such wall should be maintained with a minimum of six foot wide planting strip and landscaped with trees and scrubs. Chapter 16, Landscaping Ordinance supplements this requirement.

#### **12.220.090 Site Lighting**

Lighting shall be in compliance with Chapter 17, Planned Commercial Zone section 17-7-12 with the exception that lighting may not exceed 1 candlepower.

#### **12.220.100 Accessory Caretaker Unit**

- A. A caretaker facility is allowed as a conditional use in the commercial and industrial zones provided the following conditions are met:
1. Only one dwelling shall be allowed per lot (land parcel).
  2. Dwelling units must be located within the structure of principal use.
  3. Only one family may occupy the dwelling unit.
  4. Dwelling unit cannot be rented or leased but may be considered part of the compensation of the caretaker. The caretaker must be either the owner or an employee of the property owner.
  5. A minimum of two parking spaces must be dedicated for the caretaker facility.
  6. The Business Owner is responsible to submit to the City a plan which addresses the safety of all residents of the caretaker apartment with special emphasis on the safety of children.
  7. The special use permit for accessory caretaker apartments will be reviewed each year with the renewal of the business license.
  8. A fee to cover public hearing notice, publication and building inspection costs must accompany application. See current fee schedule.

#### **12.220.110 Procedures**

Procedures for development in the Planned Professional Zone shall comply with Chapter 17.

#### **12.220.120 Time Limitations**

- A. A building permit shall be secured and construction begun in accordance with the approved final development plan within twelve (12) months from said approval. Application may be made for not more than six (6) months extension of the time limit from commencement of construction. Use and building permits shall be issued only for those uses and buildings indicated on the approved final development plan.
- B. In the event that construction is not started within the specified time limits, the Planning Commission shall withdraw the approval and the applicant shall resubmit his development plan as desired.
- C. All construction authorized in the approved final development plan shall be completed within three (3) years of the date construction has commenced. A plan for stage development which will require more time than the limits contained herein may be approved by the City Council, after recommendation by the LUA and the Planning Commission.
- D. In the event that construction is not completed within the time limits specified, the Planning Commission shall review the development which has taken place and may make recommendation to the City Council to take appropriate legal action.

It is also assumed (and stated) that this chapter falls under the guidelines of Chapter 9. This chapter should have tables A, B and D updated to reflect the requirements of this zone.

#### **12.230 Airport Overlay**

- 12.230.010 Purpose
- 12.230.020 General Provisions
- 12.230.030 Definitions
- 12.230.040 Airport Zoning Commission
- 12.230.050 Airport Board Of Adjustment
- 12.230.060 Schedule Of Uses
- 12.230.070 Airport Master Plan
- 12.230.080 Airport Zones
- 12.230.090 Regulations
- 12.230.100 Notification
- 12.230.110 Airport Development Standards

#### **12.230.010 Purpose**

The Airport Limitation Overlay Zones are intended to establish standards assuring the long range, safe and beneficial use of the Logan-Cache County Airport as it relates to the Hyde Park City Zoning Ordinances.

#### **12.230.020 General Provisions**

- A. These regulations reinforce specific provisions in the Logan-Cache Airport Master Plan (August 11, 1992) and Cache Countywide Comprehensive Plan (January 27, 1998), and the Hyde Park City General Plan, each plan as amended.
- B. The boundary of any officially recognized Airport Limitation Overlay Zone shall be as it appears on a map and/or other documents approved by the Hyde Park City council.

#### **12.230.030 Definitions**

As used in this title, unless the context otherwise requires:

AIRPORT: The Logan-Cache Airport or any area of land designated and used for the landing and taking off of aircraft.

**AIRPORT ELEVATION:** The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is four thousand four hundred fifty seven feet (4,457) MSL as of the effective date hereof.

**AIRPORT HAZARD:** Any structure or use of land, which actually or potentially obstructs the airspace required for the safe flight of aircraft in landing or taking off at an airport.

**APPROACH SURFACE:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 23-9 of this chapter. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

**APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES:** These zones are set forth in section 23-8 of this chapter.

**CONICAL SURFACE:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

**FAR PART 77:** Federal aviation administration regulations pertaining to height and obstruction criteria within prescribed distances from an airport as these regulations currently exist and as may be amended from time to time. Part 77 regulations may also affect lands located outside the boundaries of the defined airport influence area.

**HAZARD TO AIR NAVIGATION:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HEIGHT:** For the purpose of determining the height limits in all zones set forth in subsection 23-9D of this chapter and shown on the zoning map, the datum shall be the mean sea level (MSL) elevation unless otherwise specified.

**HELIPORT PRIMARY SURFACE:** The primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

**HORIZONTAL SURFACE:** A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**Ldn:** Yearly day-night average sound level.

**LARGER THAN UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft.

**MSL:** Mean sea level.

**NONCONFORMING USE:** Any preexisting structure, object or natural growth, or use, which is inconsistent with the provisions of this chapter or an amendment thereto.

**NONPRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight in nonprecision instrument approach procedure has been approved or planned. It also means a runway for which a nonprecision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**OBSTRUCTION:** Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in subsection 23-9 D of this chapter.

**PERSON:** An individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**PRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), a precision approach radar (PAR), a global positioning system (GPS), a transponder landing system (TLS), or other systems providing both horizontal and vertical guidance. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**PRIMARY SURFACE:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in subsection 23-8 E of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**STRUCTURE:** An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

**TRANSITIONAL SURFACES:** These surfaces extend outward at ninety-degree (90°) angles to the runway centerline and the runway centerline extended at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand feet (5,000') measured horizontally from the edge of the approach surface and at ninety-degree (90°) angles to the extended runway centerline.

**TREE:** Any object of natural growth.

**UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

**VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedures.

#### 12.230.040 Airport Zoning Commission

- A. Commission Established: The Hyde Park Land Use Authority is designated as the "Hyde Park Airport Zoning Commission" as prescribed in Utah Code Annotated section 72-10-405. In this Chapter and State Law, any references to the "Airport Zoning Commission" shall also mean the Hyde Park Land Use Authority. If the Land Use Authority is empowered in the Hyde Park Zoning Ordinance to take actions that are duties of the Airport Zoning Commission as prescribed by Utah Law, the Land Use Authority shall be presumed to be functioning as the Airport Zoning Commission.
- B. Duties: The airport zoning commission shall recommend boundaries of the various zones to be established and the regulations to be adopted pertaining to any airport hazard area and to perform such other duties as may be assigned to it by Hyde Park City Council or Utah law.

#### 12.230.050 Airport Board Of Adjustment

The Hyde Park Appeal Authority is designated as the "airport board of adjustment" as prescribed in Utah Code Annotated section 72-10-408. In this Chapter and state law, any references to the "airport board of adjustment" shall mean the Hyde Park Appeal Authority.

If the Hyde Park Appeal Authority is empowered in the Hyde Park Zoning Ordinance to take actions that are duties of the airport board of adjustment as prescribed in Utah law, the Hyde Park Appeal Authority shall be presumed to be functioning as the airport board of adjustment.

#### 12.230.060 Schedule Of Uses

The following table indicates the uses and conditions required of those uses within the five (5) designated zones for the airport:

##### **SCHEDULE OF USES**

<b>Airport Overlay Zone Land Use Description</b>	<b>Airport Influence Area (AIA)</b>	<b>Traffic Pattern Zone (TPZ)</b>	<b>Approach Zone (AZ)</b>	<b>Inner Approach Zone (IAZ)</b>	<b>65 Ldn Noise Area (NA)</b>
<b>Residential:</b>					
Single-family, accessory Apartments, residential facilities for elderly/handicapped	C <sup>6</sup>	C <sup>4</sup>	C <sup>3,4</sup>	X	X
<b>Public:</b>					
Schools, libraries, churches	C <sup>6</sup>	C <sup>4</sup>	C <sup>3,4</sup>	X	X
Parking, cemeteries	P	P	P	C <sup>5</sup>	C <sup>2,5</sup>
<b>Commercial and industrial:</b>					
Offices, retail trade, service commercial, wholesale trade, warehousing, light industrial, general manufacturing, utilities, extractive industry	P	C <sup>6</sup>	C <sup>4</sup>	C <sup>1</sup>	C <sup>1</sup>
<b>Agricultural and recreation:</b>					
Cropland	P	P	P	P	P
Livestock breeding, parks, playgrounds, zoos, golf courses, riding stables, water recreation	P	P	P	P	C <sup>2</sup>
Outdoor spectator sports	P	C <sup>3</sup>	C <sup>3,4</sup>	X	X
Amphitheaters	C	C <sup>3</sup>	X	X	X
Open Space	P	P	P	P	P

Notes:

1. If allowed, aviation easement and disclosure must be required as a condition of development.
2. Any structure associated with uses allowed in the 65 Ldn noise contour must be located outside the 65 Ldn noise contour.
3. If no reasonable alternative exists, use should be located as far from extended centerline as possible.
4. If allowed, disclosure of airport proximity must be required as a condition of development. An aviation easement should be considered based on proximity to runway centerline.
5. Transportation facilities in the 65 Ldn noise contour (i.e., roads, railroads, waterways) must comply with part 77 requirements.
6. Disclosure of airport proximity should be required as a condition of development.



#### 12.230.070 Airport Master Plan

All uses and regulations pertaining to the airport limitation overlay zone shall be in compliance with and subject to the provisions of the airport master plan, airport layout plan and noise contour map as adopted by the Logan-Cache Airport Authority Board or as amended and is incorporated into this chapter by reference as it pertains to airport land uses.

#### 12.230.080 Airport Zones

In order to carry out the provisions of this Chapter, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces and Conical Surfaces as they apply to the Logan-Cache Airport. Such zones are shown on the Logan-Cache Airport "part 77" airspace drawing consisting of two (2) sheets, prepared by Armstrong Consultants, and dated March, 1997, which are attached to the ordinance codified in this Chapter, and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Airport Influence Area (AIA): An area within the incorporated portions of Hyde Park City, proximate to an airport, which is recognized by the Hyde Park City Council as containing lands which might be affected by noise and/or safety hazards associated with aircraft operations associated with Logan-Cache airport. The AIA extends from the airport to the outer edge of the conical surface.
- B. Traffic Pattern Zone (TPZ): This zone extends from the airport to the outer edge of the horizontal surface.
- C. 65 Ldn Noise Area (NA): The area within the sixty-five (65) decibel yearly day-night average sound level.
- D. Inner Approach Zone (IAZ): The inner edge of this zone coincides with the width of the primary surface of runway 17/35 and is one thousand feet (1,000') wide. It extends at a uniform width of one thousand feet (1,000') to a horizontal distance of five thousand feet (5,000') from the primary surface. The centerline of the inner approach zone is a continuation of the centerline of runway 17/35.
- E. Approach Zone (AZ): The area within the FAR "part 77" approach surface for each runway.
  - 1. Runway Precision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet (1,000') wide. The approach surface expands outward uniformly to a width of sixteen thousand feet (16,000') at horizontal distance of fifty thousand feet (50,000') from the primary surface. The centerline of the approach zone is the continuation of the centerline of the runway. This is the planned condition at the approach end to runway 17.
  - 2. Runway Non-precision Instrument Approach Zone (Larger Than Utility Aircraft): The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet (1,000') wide. The approach zone expands outward uniformly to a width of three thousand five hundred feet (3,500') at a horizontal distance ten thousand feet (10,000') from the primary surface. Its centerline is the continuation of the centerline of the runway. This is the condition at the approach end to runway 35.
  - 3. Visual Runway Approach Zone (Larger Than Utility Aircraft): The inner edge of this approach zone coincides with the width of the primary surface and is five hundred feet (500') wide. The approach surface expands uniformly to a width of one thousand five hundred feet (1,500') at horizontal distance of five thousand feet (5,000') from the primary surface. The centerline of the approach zone is a continuation of the centerline of the runway. This is the condition at the approach end to runway 10 and 28.
- F. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
- G. Horizontal Zones: The horizontal zone is established by swinging arcs of ten thousand feet (10,000') radii from the center of each end of the primary surface of runway 17/35 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- H. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of four thousand feet (4,000').

#### **12.230.090 Regulations**

- A. Conforming Uses Only: All uses in the airport limitation overlay zones shall be subject to the regulations of this chapter and prescribed development standards within the Airport Master Plan as amended.
- B. Creation Of Airport Hazards Prohibited: No variance, permit or use shall be allowed in the airport hazard area that would create or enhance an airport hazard.
- C. Use And Operational Limitations Within Airport Limitation Overlay Zones: No use shall be permitted which:
  - 1. Creates or tends to create electrical interference to navigational devices and communication between aircraft and airports.
  - 2. Creates or tends to create gas, smoke, dust, glare or other visual hazards in the atmosphere around airports or in the airport hazard area.
  - 3. Creates or tends to create structures that interfere with aircraft safety.
  - 4. Creates or tends to create any type of hazard for the airport that would inhibit or constrain safe and acceptable airport operations.
- D. Height Limitation: Except as exempted in subsection E of this section or otherwise provided in this title, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow, in any zone created by this title to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:
  - 1. Runway precision instrument approach zone: Slopes fifty feet (50') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet (10,000') and continues on for a distance of forty thousand feet (40,000') at a slope of forty feet (40') outward for each foot upward along the extended runway centerline. (Approach to runway 17.)
  - 2. Runway non-precision instrument approach zone (larger than utility aircraft): Slopes thirty four feet (34') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet (10,000') along the extended runway centerline. (Approach to runway 35.)
  - 3. Visual runway approach zone: Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5,000') along the extended runway centerline. (Approach to runways 10 and 28.)
  - 4. Transitional zones: Slope seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty feet (150') above the airport elevation. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand feet (5,000') measured at ninety degree (90°) angles to the extended runway centerline.
  - 5. Horizontal zone: Established at one hundred fifty feet (150') above the airport elevation or at a height of four thousand six hundred seven feet (4,607') above mean sea level (MSL).
  - 6. Conical zone: Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation (4,607 feet MSL) and extending to a height of three hundred fifty feet (350') (4,807 feet MSL) above the airport elevation.
  - 7. Within ten thousand feet (10,000') of the centerline of runway 17/35 the following height limitation shall apply:
    - a. From five thousand feet (5,000') of centerline of runway, the height of all structures, uses and trees shall not exceed fifty feet (50') above the contour of the land on which it is proposed to be located.

- b. From five thousand feet (5,000') to ten thousand feet (10,000') of centerline of runway, the height of all structures, uses and trees shall not exceed seventy five feet (75') above the contour of the land on which it is proposed to be located.
- c. For structures or use from five thousand feet (5,000') to ten thousand (10,000) of centerline of runway, may apply to the City planning commission to exceed the seventy five feet (75') height limitation if the structure or use does not pose a threat based on the conditions outlined in subsection C of this section.

**E. Exemptions To Height Limitation:**

1. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
2. Structures up to and including thirty five feet (35') in height above the ground level at its site where the ground elevation at its site is less than or equal to thirty five feet (35') below the height limitations defined in subsection D of this section, and is beyond all reasonable doubt that the structure will not adversely affect safety in air navigation. If in doubt, submission of FAA Form 7460-1, Notice Of Proposed Construction (as described in section 23-10 of this chapter) shall be used to determine its effect on safety in air navigation.

**12.230.100 Notification**

A. Required: Except as provided in subsection B of this section, and in addition to all other local notification and permitting requirements, each person who proposes any of the following construction or alteration shall complete and submit an FAA form 7460-1, notice of proposed construction, to the local jurisdiction and to the federal aviation administration in accordance federal aviation regulation part 77, Object Affecting Navigable Airspace:

1. Any construction or alteration of more than two hundred feet (200') in height above the ground level at its site.
2. Any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of one hundred to one (100:1) for a horizontal distance of twenty thousand feet (20,000') from the nearest point of the nearest runway at the Logan-Cache Airport.

**B. Exemptions From Notification:**

1. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
2. Any antenna structure of twenty feet (20') or less in height, except one that would increase the height of any antenna structure.

C. Time Of Notice: The notice required under subsection A of this section must be submitted at least thirty (30) days before the earlier of the following dates:

1. The date the proposed construction or alteration is to begin.
2. The date an application for a construction permit is to be filed.

**12.230.110 Airport Development Standards**

The Hyde Park City Council recognizes that the Cache County Council may adopt by resolution or enact by ordinance uniform development standards and procedures for facilities within the airport property itself, because the airport is not located within Hyde Park City boundaries. If amendments are made to boundary lines and any airport property is then within the corporate limits of Hyde Park City, the Hyde Park City Council shall adopt appropriate ordinances for construction in that area.

**EFFECTIVE DATE.** This ordinance will become effective immediately upon its adoption by the City Council.

**ADOPTED AND APPROVED** by the HYDE PARK CITY COUNCIL this 9<sup>th</sup> day of November 2011.

**HYDE PARK CITY**, a municipal corporation

\_\_\_\_\_  
Bryan L. Cox, Mayor

**ATTEST:**

\_\_\_\_\_  
Donja J. Wright, Recorder

**CERTIFICATE OF PUBLICATION OF ORDINANCE**

I, Donja J. Wright, the duly appointed and acting Recorder for the City of Hyde Park, Utah, hereby certify that a brief summary of the foregoing Hyde Park City Ordinance 2011-15-An Ordinance Establishing the Airport Limitation Overlay Zones in a newspaper of general circulation, that paper being the, The Herald Journal on October 28, 2011.

Dated this the 9<sup>th</sup> day of November 2011.

\_\_\_\_\_  
Donja J. Wright – City Recorder

**12.240 Group Dwelling**

**2010- 06 -1. Group dwellings.** Residential Facilities for Elderly Persons, Persons with a Disability, Assisted Living Facilities, Dormitory, Fraternity or Sorority, Nursing Care Facilities, Homes Providing Residential Care for Minors and Group Home for Homeless or Transients are permitted by conditional use in all Zones; subject to the

following conditions:

(A) Purpose.

The purpose of this ordinance is to ensure that Group Dwellings do not have an adverse impact on the character of adjacent neighborhoods and to ensure that issues of public safety, traffic and parking are mitigated. Permitting of these facilities is governed by the zoning ordinance in general and this chapter specifically. The intent of these regulations is to avoid discrimination in housing against any person regardless of age or disability in compliance with the Utah Fair Housing Act and the Federal Fair Housing Act. It is intended that these municipal regulations locate group dwellings where the site can accommodate traffic needs of the facility and have adequate off-street parking, where the facility is designed to be compatible with the character of the neighborhood, and where these types of facilities are consistent with the activities otherwise permitted in the zone.

(B) Group Dwellings Regulated By Zoning Ordinance:

Hyde Park City's Zoning Ordinance allows for a variety of different Group Dwellings but in most cases such dwellings are regulated differently from a single-family dwelling unit. A Group Dwelling is a residential facility where a group of unrelated individuals live together. The various types of group dwellings are either permitted, not permitted or allowed by conditional use permit, in accordance with the provisions this Ordinance and the City Zoning Ordinance. Hyde Park City defines several types of Group Dwellings namely: 1) Boarding or Rooming House; 2) Residential Facility for Elderly; 3) Residential Facility for Persons with a Disability; 4) Dormitory, Fraternity, or Sorority; 5) Assisted Living Facility; 6) Nursing Care Facility; 7) Home Providing Residential Care for Minors; and 8) Group Home for Homeless or Transients. Only such Group Dwellings as are specifically authorized in this Ordinance and the City Zoning Ordinance, as permitted or conditional uses shall be allowed. All other Group Dwellings are prohibited.

(C) Maximum Residents

The maximum number of residents allowed in a group home will be as follows:

Residential Zones – six resident clients

Planned Professional Zone – 20 resident clients

Commercial Zone – based on State restrictions

Industrial Zone – based on State restrictions

(D) Zoning Clearance and Certification:

No Group Dwelling may operate in Hyde Park City without first obtaining zoning clearance to do so. Zoning clearance shall be required prior to the issuance of a building permit for any new construction or building modifications for a Group Dwelling and if a conditional use permit (CUP) is required, prior to or concurrently with the CUP application being submitted. For existing structures, zoning clearance shall be required prior to, or concurrently with the business license application being submitted if operating as a business or prior to occupying the facility as a group dwelling if not operating as a business. To be issued zoning clearance for the Group Dwelling by the Planning Commission the person or entity operating the Group Dwelling Zoning Clearance shall:

(1) Comply with all applicable state and local land-use and zoning ordinances and Americans with Disabilities Act (ADA) as applicable.

(2) Provide a certified copy of any licenses or the filed application for a license issued by the Department of Human Services, the Department of Health, or the City (including a business license) if a license is required for the type of Group Dwelling being authorized.

(3) If the facility is for treating substance abuse patients, provide a security plan satisfactory to local law enforcement authorities and provide an emergency response/fire escape plan satisfactory to the local fire marshal for the facility being authorized.

(4) Certify in a sworn affidavit submitted with the Application for Zoning Clearance, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a substantial risk or direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others. Such affidavit shall be supplemented and updated not fewer than one hundred fifty (150) days nor more than one hundred ninety (190) days from the date of issuance of the initial business license and at the time of each application for renewal of the business license, or no later than the 1st day of each January after the Zoning Clearance was issued in the event no business license is required for the facility.

(5) For a Residential Facility for Persons with a Disability, the person or entity operating the facility shall certify in a sworn affidavit submitted with the application for zoning clearance that all current residents/clients qualify and that all future residents/clients will each qualify prior to admission to the facility as a person with a disability as defined within the Americans with Disabilities Act. The affidavit shall also include a certification that placement in the facility must be on a voluntary basis, and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility, and that proof of adequate public liability insurance coverage be provided. Voluntary placement of a minor in the facility by a parent or parents, or by the state in its capacity as guardian for minor children, who are not subject to criminal penalties, shall be considered placement on a voluntary basis for the purposes of this section.

(6) For a Residential Facility for Elderly Persons, the person or entity operating the facility shall certify in a sworn affidavit submitted with the application for a zoning clearance that all current residents /clients qualify and that all future residents/clients will qualify prior to admission to the facility as persons sixty (60) years of age or older.

(7) Required: Upon receipt of an application properly filed within the City and upon payment of the nonrefundable application fee, the City clerk shall send photocopies of the application to the North Park Police Department and any other City agencies responsible for enforcement of health, fire and building codes and other applicable laws. Each department or agency shall promptly conduct an investigation of the applicant, the application and the proposed business in accordance with its responsibilities under law and as set forth in this chapter. The City shall complete such investigations within twenty (20) business days of receipt of the application. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date and sign their approval or disapproval, and in the event it disapproves, state the reasons therefore. The North Park Police Department shall not be required to approve or disapprove applications. The applicant (and in the case of an entity applicant, each partner, member, manager, stockholder, or any other owner, any of whom owns a five percent 5% or greater interest in the entity, each



officer and director), and each employee, shall be required to obtain and provide to the City, with the application, an original or certified copy, dated no older than 120 days prior to the date of the application, of: (a) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; (b) a verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history containing any of the prohibited acts or events stated in the next section exists for the applicant, or (c) an equivalent type criminal history report from the state or other jurisdiction of residence for each individual applicant, as required by this section.

(8) For purposes of this Ordinance, "Criminally Convicted" means the final entry of conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement and "Final Civil Judgment" means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

The application may be denied by the City in the event a personal criminal history report

shows any of the following prohibited acts, events or status:

(a) The applicant has been Criminally Convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.

(b) Criminal charges currently pending against the applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.

(c) The applicant has been Criminally Convicted of a felony within the last ten (10) years;

(d) The applicant has been incarcerated in a state or federal prison, or equivalent, foreign penal facility, within the past five (5) years;

(e) The applicant has been Criminally Convicted of a misdemeanor within the past (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property.

(f) A Final Civil Judgment been entered against the applicant within the last five (5) years indicating that: (i) the applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);

(g) The applicant is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to tracking device;

(h) The applicant has an outstanding arrest warrant from any jurisdiction; or

(i) The applicant is currently subject to a protective order based on physical or sexual abuse issued by a court or competent jurisdiction.

(9) Termination: A use permitted by this Ordinance is nontransferable and shall terminate if any of the following occur:

(a) A facility is devoted to a use other than a Residential Facility for Persons with a Disability, a Residential Facility for Elderly or other Group Dwelling specifically licensed, permitted and/or allowed by this Ordinance or the City Zoning Ordinance;

(b) The facility fails to comply with the requirements of the issued permits and/or licenses, this section or other Hyde Park City Ordinances; or

(c) The license or certification issued by the Department of Human Services, other applicable state or federal agency or the City (including a business license) terminates or is revoked.

(10) Additional Design and Construction Standards: In order for new construction to reflect the design and character of the existing neighborhood, the following standards shall be met:

(a) The roof design of the proposed or remodeled structure shall be a pitched roof of the same slope as the most common roof slope of the homes within the surrounding area of the proposed building; and

(b) The type of exterior materials shall be of traditional home finish materials of brick, siding, rock, stucco, etc. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color, and/or their combination being uncharacteristic of the other buildings in the neighborhood.

(c) An existing structure may not be utilized as a residential facility unless no structural or landscaping alterations that change the structure's residential character are required for the residential facility to operate. Any alterations to the structure, landscape, or site will require the approval of the appropriate land use authority and must be completed in compliance with this section.

(d) Parking requirements will be addressed with the conditional use permit, based on the type of group home and in accordance with Chapter 7; Parking and Loading Spaces.

(E) Reasonable Accommodations:

None of the conditions in this ordinance shall be interpreted to limit reasonable accommodations necessary to the establishment or occupancy of a residential facility for person(s) with a disability.

(1) Application: Any person or entity who wishes to request a reasonable accommodation shall make application to the Planning Commission. Said application shall require, in writing, the name, mailing address, and phone number of the applicant; the nature and extent of the disability; an exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation; the applicant's proposed reasonable accommodation(s); a statement detailing why the requested accommodation is reasonable and necessary, in order to afford handicapped persons equal opportunity to use and enjoy housing; the physical address of the property where the applicant intends on living; and the current use of the residence, if new construction is not proposed, using the definitions in this ordinance.

(2) Decision: The Planning Commission shall render a decision on each application for a reasonable accommodation within ninety (90) days. The decision shall be based on evidence of record demonstrating all of the following:

(a) The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with disability.

(b) That but for the accommodation, one (1) or more persons with a disability will be denied an equal opportunity to enjoy housing within the community.

(c) That equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.

(3) Appeal: Any person adversely affected by a final decision of the

Planning Commission regarding a request for reasonable accommodation may appeal that decision to the Hyde Park City Appeal Authority as provided in Chapter 21-3 of Hyde Park Zoning Code.

2. New Definitions shall be added to the City Zoning Ordinance in alphabetical sequence, and shall apply to the provisions of this Ordinance, as follows:

A. Residential Facility for Elderly Persons. (Utah Code Ann. 10-9a-519

applies) A facility which is not run as a business but a fee may be charged residents for food or for actual and necessary costs of operation and maintenance of the facility. It shall (a) be owned by one of the residents or by an immediate family member of one of the residents or a facility for which the title has been placed in trust for a resident; (b) be consistent with existing zoning, and (c) be occupied on a 24-hour basis by eight or fewer elderly persons (60 years of age or older) in a family-type arrangement. Residents must be capable of independent living.

A. Residential Facility for Persons with a Disability. (Utah Code 10-9a-520

applies) A facility for persons with a disability which shall (a) be consistent with existing zoning; (b) be occupied on a 24-hour-per-day basis by five or fewer persons with a disability in a family-type arrangement under the supervision of a house family or manager; (c) conform to all applicable standards and requirements of the Utah Department of Human Services; and (d) be licensed as such by the Utah Department of Human Services.

C. Assisted Living Facility: A residential facility, licensed by the state of Utah, with a homelike setting that provides an array of coordinated support personnel and healthcare services, available twenty four (24) hours per day, to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include: 1. Specified services of intermediate nursing care; 2. Administration of medication; and 3. Support services promoting resident's independence and self-sufficiency. Such a facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability. D. Dormitory, Fraternity or Sorority. Any boarding or rooming house sponsored by and associated with a school, university or a legitimate fraternity or sorority.

A. Nursing Care Facility shall be defined and stated in Section 26-35a-103, Utah Code Annotated, 1953, as amended.

A. Home Providing Residential Care for Minors. A group care facility providing "substitute care" (as defined in Utah Code 62A-4a-101) for no more than eight (8) minors who are in State custody through the Utah Department of Human Services (DHS includes Division of Family Services and Division of Youth Corrections). The facility must be licensed as such by the Utah Department of Human Services.

A. Home for Homeless or Transients. A residence for two families or more on a short term basis for those persons determined to need temporary housing due to inability to pay or to ensure the health and/or safety of the individual(s). Residence would normally be operated by a governmental, religious, non-profit or philanthropic organization.

3. CONFLICT. To the extent of any conflict between this ordinance and any other Hyde Park City ordinance(s) or regulation(s), the provisions of this Ordinance shall be controlling.

4. SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

5. EFFECTIVE DATE. This ordinance shall become effective upon adoption and first posting as provided by law.

## **13 Subdivision Ordinance**

[13.10 Title, Authority, And Purpose](#)

[13.20 Definitions](#)

[13.30 Procedures, Sketch Plan, Preliminary Plat, Final Plat And Construction Drawings](#)

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### **13.10 Title, Authority, And Purpose**

[13.10.010 Title](#)

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[13.10.060 Transition Rules](#)

#### **13.10.010 Title**

This Ordinance shall be known and referred to as the “Subdivision Ordinance of Hyde Park, Utah” or the “Subdivision Ordinance.” All references to the various provisions of the Ordinance shall be considered as references to correspondingly numbered sections and chapters of Title 12 of the Hyde Park City Code.

#### **13.10.020 Authority**

The City Council of Hyde Park City adopted this Subdivision Ordinance pursuant to the Municipal Land Use Development and Management Act, Title 10, Chapter 9a, of the Utah Code Annotated and such other authorities and provisions of Utah statutory and common laws that are relevant and appropriate.

#### **13.10.030 Purpose And Intent**

The purpose of this Subdivision Ordinance is to promote the health, safety and general public welfare of the City and the inhabitants thereof, by establishing standards for the development of residential projects within the City of Hyde Park. Some of these developments possess natural or manmade hazards, natural resource amenities, or other qualities of benefit to the City. To this end it is necessary to impose special regulations to minimize vegetation removal, soil and slope instability, loss of designated wetlands, erosion and water runoff, impairment of aesthetic qualities, including scenic vistas, to retain open space, to keep important agricultural lands in production or to maintain recreational access corridors within lineal natural drainage systems, and to carry out the purposes of The Municipal Land Use Development and Management Act, Title 10, Chapter 9a, of the Utah Code Annotated and other relevant statutes.

#### **13.10.040 Effect Of Adopted Master Plans Or General Plans**

All master plans or general plans adopted by the Planning and Zoning Commission and the City Council for the City or for an area of the City, shall serve as an advisory guide for land use decisions. Amendments to the text of this Subdivision Ordinance should be consistent with the purposes, goals, objectives and policies of the applicable adopted master plan or general plan of Hyde Park City.

#### **13.10.050 Repeal Of Pre Existing Ordinance**

Hyde Park, Utah Subdivision Ordinance, adopted on January 13, 1998, is hereby superseded and amended to read as set forth in this Subdivision Ordinance of Hyde Park, Utah.

#### **13.10.060 Transition Rules**

Any complete application for a subdivision that has been filed with the Planning Commission and/or City Council and all fees paid shall be allowed to comply with the subdivision regulations in effect at the time that the complete application was filed. If the subdivision application does not go forward within three months of application date, the applicant shall be subject to the provisions of this Subdivision Ordinance.

### **13.20 Definitions**

The following terms used in this Ordinance shall have the respective meanings hereinafter set forth:

**Agricultural Lands-** Those lands identified by the Natural Resources Conservation Service official soils report as having national or statewide significance for agricultural productivity and lands used historically as agriculture.

**Alley-** A public way which affords a secondary means of access to abutting property and is less than 26 feet wide.

**Arterial Streets-** A street existing or proposed which serves or is intended to serve as a major traffic way, as a controlled or limited access highway, major street parkway or other equivalent term to identify those streets comprising the basic structure of the street plan. Arterial Streets through subdivisions shall have expanded open space adjacent to the right-of-way. Arterial Streets run North and South.

**Base District-** Any residential zoning district as defined in this Ordinance.

**Benchmark-** A mark affixed to a permanent or semi-permanent object along a line of survey to furnish a datum level.

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

**Bonus Density Option-** An option available to the developer at the City's discretion, allowing the developer to reduce or eliminate open space in a Planned Residential Subdivision. This allows for the purchase of designated open space in the City instead of providing open space within a Planned Residential Subdivision, thereby creating an additional building lot(s) in said subdivision.

**City-** Hyde Park City.

**City Council-** The governing body of Hyde Park, Utah.

**City Engineer-** Any registered civil engineer appointed by the City Council to accomplish the objectives of this ordinance provided that no such person may serve the City and a subdivider simultaneously where he would have to check his own work or the work of a member of his firm in connection with any subdivision in the City.

**Collector Street-** A street which carries traffic from local streets to the major street system or arterial streets including the principal entrance streets of residence development and the primary circulating streets within such a development. Collector Streets run East and West.

**Commission-** Unless otherwise clearly indicated, means the Hyde Park City Planning and Zoning Commission.

**Contractor-** The person in charge of construction, who is duly licensed by the State of Utah. This person may also be the subdivider.

**Crosswalk or walkway-** A right-of-way designated for use by pedestrians and not intended for use by motor vehicles of any kind.

**Cul-de-sac-** A minor street having one open end and being terminated at the other end by a vehicular turnaround.

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

**Easement-** A quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some entity or part of the public.

**Environmental impact assessment-** A report which describes by means of written narrative as well as maps a geographical area in terms of existing slope, soils, water courses, water table, flood hazard areas, geologic hazards, vegetative types, wildlife, wildlife habitat, and available urban services, i.e., electricity, gas, roads, schools, culinary water, sewage facilities, police and fire protection.

**Final plat-** A subdivision map prepared in accordance with the provisions of this ordinance that is accurately surveyed and such survey marked on the ground so that the streets, alleys, blocks, lots and other divisions thereof can be identified and which is designated to be placed on record in the office of the County Recorder and the City Recorder.

**Flood Hazards-** Any area which has been officially designated as a flood plain and is a limitation to development. The guiding document for determination of flood hazards shall be the Flood Insurance Rate Map prepared by Federal agencies.

**General plan-** A plan on record at the office of the City Recorder, including maps or reports or both which has been recommended by the Planning and Zoning Commission and approved by the City Council which helps to establish lines of current and future land use, be it water, growth, etc. as provided in Utah Code.

**Improvement District-** As defined by the Utah State law and as modified by the City Ordinance.

**Improvements-** Work objectives, devices, facilities or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, streets, street signs, traffic control or safety devices, fire hydrants and such other facilities or construction required by this Subdivision Ordinance.

**Inspector-** The authorized inspector or representative of the City Council.

**Interim Road-** A road constructed by a developer as part of a subdivision on adjacent and other properties, outside of the proposed development for the purpose of connecting the development to a dedicated City road. The developers shall be responsible to secure right-of-ways. This road must conform to City Standards for an interim road. The road design must be accepted by the Land Use Authority and / or the City Engineer.

**Irrigation Water-** Water that comes from canals and associated with shares assigned to a specific parcel or area.

**Local Street-** A Street existing or proposed which is supplementary to a collector street and of limited continuity which serves or is intended to serve the local need of a neighborhood.

**Lot-** A portion of the subdivision or parcel of land intended as a unit for building development or transfer of ownership.

**LUA-** Land Use Authority. A body of City Officials who interpret land use ordinances, rules and regulations subject to the provisions of the laws of the State of Utah and all Ordinances of Hyde Park City. The Land Use Authority is the first reviewing body of all subdivisions. See ordinance 2007-05 for specific responsibilities.

**May-** May is permissive.

**Minor Subdivision-** The subdivision of land into a maximum of four (4) lots in the existing residential zones of the City, that are currently served by municipal water and sewer, and that have the required frontage on a dedicated and improved City road as designated by the zone in which it lies.

**Natural Drainage Ways-** Lineal topographic depressions, including irrigation canals, which show evidence of channeling natural runoff from storms and snow melt or an area which has been officially designated as a natural drainage way.

**Natural Resource Amenity-** Any area considered to be a valuable natural resource, such as waterways, water bodies, vegetation, wildlife habitat, topographic or geologic

features, or any area which has been officially designated a natural resource amenity.

Official map- Any map adopted by the Planning and Zoning Commission under the provisions of Utah Code.

Open Space- Any land, public or private, that remains generally free from development uses, that respect natural environmental characteristics and are open to the sky. Open Space, for the purpose of this ordinance, will be classified into two subcategories; undevelopable open space and usable open space.

Undevelopable Open Space- Any land, private or public, that is determined to be sensitive lands consistent with lands to be preserved by the developer. Undevelopable open space may contain: sensitive lands; drainage ways; conservation easements and retention ponds. Undevelopable open space shall not be included in the calculation for the maximum number of lots allowed in the development.

Usable Open Space- A single, contiguous, publicly accessible area no less than 70,000 square feet in size, or six percent (6%) of the total development, whichever is greater, and may include increased setbacks on arterial or collector roads or approved entryways. The Usable Open Space must be fully developed by the developer and maintained by a homeowners association or at the option of the City it may be maintained by the City. Usable open space shall not contain any land that is included in the minimum lot area requirements. Trails or walkways, may be considered as usable open space.

The final classification and determination of open space shall be subject to the City Council approval based on the recommendation of the LUA and the Planning Commission.

Owner- The person, corporation, partnership or other entity in which is vested the fee simple, unencumbered title of the property to be subdivided, unless otherwise clearly indicated.

Person- Any individual, firm, partnership, associate, entity, institution, or corporation and their heirs, assigns, or agents.

Planned Residential Subdivision- The division of a tract or lot or parcel of land where the developer desires to subdivide outside the Traditional Subdivision Standard by decreasing the required lot size and/or increasing the number of lots that can be created within the subdivision based on the ability to preserve usable open space in accordance with the ordinance.

Planning and Zoning Commission- The Hyde Park City Planning and Zoning Commission also referred to as the Planning Commission and/or P&Z.

Preliminary Plat- A map or plan of a proposed land division or subdivision prepared in accordance with the requirements of this Ordinance.

Public Improvements- Construction of any work or product which becomes the property of the City, i.e., roads, curb, gutter, sidewalks, water works, sewer works, culverts, bridges, fencing, etc.

Retention Ponds- The area required to contain stormwater within the development as required by Federal and State Code.

Secondary Water- See Irrigation Water Definition

Seismic Hazards- Any areas where geologic conditions would pose a threat to persons or property if developed as residential property or which has been officially designated as a seismic hazard.

Sensitive Lands- Sensitive lands are defined as steep slopes, natural drainage ways, flood hazards, unstable soils, seismic hazards, designated wetlands, natural resource amenity, and undevelopable land. Retention ponds are considered sensitive lands.

Shall- Shall is mandatory.

Sketch Plan- A conceptual drawing of the proposed development prepared in accordance with the requirements of this Ordinance.

Specifications- The rules and regulations that govern development.

Steep Slopes- Any area with slopes 20% or steeper or area which has been officially designated as a steep slope.

Subdivision- The division of a tract or lot or parcel of land into two or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development or redevelopment, provided however, that divisions of land for agricultural purposes or for commercial, manufacturing or industrial purposes shall follow appropriate ordinances for those developments. Further, the above definition shall not apply to the sale or conveyance of any parcel of land which is shown as one of the lots of the subdivision for which the plat has heretofore been recorded in the office of the County Recorder. Total area shall be determined from existing recorded legal descriptions or from a licensed surveyor's plat. It shall include all land within the parcel including sensitive lands, utility easements, road rights-of-way, easements, open space and lotted areas.

Subdivision requirements- Those requirements that are adopted by the various governing bodies in the City for the necessary proper development of the proposed subdivision.

Subdivision of land for agricultural purposes- A division of a parcel into two or more lots, none of which is smaller than ten acres.

Subdivide- Subdivide and any derivative thereof shall have reference to the term subdivision as hereunto defined.

Subdivider- One who subdivides a parcel of land and may also be referred to as a developer.

Traditional Subdivision- A division of a tract or lot or parcel of land where the minimum lot area follows strictly and literally as allowed in the zoning ordinance, i.e., RE-20 zone lots shall be 20,000 square feet or larger and A-1 zone lots shall be 43,560 square feet (one acre) or larger. No open space is required in the Traditional Subdivision.

Trails / Walkways- A trails or walkway shall be a minimum of six (6') feet in width, but may be required to be wider where determined necessary by the LUA and the P&Z

Commission. The subdivider shall surface the full width of the walkway or trail as determined by the LUA and the P&Z Commission. It may also be required to install a fence or its equal at least three and one-half (3 ½) feet high on each side and the full length of each walkway or trail. Barriers at each walkway or trail entrance may be required to prevent the use of the walkway or trail by any motor vehicle or by any other nonmotorized vehicle wider than four (4') feet.

Unstable Soils- Areas where soil instability would be a hazard to development and cannot be mitigated without massive grading and site modification.

Utility Corridors- Areas where utility easements and obstructions are a limitation to development or areas officially designated as a utility corridor.

Wetlands- Any area which has been officially designated as Wetlands by the US Army Corps of Engineers or the USDA Natural Resources Conservation Service.

### **13.30 Procedures, Sketch Plan, Preliminary Plat, Final Plat And Construction Drawings**

#### 13.30.010 Procedures

#### 13.30.020 Sketch Plan

#### 13.30.030 Preliminary Plat

#### 13.30.040 Approval Of The Preliminary Plat

#### 13.30.050 Construction Drawings

#### 13.30.060 Final Plat

#### **13.30.010 Procedures**

This section provides the procedures required by Hyde Park City for submitting the sketch plan, preliminary plat, final plat, and construction drawings. ALL ADJACENT PARCELS WITHIN THE SAME OWNERSHIP OR DEVELOPMENT CONGLOMERATE MUST BE INCLUDED IN THE SKETCH PLAN so that the LUA, the Planning and Zoning Commission and the City Council have a complete picture of the scope of the project. The City will expect the developer to be the owner or an official representative of the owner and to provide the City with complete information about the size and scope of the project. The sketch plan shall include all development requirements as herein stated.

In addition, this section provides a summary of the public improvements required, which shall be required of the developer and which shall be shown on the plats and construction drawings. Careful review of the Subdivision Ordinance, the Zoning Ordinances of Hyde Park and other related ordinances, resolutions and regulations of the City should be made and followed as they are the controlling documents insofar as they relate to the development of a subdivision.

The development may be done in phases, which will be shown one at a time on the preliminary and final plat, but the sketch plan must include the entire piece of land planned for development either immediately or at some time in the future.

Zoning clearance must be obtained from the LUA and Planning Commission prior to initiating any project.

#### **13.30.020 Sketch Plan**

The subdivider shall submit six (6) copies of a sketch plan, each at least 11" x 17", to the LUA for review and discussion on the site plan and general scope and conditions. Plans shall be drawn to a scale between 1"=10' to 1"=200'. One copy of the plan reduced to an 8 ½" x 11" paper shall also be submitted. Copies shall be submitted seven days prior to scheduling a meeting with the LUA. If said copies are not submitted beforehand, the LUA shall postpone its consideration of the sketch plan until a meeting is rescheduled at least seven (7) days after receipt of the plan.

The plan shall include the following items:

- A. The proposed name of the subdivision.
- B. A contour map at a 5-foot minimum interval.
- C. The property boundaries of the proposed development.
- D. Names of adjacent property owners.
- E. Approximate number of lots proposed and street layout indicating general scale dimensions of lots. Sensitive lands shall be protected.
- F. All lands within the development shall be shown and defined on drawings, including:
  1. Steep slopes
  2. Natural drainage ways
  3. Utility corridors
  4. Flood hazards
  5. Unstable soils
  6. Seismic hazards
  7. Designated wetlands
  8. Natural resource amenities
  9. Usable open space or bonus density option lot(s)
  10. Agricultural land
  11. Sensitive Lands
- G. Approximate total acreage of the development
- H. Present zoning. Density for each zone is given in this ordinance.
- I. Feasibility, design criteria and overall impact
- J. Approximate location of nearest utilities
- K. Total design plan- showing all property of proposed and future projects with roads, parcels and intended uses. Plan must be drawn to scale.

The LUA and City engineer, as requested, will review the sketch plan presented by the developer and compare its concept with the local general plan, Zoning Ordinances, Subdivision Ordinance and other regulations in the city to determine compliance. The LUA will communicate its requirements and recommendations to the developer. Following this review and not later than thirty (30) days after said review the LUA will forward its finding to Planning and Zoning Commission for their approval.

### 13.30.030 Preliminary Plat

The subdivider shall submit seven (7) copies of the preliminary plat, at least 11"x 17", for the LUA and the Planning and Zoning Commission members to review. Three copies, 24" x 36" for the City Engineer, Fire Chief and Land Use Authority shall also be provided for review. One copy of the plan reduced to an 8 1/2" x 11" paper shall also be submitted. If the preliminary plat is not submitted to the LUA for approval within twelve (12) months from the date of the LUA's communication of requirements and recommendations to the developer, a new sketch plan must be submitted for consideration to the LUA and/or City engineer before the developer can proceed with the preliminary plat.

The plat shall be prepared on a twenty-four (24") inch by thirty-six (36") inch approved reproducible drafting media. It shall have a one and one-half (1 1/2) inch border on the left and a one-half (1/2) inch border on the three remaining sides. The plat shall be drawn to a scale of not smaller than one (1") inch equals one hundred (100') feet and shall indicate the base of bearing true north. A workmanlike execution of the plat shall be made in every detail. A poorly drawn or illegible plat is sufficient cause for rejection. Copies of the plat shall be submitted ten days prior to the next scheduled LUA meeting. If said copies are not submitted beforehand, the LUA shall postpone its consideration thereof until its next scheduled meeting. The City engineer's review comments shall be transmitted to the LUA and the Planning & Zoning Commission for their consideration with the preliminary plat. After approval of the LUA the Planning Commission shall hold a public hearing.

At the same time the preliminary plat is transmitted to the City the preliminary plat fees shall be paid. (See prevailing fee schedule)

A. Existing conditions to be shown on the preliminary plat shall include:

1. The location of the nearest benchmark and monument
2. The boundary of the proposed subdivision and the acreage included.
3. All property under the control of the subdivider, even though requirements of the preliminary plat need be shown on only the phase under consideration.
4. Location, width and name of existing streets within two hundred feet (200) of the subdivision and of all prior platted streets or other public ways, railroad and utilities rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements, and section and corporate lines within and adjacent to the tract.
5. The location of all wells--proposed, active and abandoned--to a distance of at least one hundred (100') feet beyond the tract boundaries.
6. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred (100') feet beyond the tract boundaries, indicating pipe size, grades, manholes and exact location.
7. Existing ditches, canals, natural drainage channels, open waterways, and proposed alignments within the tract and to a distance of at least one hundred (100') feet beyond the tract boundaries. High water levels should be indicated.
8. Boundary lines of adjacent tracts of subdivided and unsubdivided land showing ownership.
9. Location of all sensitive lands.
10. Contours at a minimum interval of two (2') feet.

B. Proposed subdivision development plans on the preliminary plat shall include:

1. The layout of streets showing location, widths, and other dimensions of proposed streets (designated by actual or proposed names and numbers) crosswalks, alleys and easements.
2. A tentative plan for culinary water improvements and waste disposal improvements for all lots proposed within the subdivision, all to be constructed underground.
3. The layout, numbers and dimensions of lots.

- a. Traditional Subdivision. The total number of dwelling units allowed within a traditional subdivision shall be based on each lot equaling the minimum lot area as required in the zone, with roads and other improvements within a subdivision being in addition to the lots.
- b. Planned Residential Subdivision. All planned residential subdivisions shall contain some form of usable open space as described below:

(1) The total number of dwelling units allowed within a planned residential subdivision where usable open space is included within the boundaries of the subdivision shall be based on the following Net Table, which subtracts space for roads and other improvements within a subdivision:

Zone Allowed Density in Dwelling Units/Acre

A-1 0.86

RE-20 1.80

Formula: Parcel sizes acres x allowed density from table above = total allowed dwelling units within planned residential subdivision.

Example: 20-acre land parcel; in A-1 zone x .86 = 17 dwelling units allowed in project.

(2) At the option of the subdivider and upon recommendation of the LUA and the Planning and Zoning Commission to the City Council, and their subsequent approval, usable open space, as described herein, may be exchanged for another designated open space location in the City by way of the "bonus density option" as herein defined. Bonus density option allows for the purchase of designated open space in the City for the exchange of usable open space within a subdivision, thereby creating an additional building lot or lots in said subdivision. All of the requirements below must be complied with to exercise this option:

(C) A request, in writing, by the developer to the LUA to exercise the bonus density option must be made as a part of the Preliminary Plat showing the usable open space that would become a lot or lots. The LUA will review this request to exercise the bonus density option and will compare it with all other regulations in the Subdivision Ordinance to determine compliance. Following this review and not later than thirty (30) days after said review the LUA will communicate its requirements and recommendations to the developer in preparation to forwarding the Preliminary Plat to the Planning and Zoning Commission.

(D) The allowed number of dwelling units permitted in the subdivision utilizing the bonus density option will be determined by the Gross Table shown below:

Zone Allowed Density in Dwelling Units/Acre

A-1 1.0 per one acre



RE-20 2.0 per acre

(E) The amount paid by the developer to the City as a part of the option would be equal to 90% of the appraised value of the improved lot (s). The 90% will be paid to the City when the lot(s) is sold, but not later than when 50% of the lots in the subdivision are sold. If the City has not received the bonus density money prior to 50% of the lots being sold, the developer may deed the lot to the city, where the future sale of the lot will result in the City retaining 100% of the money. The lot(s) to be used in the bonus density option shall be identified by number on the Final Plat prior to the time the subdivision final plat is approved by the City Council.

(F) Money received from the developer by exercising the bonus density option shall be placed in a restricted fund to be used for the purchase of property for parks, trails, and other appropriate usable open space and/or for improvements to existing parks, trails and other appropriate open space. It shall not be used for operation and maintenance of parks or in other departments.

(7) Purchase of land outside of the subdivision as determined by the City Council, allowing a bonus density payment of less than the required 90% based on an up front cash amount being paid to the city for the purchase of said land as a part of the Development Agreement.

If the developer or owner of property believes that sensitive lands, as defined herein, are in error or that the extent of sensitive lands is inaccurate, it shall be the responsibility of the developer or owner to provide the LUA and the Planning Commission with studies or data necessary to determine extent and nature of sensitive lands to remain in open space. Certain areas of the City may possess qualities that may appear to be sensitive lands, but may require further study to determine whether such lands should be classified as sensitive lands. This condition will particularly apply to transitional areas around sensitive lands. The City may include such areas within the sensitive lands category and further require those developing the property to produce evidence, with the help of professionals in the particular field, for the LUA and the Planning Commission to determine the final classification of lands.

Type of Ownership in Usable and Other Open Spaces. Different ownership and management options are available for the permanently protected usable open space created through the Subdivision Ordinance. At its option, the City may accept a public land dedication for usable open space, or to facilitate trail connections. A private open space management plan describing 1) ownership, 2) use and 3) maintenance responsibilities of privately managed open spaces shall be submitted for all common and public improvements, utilities and open space within undivided lands. Sensitive lands shall remain as undivided open space and may be owned and managed by a recognized land trust or conservancy, or an owner/developer.

4. Ownership Standards. Usable open space within a development shall be owned, administered and maintained by any of the following methods, either individually or in combination, and subject to approval by the City Council:

a. Offer of Dedication. The City shall have the first and last offer of dedication of usable open space in event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The City may, but shall not be required to, accept usable open space provided such land is fully improved and accessible to the residents of the City, there is no cost of acquisition or other than any cost incidental to the transfer of ownership such as title insurance, and the City agrees to and has access to maintain such lands.

Where the City accepts dedication of usable open space, it must contain all required improvements, therefore the City may require the posting of financial security to ensure satisfactory functioning and structural integrity of improvements for a term not to exceed twelve (12) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.

b. Homeowners Association. The open space and associated facilities may be held in common ownership by a Homeowners Association, which must be organized into a formal entity recognized by the State of Utah. The Association shall be formed and operated under the following provisions: the developer shall provide a description of the Association, including its bylaws and methods for maintaining the open space; the Association shall be organized by the developer and be operated with financial subsidization by the developer before the sale of any lots within the development; membership in the Association is automatic (mandatory) for all purchasers of homes or lots therein and their successors. The conditions and timing of transferring control of the Association from developer to Homeowners shall be identified; the Association shall be responsible for maintenance of insurance and taxes on the open space, enforceable by liens placed by the City; the members of the Association shall share equitably the costs of maintaining and developing such usable and other open space. Shares shall be defined within the Association by bylaws.

5. Zone Restrictions: A minimum of 80% of the building lots in the development shall be within 20% +/- of the average lot size in said development. Any development that does not meet this requirement may be allowed if the Land Use Authority and the Planning Commission feel that the proposed development meets the intent of the ordinance. This requirement may be increased or changed by the LUA and the Planning Commission in unusual circumstances caused by the topography of the property such as sensitive lands. Sensitive lands shall not be used in the calculations for allowed density as described in "C" above.

6. Lot size and building set back lines, including showing dimensions where required by the LUA and the Planning Commission. Minimum lot area, width and yard requirements for planned residential subdivisions shall be required in this ordinance and/or shown in the zoning ordinance for the respective zone it is being developed in.

7. Each lot or parcel of land intended for occupancy purposes shall contain a primary building site appropriate to accommodate the primary structure, which building site shall be outlined on the preliminary and final plat. Each building site shall be located in compliance with all applicable setbacks, side yards, and rear yard requirements. Each building site shall require the following:

a. A natural or manmade average slope of twenty percent (20%) or less in any direction across the building site. Grading of the parcel or lot related to creation of the building site or construction of the structure shall not extend more than thirty (30') feet in any direction from the proposed structure, unless a greater distance is approved by the City Council upon recommendation by the Planning Commission and/or the City Engineer upon a showing by the developer that a greater distance will not be contrary to the purposes of this ordinance. In no case shall grading for the building site extend beyond the property line of the lot.

b. Building sites for accessory building or structures such as barns, tennis courts, swimming pools, outbuildings, etc. shall be approved by the City Council upon recommendation of the LUA, the Planning Commission and/or the City Engineer.

8. Dedicated easements for water, sewers, drainage, utility lines and other purposes as required by the LUA and the Planning and Zoning Commission. A five (5) foot utility easement shall be shown around the perimeter of all lots.

9. A tentative plan or method by which the subdivider proposes to retain storm water, or methods to discharge the same in compliance with the Hyde Park City Stormwater Plan and/or Ordinance.

10. Sites, if any, for community facilities or other uses exclusive of the single-family dwellings.
  11. Sidewalk, curb and gutter.
  12. Distribution system for irrigation water to each lot, how shares will be held and how irrigation water will be delivered to the project. All irrigation distribution lines shall be outside of the City right-of-way. A letter from the associated irrigation company agreeing to proposed distribution system shall be submitted.
- C. Title blocks along the bottom of the preliminary plat shall show the following information in the format as specified:
1. Name of subdivision; location, including the address of the section, township and range; names and addresses of the owner, subdivider (if other than owner), and surveyor or designer of the subdivision; date of plat preparation.
  2. An affidavit or certificate of clear title to the effect that the applicant is the owner of, or that he is authorized by the owner in writing to make application for the land proposed to be subdivided. The affidavit or certificate shall state clearly in which status the applicant makes his application, and if in the latter status a copy of said written authorization from the owner shall be submitted with the preliminary plat. In either case, an updated abstract of title or a preliminary title report shall also be submitted, which indicates in whom the fee simple title to such property is vested.
  3. A statement from each of the utility companies involved stating that they have reviewed the plan, that they approve the same as it relates to their particular company, that they are in agreement with placing all their utilities underground within the rights-of-way as shown on the plans, and that they are willing to provide the needed service for the development.
  4. A block for the City engineer to sign stating his approval.
  5. A block for the Planning and Zoning Commission to indicate its approval by the signature of the Chairman.
  6. A block for the Canal / Irrigation Company to indicate its approval by signature.
- D. At the time of the submittal of the preliminary plat the following documents must be submitted to the LUA and the Planning and Zoning Commission unless specifically waived by the LUA.
1. Copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the LUA and the P&Z Commission.
  2. Environmental impact assessment, including impact on schools, police, animal control, roads and any impact on sensitive lands.
  3. Soils Report. A soils report shall be prepared by a qualified soils engineer, and must contain at least the following information: a slope analysis with 5-foot contour intervals; slope classifications shall be identified on a map in percentage of gradients in the following categories: Class 1 - 0% - 19% and Class 2 - 20% or greater (undevelopable); accepted soils engineering tests to determine bearing capacity, settlement potential, and shrink/swell potential of the site; an analysis of the soil suitability, constraints, and proposed methods of mitigating such constraints in implementing the proposed development; an estimate of the normal highest elevation of the season high-water table and the location of swamps, seeps, or spring with the reasons for the occurrence of these underground water sources; a written statement by the person or firm preparing the soils report identifying the means proposed to minimize hazard to life, property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel.
  4. Geology Report whenever the parcel includes any geologic hazard. A geology report shall be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. It shall include mapping of geologic hazards and must identify author and date of the data upon which the report is based. The report must include an analysis of the geologic conditions, conclusions and recommendations regarding the effect of geologic conditions on the subdivision and recommendations covering the adequacy of sites to be developed. The report must include a written statement by the person or firm preparing the report identifying the means proposed to minimize hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel, and adverse impact on the natural environment.
  5. Stormwater Management Plan and Permit. In accordance with State Code, a Stormwater Management Concept Plan shall be required with the preliminary plat for all platted subdivisions and a stormwater permit shall be obtained from the State of Utah. The plan shall include at least the following: a map of the entire site with existing and proposed contours using a minimum of 5-foot contour intervals at the same scale as the total design plan; proposed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed to control storm water runoff and soil erosion; a plan showing temporary erosion control measures; a written statement by the person or firm preparing the report identifying any grading and drainage problems of the development and further stating an opinion as to the ability of the proposed plan to mitigate or eliminate such problems in a manner as to prevent hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel, and adverse impact on the natural environment. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from the development.

Where possible all storage reservoirs (retention ponds) shall be incorporated into lots within the project and configured in such a way that the actual depth of the retention area is functional as a part of the landscape of the lots. The maintenance of said retention areas will be the responsibility of the individual lot owners and shall allow the City access for inspection and possible maintenance of the inlet boxes and or piping related with the retention area.

#### Landscaping Plans Required.

Landscaping shall conform to the intent of the stormwater management concept plan. At a minimum, the landscaping plan shall detail vegetation and grading and shall include any non-standard maintenance requirements that may be associated with the landscaping. The extent of the landscaping plan shall incorporate at a minimum all stormwater facilities and shall be submitted with the final plat submittal. Additional landscaping plan requirements may be required by other ordinances.

6. Revegetation Plan whenever the development of the parcel will require removal of vegetation within undevelopable open space. The vegetation plan shall be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject, and shall include the following: a plan of the proposed revegetation of the site, detailing existing vegetation to be preserved, new vegetation to be planted and any modifications to existing vegetation; a plan for preservation of existing vegetation during construction; a vegetation maintenance program, including initial and continuing maintenance necessary; a written statement by the person or firm preparing the report identifying any vegetation problems and further stating an opinion as to the ability of the proposed plan to mitigate or eliminate such problems in a manner as to prevent hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel and adverse impact on the natural environment.
7. Sensitive lands report.
8. Other reports and plans shall be prepared by the developer as deemed necessary by the LUA and the Planning Commission.
9. The developer must contact the Post Office to determine delivery procedures.

#### 13.30.040 Approval Of The Preliminary Plat

After review of the preliminary plat and the engineer's comments and/or recommendations, and upon recommendation of the LUA, the Planning and Zoning Commission shall

serve notice and hold a public hearing concerning the proposed subdivision before taking any action with respect thereto. Such notice shall be given at least three (3) days in accordance to Utah Code 10-9a-207 before the hearing. The Planning and Zoning Commission shall either approve, reject or continue the plat for action at the next regular meeting.

If the preliminary plat is approved, the Planning and Zoning Commission shall return one copy of the plat signed by the P&Z Commission Chairman to the subdivider with any conditions attached. Other signed copies shall be forwarded to appropriate departments within the City and/or members of the City Council. The Commission shall retain one copy of the plat for its files. If the preliminary plat is disapproved, the Planning and Zoning Commission shall indicate its disapproval by written notice stating the reasons for disapproval.

Action shall be taken by the Planning and Zoning Commission within sixty (60) days after submittal of said plat to their commission. If no action is taken within this period of time, this shall be deemed as approval. The Planning Commission shall forward to the City Council the preliminary plat for its approval. The receipt of a signed copy of the approved preliminary plat shall authorize the subdivider to proceed with the preparation of the construction drawings and final plat. In the event the final plat is not presented to the Planning and Zoning Commission within six (6) months following approval of the preliminary plat such prior approvals shall be void.

### **13.30.050 Construction Drawings**

Construction drawings shall be prepared by the developer's engineer relative to improvements in and out of the subdivision and developer shall provide three (3) complete sets of such drawings and specifications to the LUA. These drawings shall be submitted to the LUA prior to the submission of the final plat. All such drawings shall be reviewed and approved by the City engineer. An approved set of construction drawings shall go to the LUA. One set will be retained by the City engineer.

Standards for Construction Drawings. The following instructions are for the purpose of standardizing the preparation of drawings to obtain uniformity in appearance, clarity, size, and style.

These plans and designs shall meet the standards defined in the Specifications and Drawings, hereinafter outlined. The minimum information required on drawings for improvements are as follows:

All drawings and/or prints shall be clear and legible and conform to good engineering and drafting room practice. Size of drawings shall be 24"x 36" with ½" border on top, bottom and right sides, left side 1 ½".

A. In general, the following shall be included on drawings:

1. North arrow (plan).
2. Scale and elevations referenced to City datum.
3. Stationing and elevations for profiles.
4. Title block, located in lower right corner of sheet, to include:
  - a. Name of City
  - b. Project title (subdivision, etc.)
  - c. Specific type and location of work.
  - d. Space for approval signature of City Engineer and date.
  - e. Name of engineer or firm preparing drawings with license number and his signature

B. Curb and gutter, drains and drainage structures, signing, lighting, sidewalks, and street surfacing shall show:

1. Scale: 1" = 20' or 50' horizontal; 1" = 2' or 5' vertical.
2. Both plan view and profile. Street centerline.
3. Stationing and top of curb elevations with curve data must be shown for all curb returns. Show top of curb elevation on both sides on even stations (50 Ft. Sta. Max).
4. Flow direction and type of cross drainage structures at intersections with adequate flow line elevations.
5. Bench mark location and elevation (use City datum).
6. Type of curb and gutter and distance back-to-back of curb.
7. Width and location within the right-of-way of the sidewalks.

C. Sewer drawings shall show:

1. Scale: 1" = 20' or 50' horizontal; 1" = 2' or 5' vertical.
2. Location, size, and grade of all lines except individual services.
3. Manhole details, size, location, and flowline elevation.
4. Type of pipe.
5. Benchmark location and elevation (use City datum).
6. Bedding details

D. Culinary water drawings shall show:

1. Scale (not specified).
2. Size and location of water mains, valves, hydrants, tees, etc.
3. Type of pipe
4. Minimum cover
5. Bedding details

E. Each set of plans shall be accompanied by a separate sheet of details for structures which are to be constructed. All structures shall be designed in accordance with minimum requirements established by the Hyde Park City Subdivision Standards.

1. Drawing size: 24"x36" (trim line).
2. Scale of each detail
3. Title block, lower right hand corner (same format on all sheets), including the name of the subdivision

4. Completely dimensioned and described.

F. Storm water management plan. Location and flowline elevation of drains, ditches, retention ponds and other drainage structures.

G. Irrigation water distribution system drawings shall show:

1. Scale (not specified)
2. Size and location of water mains, valves, tees, meters, if any, etc.
3. Type of pipe
4. Minimum cover
5. Benchmark and lateral locations for lots and open space areas

### **13.30.060 Final Plat**

The final plat must be prepared by a licensed land surveyor on 24"x36"

Mylar and shall be prepared in accordance with the requirements of this ordinance. The top of the plat shall be either north or east, whichever accommodates the drawing best. The final plat will be signed when both the plat and construction drawings are approved.

No construction of public improvements shall proceed until the final plat has been approved by the City Council and recorded in the office of the County Recorder by the City. The cost of recording the final plat will be borne by the developer. See Subdivision fee schedule. A Development Agreement must be negotiated with the developer and the City. Once an agreement is reached it will be presented to the City Council for approval and signed by the Mayor. A security of performance shall be furnished by the developer after approval of the final plat or prior to any construction of the improvements being started. All improvements shall be completed within one (1) year of the date the plat was approved, unless an extension is granted by the City Council.

Four (4) copies of the final plat shall be submitted two weeks before the LUA and the Planning Commission meeting, one for the City engineer, and three for members of the LUA and the Planning and Zoning Commission. One copy of the plat reduced to 11" x 17" and one reduced to an 8 1/2" x 11" paper shall also be submitted. After completing a review and site visit, the City engineer will transmit conclusions and recommendation to the LUA and the Planning and Zoning Commission and the City Council.

With submission of the final plat the fees for the final plat will be paid. The Developer's engineer will determine estimated costs of construction which shall be approved by the City Engineer. Construction inspection fees shall be 2 1/2% (two and one-half percent) of that cost and paid to the City before construction begins.

See Appendix B. Fees may be changed from time to time by resolution of the City Council.

The final plat will include the following:

- A. The name of the subdivision, which name must be approved by the Planning and Zoning Commission.
- B. Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, sensitive lands to be protected and other important features
- C. An identification system for all lots, blocks and names of streets. Lot lines shall show dimensions in feet and hundredths.
- D. The street address for each lot. Each street address shall be approved by the City. The north and west sides of the streets shall be numbered odd and the south and east shall be numbered even. Corner lots shall show two address blocks.
- E. True angles and distances to the nearest established street lines or official monuments which shall be accurately described in the plat and shown by appropriate symbol.
- F. Radii, internal angles, points and curvatures, tangent bearings and the length of all arcs.
- G. The accurate location of all monuments to be installed shown by the appropriate symbol. All United States, State, County or other official bench marks, monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position.
- H. The dedication to the City of all designated utility easements, streets and highways included in the proposed subdivision.
- I. Street monuments.
- J. Pipes or other such iron markers shall be shown on the plat and placed at each lot corner in the field prior to final approval.
- K. Accurate outlines and dimensions to any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common use of all property owners.
- L. All boundary, lot and other geometrics (bearings, distances, curved data, etc.) on the final plat shall pose to an accuracy of not less than one part in five thousand (1/5000).
- M. A statement that all expenses involving the necessary improvements or extensions for a sanitary sewer system, water lines, gas service, electrical service, rough grading, storm drain systems, curbs and gutters, and fire hydrants, pavement, sidewalks, irrigation delivery systems and signing, and other improvements shall be financed by the subdivider.
- N. Boundary descriptions of the subdivision.
- O. All sewer utility lines, water utility lines, secondary water lines and canals.
- P. Usable open spaces shall be shown on the plat as shaded areas and with the words "usable open space to remain in perpetuity" At no time shall any open space be reduced in size or used or modified beyond its original approved plan without the recommendation of the LUA or Planning Commission and final approval by the City Council.
- Q. Standard forms as provided here for the following:

1. A registered land surveyor's certificate of survey as applicable under State law

### **SURVEYOR'S CERTIFICATE**

I, (Name of surveyor as it appears on stamp), a Registered Land Surveyor, hold Certificate Number (Utah license no.), as prescribed by the laws of the State of Utah, and do hereby certify that by authority of the owners, I have made a survey of the tract of land shown on this plat, which is accurately described therewith, and have subdivided said tract of land into lots and streets to be hereafter known as (Name of subdivision), and that the same has been surveyed and staked on the ground as shown on this plat.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Surveyor's Name & Signature

2. The owner's "Certificate of Dedication"

**OWNER'S CERTIFICATE OF DEDICATION**

Know all men by these presents that we, the undersigned owners of the above-described tract of land, having caused the same to be subdivided into lots and streets to hereafter be known as (Name of subdivision) do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use, and do warrant, defend, and save the municipality harmless against any easements or other encumbrances on the dedicated streets which will interfere with the municipality's use, operation, and maintenance of the streets and do further dedicate the easements as shown.

In witness whereof, we have hereunto set our signatures this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Name, title

\_\_\_\_\_  
Name, title

3. A notary public's "Acknowledgment"

**ACKNOWLEDGMENT**

State of Utah  
Cache County

On the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before me, the undersigned notary public in and for said Cache County in the State of Utah, the signers of the attached OWNER'S CERTIFICATE OF DEDICATION, \_\_\_\_ in number, who duly acknowledged to me they signed it freely and voluntarily and for the purposes therein mentioned.

My commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

4. The City Planning and Zoning Commission's "Certificate of Approval"

**PLANNING AND ZONING CERTIFICATE OF APPROVAL**

This plat has been reviewed and approved by the Hyde Park City Planning and Zoning Commission.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairperson

5. The Bear River Health Department's "Certificate of Approval"

**HEALTH CERTIFICATE OF APPROVAL**

(To be obtained if septic tanks used rather than connection to the City's sewer system.)

The culinary water and wastewater disposal systems shown on this plat have been reviewed and hereby approved.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Health Department

6. The City engineer's "Certificate of Approval"

**CITY ENGINEER'S CERTIFICATE OF APPROVAL**

I hereby approve the above plat having reviewed it for conformity with standard engineering practice and Hyde Park City's Subdivision Ordinance.

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Engineer

7. The City attorney's "Certificate of Approval"

**CITY ATTORNEY'S CERTIFICATE OF APPROVAL**

I have reviewed the above plat and approve it for acceptance by Hyde Park City.

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Attorney

8. The City Council's "Certificate of Approval"

**CITY COUNCIL'S CERTIFICATE OF APPROVAL**

The above plat is hereby approved and accepted by the Hyde Park City Council on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Attest:

9. The County Surveyor's "Certificate of Approval

**COUNTY SURVEYOR'S CERTIFICATE OF APPROVAL**

I certify that I have examined this plat and find it to be correct and in accordance with the information on file in this office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cache County Surveyor

10. The County Recorder's stamp of approval according to requirements prior to final plat approval

**COUNTY RECORDER'S NO.** \_\_\_\_\_

State of Utah, County of \_\_\_\_\_, recorded and filed at the request of

\_\_\_\_\_  
Date \_\_\_\_\_ Time \_\_\_\_\_ Fee

Abstracted

\_\_\_\_\_  
Index

Filed in: File of Plats

\_\_\_\_\_  
County Recorder

11. Signature of all affected Irrigation Companies

**CANAL / IRRIGATION COMPANY CERTIFICATE OF APPROVAL**

This plat has been reviewed and approved by the respective Canal / Irrigation Company.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

The LUA and the Planning & Zoning Commission shall review and rework as necessary with the developer until they subsequently recommend approval to the City Council. All items shall be in compliance with the ordinance before being forwarded to the City Council.

Upon receiving approval from the City engineer, the LUA and the Planning and Zoning Commission, the subdivider shall submit the approved plat to the City Council for action and proceed to obtain the other required signatures.

A development agreement shall be signed between the developer and Hyde Park City. A security of performance shall be posted and held by the City. All inspection fees must be paid. At this time the final plat will be returned to the developer.

The final plat shall then be taken to be recorded in the County Recorder's office. At this point the subdivider may begin work on the improvements and may sell lots.

**13.40 Minor Subdivision Requirements And Procedures**

13.40.010 Purpose

13.40.020 Procedures

13.40.030 Sketch Plan

13.40.040 Record Survey

13.40.050 Construction Drawings

13.40.060 Final Approval

13.40.070 Performance Bond And Fees

**13.40.010 Purpose**

The City recognizes based on current ordinances, that many smaller parcels of land exist within the residential areas of Hyde Park City that have adequate road frontage and acreage to potentially be split into additional building lots. This section allows the subdivision of smaller parcels of land into four (4) building lots or less, with the existing residence to be located on one (1) of the lots.

**13.40.020 Procedures**

This section provides the procedures required for a minor subdivision by Hyde Park City, for submitting a sketch plan, preparing a "record survey", and preparing construction drawings. THE ENTIRE PARCEL WITHIN THE SAME OWNERSHIP MUST BE INCLUDED IN THE MINOR SUBDIVISION.

The intent of a Minor Subdivision is to streamline the approval process only, all required subdivision improvements, as outlined in all the other chapters of the Subdivision Ordinance, will be followed and constructed as outlined. Any changes requested by the developer that do not conform to the ordinance can only be approved by the City Council.

**13.40.030 Sketch Plan**

The sub divider shall submit six (6) copies of a sketch plan, at least 11" x 17", to the LUA for review and discussion on the site plan showing general lot layout and frontages. Plans shall be drawn to scale showing all lot dimensions being requested. Copies shall be submitted five (5) working days prior to scheduling a meeting with the LUA, and copies not submitted beforehand shall not be considered until the LUA has had a minimum of seven (7) working days to consider the plan.

The plan shall include the following items:

- A. The property boundaries of the proposed new lots.
- B. Names of adjacent property owners.
- C. Number of lots proposed and street frontage for each.
- D. Total acreage of each lot based on present zoning.
- E. Approximate location of all existing utilities that will service the lots.

The LUA will review the sketch plan with the developer and determine if it meets the requirements of a Minor Subdivision in accordance with the ordinance. The LUA will also review all the required infrastructure improvements that will need to be constructed by the developer in order to proceed with the subdivision.

#### **13.40.040 Record Survey**

Following the review, if the sketch plan is approved, the developer shall have a "record survey" prepared by a licensed engineer. The record survey shall clearly show the division of the proposed lots and shall include all dimensions, square footages, and metes and bounds descriptions. The record survey shall be prepared in accordance with the standards established by the county surveyor and include a signature line for the Planning Commissioner and the City Attorney to sign for acceptance and approval of the record survey.

#### **13.40.050 Construction Drawings**

The developer shall prepare construction drawing showing all improvements required by the subdivision ordinance, including but not limited to water and sewer connections, curb and gutter, sidewalk, road extensions, storm water control and secondary water extensions and improvements and contain a place for the LUA to indicate its approval and acceptance of the record survey.

#### **13.40.060 Final Approval**

Once all the above requirements are presented and approved by the LUA they shall be forwarded to the Planning and Zoning Commission for final approval. All adjacent property owners will be notified of the meeting when Planning & Zoning Commission reviews the proposed minor subdivision. Based on the approval of the Planning Commission the developer shall have their engineer file the record survey and have prepared those deeds required to have the new lots recorded with the County Recorder by Hyde Park City. Said deeds shall include the words "approved and accepted by Hyde Park City" with a signature line for a designated representative of Hyde Park City to sign.

#### **13.40.070 Performance Bond And Fees**

No construction improvements shall begin on the Minor Subdivision until the developer has furnished the city with a form of security, as outlined in Chapter V of this ordinance, to insure the proper and prompt installation of all improvements as required.

Any and all persons requesting a Minor Subdivision shall first have paid all fees set forth by the most recent prevailing fee schedule adopted by resolution of the Hyde Park City council. The approved Minor Subdivision will require the payment of inspection fees as also outlined by the city prior to any work beginning.

### **13.50 Security Of Performance**

The security of performance, as set forth below, shall be in an amount equal to at least one and a half (1 ½) times the reasonable value of the improvements required herein. The Security of Performance required by this section is to assure the City that all improvements are constructed in conformance with all relevant City ordinances, regulations, and standards, and to assure the City that all expenses incurred for labor or materials used in the construction of the same are paid for by the subdivider. Further, the City shall hold the Security of Performance provided by the subdivider, covering warranty items, for one (1) year following the final inspection of the LUA in cooperation with the City engineer, or for such other periods of time less than one year as the City deems reasonable to insure compliance as set forth herein.

The Security of Performance required by this section, and at the City's discretion, may be furnished by any of the following methods:

- A. By depositing the specified amount of cash in a bank account to which the City alone has access, but only in the event it becomes necessary in order to complete, repair or replace the improvements as set forth below.
- B. By depositing the specified amount of cash in a supervised bank account to which the subdivider has access, with the approval and signature of the City, which funds shall be used to pay for the improvements as construction is completed and evidence of the debts therefore are presented along with properly executed lien waivers. In the event it becomes necessary for the City to foreclose on the Security of Performance and move to complete, repair or replace the improvements as set forth below, the City shall have access to said supervised bank account for the purpose of completing, repairing, or replacing improvements without the necessity of obtaining the approval of the subdivider.
- C. By any other method such as a bank letter of credit, that is acceptable to the City, provided that the City's interests in assuring that the work required herein is paid for and completed in conformance with City standards are protected.

In the event construction of the public improvements is not completed or is not completed in a satisfactory manner within one year from the date the final plat was approved by the City Council, the City may proceed to complete the improvements at the sub divider's expense by foreclosing on the sub divider's Security of Performance held by the City. In the event the public improvements fail to meet the standards as set forth in the ordinance, the City shall so notify the subdivider who shall be given a reasonable time to repair or otherwise correct as requested. The City may proceed to repair or replace the unsatisfactory improvements at the sub divider's expense by foreclosing on any Security of Performance still held by the City, and, in addition, the City may avail itself of any other remedy provided to it under the laws of the State of Utah and of the City of Hyde Park.

### **13.60 Minimum Improvement Requirements, Utility Connection Charges, And Inspection**

#### **13.60.010 Minimum Improvement Requirements**

#### **13.60.020 Utility Connection Charges**



**13.60.010 Minimum Improvement Requirements**

This section provides a summary of minimum improvement requirements for subdivisions, including lots, blocks, roads, sidewalks, curbs and gutters, storm water management, water and sewer utilities, street signs, monuments, and street lights. More specific specifications and standards are located within this subdivision ordinance and care and useful reference should be made to those requirements as they are controlling. Subdivider shall be responsible for costs relative to construction of all public improvements within the proposed subdivision. He shall also construct at his cost all water lines, sewer lines, roads and related improvements necessary for connection to the City's existing systems, as well as road improvements on one-half of adjacent streets.

The extensions of any City public works facilities including, but not limited to roads, bridges, storm drains, water mains, sewer lines, and secondary water systems, public or private, shall be installed by the developer of any subdivision and lie within a city dedicated right-of-way. There shall be no consideration or return to the developer for the costs of said improvements. The City, however, will consider cost sharing on any water or sewer lines in excess of eight (8") inch diameter in the event the City desires to participate for future planning purposes.

- A. Lots. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, to the character of surrounding development and to existing requirements. Lots shall not exceed 5100 feet elevation.

All lots shown on the preliminary and final plats must conform to the minimum requirements of the zoning title for the zone or proposed zone in which the subdivision is located, and to the minimum requirements of the County Health Department for water supply and sewage disposal. On lots with frontage on cul-de-sacs the lot width shall be the distance between the side lot lines at the actual setback of the primary structure or dwelling, provided that the primary structure or dwelling exceeds the standard required front yard setback requirement. The minimum lot width at the property line shall not be less than twenty (20') feet.

Each lot shall have the required size, area, and side yard required of the zone, and each lot shall have required frontage on a publicly dedicated street. Double frontage lots shall be prohibited, except where unusual conditions make other designs undesirable. Corner lots shall be deemed to have two front yards and two side yards, except that lot frontage requirements may vary where a flag lot is approved by conditional use. Side lines of lots shall be approximately at right angles, or radial to the street lines.

In general all remnants of lots below minimum size must be added to adjacent lots, rather than allowed to remain as unusable parcels.

- B. Walkways/Trails. Dedicated walkways or trails through the block may be required where the property is a part of the trail system master plan or to a point designated by the LUA and the Planning and Zoning Commission. (See Trail or walkway definition.)
- C. Street Improvements. Layout of streets shall conform to sound engineering practices. Design of streets shall traverse slopes, where possible, and shall avoid, where practical, streets which run perpendicular to contour lines. Roads and other vehicles routes shall not cross property having a slope greater than twenty percent (20%) unless approved by the LUA and the Planning Commission, and it determines that appropriate engineering measures will be taken to minimize the impact of the cuts and fills, and that erosion control and slope stabilization will be performed. The environment and aesthetics of the area shall not be adversely affected. The layout and design of private roads and public right-of-way shall conform to the master plan and shall provide appropriate connections to adjacent properties and future roads.

Intersections of all streets shall be at 90° angles, unless topographic conditions exist and a different angle is determined appropriate by the LUA and the Planning and Zoning Commission. On all public streets, other than local residential streets, driveways may not be connected to the street. Subdivisions will be required to develop new streets perpendicular to public streets to minimize backing into traffic ways. Street signs shall be provided by the subdivider at all intersections as required by the City.

Total width of roads shall be the width shown on the master road plan, based on City cross-section standards. Other roads within the subdivision shall be sixty (60') feet. Sixty (60) foot wide roads will be permitted in cases where the road ultimately serves a street with a total of less than ten 10 homes. Cost of roads shall be borne by the subdivider.

Grades of road shall be a minimum of one-half of one percent (0.5%) and a maximum of twelve (12.0%) percent for local, collector, and arterial roads, on short, non sustained stretches of street, nor in excess of eight (8%) percent on sustained grades, unless otherwise modified or approved by the LUA, Fire Department and City engineer.

Asphalt surfacing shall be provided on all roads as indicated by the City's current table of street cross-sections as determined by the City engineer.

Storm water inlets and catch basins shall be provided within the roadway improvements at points specified by the City engineer.

All curb corners shall have a radius of not less than twenty-five (25') feet. Where streets meet at acute angles, the radii shall be increased.

The arrangement of streets in a new subdivision shall make provision for the continuation of the existing streets in adjoining areas and shall provide access to unsubdivided adjoining areas insofar as such continuation or access shall be deemed necessary by the LUA and the Planning and Zoning Commission.

New streets must connect with existing, improved public streets. An interim road may be required across adjacent properties unrelated to the development in order to connect for purposes of ingress and egress. All subdivisions must have a minimum of two roads for ingress and egress as accepted by the Land Use Authority and the Planning Commission.

Local streets shall approach the arterial or collector streets at an angle of not less than ninety (90) degrees for a minimum of forty (40) feet or the length of the flare on the intersection, unless conditions exist which prevent this. In no case shall the angle be less than eighty (80) degrees.

Cul-de-sacs (dead-end streets designed to be permanently closed to through traffic) shall only be used when no other feasible use of the road to facilitate the lots is possible, in no case shall a cul-de-sac dead end into future developable property. The cul-de-sac shall not be longer than four hundred (400') feet to the beginning of the turnaround. Each cul-de-sac must be terminated by a turnaround of not less than one hundred (100') feet diameter, measured to the property lines. If surface water

drainage is toward the turnaround, due to the grade of the street, necessary catch basins and drainage easements shall be provided.

Streets shall be leveled, when possible, to a grade of less than four (4%) percent for a distance of at least one hundred (100') feet approaching all intersections and at the intersection of a grade of three (3%) percent shall be maximum.

All changes in street grade shall be connected by vertical curves of a minimum length equivalent to fifteen (15) times the algebraic difference in the rate of grade for major streets and secondary streets and one-half (½) of this minimum for all local streets. Vertical curves are not required where the difference in grade change is less than 1%.

Minimum radii of curvature on the center line shall be as follows: Arterial streets, 500 feet; collector streets, 300 feet; local streets, 100 feet (or as approved by the City engineer).

Wherever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided the other half shall be platted; however, in most other cases, half-streets shall be prohibited.

- D. Sidewalks. Sidewalks shall be provided in all subdivisions on both sides of the street. Sidewalks shall be a minimum of four (4') feet wide and four (4") inches thick except at driveways where the thickness shall be increased to six (6") inches.
- E. Curb and Gutter. All streets within the City shall be improved with pavements bounded by integral concrete with either high-back curb and gutters or a 12" x 12" Flat Curb and sidewalks. All curbs shall tie into the storm water plans for water retention on-site with retention ponds and shoulder work as described in this section of this Ordinance.

The contractor shall install curbs, gutters and sidewalks on streets housing public facilities, such as US Post Office, churches, etc., in the residential zones.

Curbs and gutters shall be concrete of the standard high-back type unit, not less than two feet in overall width, and not less than six (6") inches thick, where the curb abuts the street pavement. Minimum grades for curb and gutter shall not be less than ½ percent.

Flat Curbs will be used in connection with all on-site retention, which will require shoulder improvements to be done to both sides of all streets. This shall be a concrete 12" x 12" continuous curb placed at the same elevation as the abutting asphalt road. The required road width will be measured from the outside edge of the concrete curb which will be designated the top-back-of-curb as shown on road details for road widths in the Road Master Plan. There shall be two (2) level feet next to the curb and then a four-foot (4') wide drainage swale that slopes gradually to a "V", minimum depth of six inches (6").

Grass or gravel will be allowed in the swale between the flat curb and the sidewalk. If gravel is installed, the gravel shall be between 1" or greater in size and at least 4" deep. A water permeable weed barrier shall be used under the gravel as a means of weed control.

The Homeowner will be responsible for the maintenance of the gravel or grassy swale. In the event that the swale shall lose the functionality to handle stormwater as designed, the homeowner will be responsible to rebuild the swale.

- F. Mandatory Use of City Water and Sewer Systems. All subdivisions located within the corporate boundaries of the City of Hyde Park shall be required to connect to the water and sewer systems. All public utilities shall lie within a city dedicated right-of-way.
  - 1. Water. Water lines shall be minimum ductile iron class 52 pipe or plastic C900 200 psi pipe at the City's discretion. It shall be eight-inch (8") minimum size unless otherwise approved by the City engineer. Valves and five-inch (5") hydrants shall be provided at locations defined by the engineer. Where larger than eight-inch (8") main lines are requested by the City for future development, the additional cost shall be paid by the City.

The subdivider shall be required, at his own expense; to install all required "off site" pipelines to connect with the existing distribution system of the City.

Service lines from the main to ten (10') feet past the property line shall be installed by the subdivider, including a minimum 1" K copper or 1" PVC poly 200 psi, 15" setter w/stop, metal cover and a three foot (3') "pigtail" for service connection.

All water lines shall be placed underground. All water lines within the road rights-of-way shall be placed prior to road surfacing, placement of curb and gutter and sidewalks.

Fire hydrants shall be installed in all subdivisions in accordance with the regulations of the Fire Marshal and City standards.

All water lines shall be "looped" rather than dead-ended except in the case of cul-de-sacs and temporary dead-end streets and City boundaries.

Depth of culinary water lines shall be a minimum of five (5') feet to the top of the pipe.

Valves shall be placed in the system so that sections of pipe no longer than six hundred (600') feet may be isolated and shut off from the rest of the system so repair may be made with a minimal amount of water connections put out of service. When connecting to existing or new lines at tees a minimum of two valves shall be installed; where crosses are used a minimum of three valves shall be used.

All water lines must be inspected by the public works personnel in cooperation with the LUA and/or the City engineer before backfilling is accomplished.

The entire system shall be designed and constructed in accordance with City standards and Utah State Health Departments. If there is a conflict between the standards, the most stringent shall rule. Final approval of the proposed water system shall be subject to approval by the public works personnel in cooperation with the LUA and/or the City engineer.

- 2. Sewer. Sewer lines shall be of concrete or PVC pipe of eight-inch (8") minimum size. Manholes shall be installed at all changes in grade and alignment and maximum spacing of four hundred (400') feet.

Sewer system design and layout shall meet all standards and specifications of the Utah State Department of Health in addition to City standards.

The subdivider will be required, at his own expense; to install all required "off site" sewer extensions necessary to connect with the existing sanitary system of the City. The final line sizes and final approval shall be subject to approval by the LUA in cooperation with the City engineer.

Sewer service lines shall be furnished and installed by the subdivider to the property line.

All sewer lines shall be placed underground at a depth adequate to service basements of all houses within the subdivision or areas beyond the subdivision where it is anticipated that there will be extensions to the sewer system.

All sewer lines within the road rights-of-way shall be placed prior to road surfacing, placement of curb and gutter and sidewalks.

Unless unfeasible, the sewer system shall be designed so that it operates by gravity means only.

Domestic wastes only shall be allowed to enter a common collection system. Down spouts for roof drains, basement drains which lower ground water conditions, uncontaminated cooling and refrigeration outflows, and other similar possible inflows to the sewer system shall not be allowed.

- G. Storm Drains. Storm drains, cross gutters, dip stone inlets and other appurtenant structures shall be provided by the subdivider as required to adequately dispose of the ten-year (10) frequency storm flows developed within the limits of the subdivision. The subdivider shall have the responsibility of satisfactorily disposing of drainage on the subdivision site as required by the Hyde Park City Stormwater Ordinance.

No ditch or canal shall be approved as suitable for the use of storm drainage water without the written permission of the appropriate ditch or Canal Company or of the water users for such use. No ditch or canal shall be used for storm water unless adequately improved to handle such water as might be reasonably expected to flow from canal and ditch water, subdivision runoff water, and other water expected to reach such canal or ditch.

The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision areas, but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and "upstream" from the subdivision itself, as well as its effects on lands downstream.

Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the State of Utah and qualified to perform such work and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall be so identified. All proposed surface drainage structures shall be indicated on the plans. All appropriate designs, details, and dimensions needed to clearly explain proposed construction materials and elevations shall be included in the drainage plans. Where possible all storage reservoirs (retention ponds) shall be incorporated into lots within the project and configured in such a way that the actual depth of the retention area is functional as a part of the landscape of the lots. The maintenance of said retention areas will be the responsibility of the individual lot owners and shall allow the City access for inspection and possible maintenance of the inlet boxes and or piping related with the retention area.

The drainage and flood plan systems shall be designed to permit the unimpeded flow of natural water courses, ensure adequate drainage of all low points and ensure applications of the following regulations regarding development in designated flood plains:

Construction of buildings shall not be permitted in a designed floodway with a return frequency more often than a 100-year storm.

Building construction may occur in the portion of the designated floodway where the return frequency is between a 100-year and a maximum probability storm provided all usable floor space is constructed above the designated maximum probable flood level.

Where floodway velocities are generally determined to be under five (5') feet per second and maximum flood depth will not exceed three (3') feet, such uses as cultivated agriculture, nurseries, parks and recreation facilities and accessory parking may be permitted.

Any use of land is prohibited where flooding would create a public health hazard or problem. This includes shallow wells, uncased deep wells, sanitary landfills, septic tank and on-lot sewage disposal systems, water treatment plants, and also sewage disposal systems not completely protected from inundation.

Recreational coach or mobile home parks and similar uses shall not be permitted in any designated floodway.

Any contemplated floodplain encroachment or channeling shall be thoroughly analyzed and its effect on streamflow determined before such encroachment is undertaken. Any construction, dumping and filling operations in a designated floodway constitutes an encroachment and must be approved by the LUA and the P&Z Commission, before accomplishment.

No lot one (1) acre or less in area shall include flood lands. All lots more than one (1) acre shall contain not less than forty thousand (40,000) square feet of land which is at an elevation at least two (2') feet above the elevation of the one hundred (100) year recurrence interval flood, or, where such data is not available, five (5') feet above the elevation of the maximum flood of record.

- H. Utilities. All utilities--water, sewer, telephone, electric power, gas, etc. shall be placed underground. Approval of utility companies shall appear on the preliminary plat.

All utilities in the road rights-of-way shall be placed prior to road surfacing, placement of curb and gutter and sidewalks and shall conform to rules and regulations adopted by the respective companies.

- I. Street Name Signs. To assure uniformity the City shall furnish and install all required street signs and the cost thereof shall be charged to and paid for by the subdivider within a period of thirty (30) days after installation. The developer shall have the option of installing the signs and eliminating the installation labor charge. Street name signs are required at all street intersections.
- J. Survey Monuments. Permanent survey monuments shall be furnished, accurately established and set by the subdivider at such points as are necessary to definitely establish all sides of the subdivision, except those defining individual lots.

- K. Parks. Park fees in accordance with the current fee schedule in Appendix B shall be paid on each lot when a building permit is issued. The money shall be held in a separate account earmarked to be spent only for such uses as park development, school playgrounds, future parks or other similar uses.
- L. Irrigation Ditches and Distribution Systems. A distribution system shall be installed so that secondary water is used for watering on each building lot created, all open space or other landscaped areas within the subdivision. Hyde Park City requires that adequate water shares as shown in Schedule A be obtained or an agreed upon substitution provided to supply sufficient water for the irrigation needs within the subdivision. The developer is required to create a water entity whose ownership and management is to be turned over to the subdivision's residents at the earliest possible point in the development timeline, unless title to the require water share(s) can be transferred directly to each lot owner entitled to and responsible for the same. The purpose of the entity is to provide management of the business requirements related to the water share(s) (pay bills, make assessments, etc.), hold title to the water shares owned and used by the entity for the benefit of the lot owners and other subdivision property, and to maintain the delivery system. Secondary water shares that are dedicated to the subdivision property as required by the ordinance must remain with the property. It is recommended that appropriate notice be given to the Canal Company for any unused shares to prevent loss of excess water shares. The development agreement will specify the actually number of shares that will be dedicated to the lots within the subdivision. Schedule A also includes sample wording for the transfer of water stock certificates.

In the event that the developer is unable to provide a delivery system for secondary water or unable to obtain water shares for the subdivision and has provided proof to Hyde Park City that they have done due diligence: Hyde Park City Land Use Authority Level 4 may waive this requirement.

The water entity is required to provide a method for ensuring the timely payment of assessments to the canal company or otherwise, for the water dedicated to the subdivision and for payment of assessments in the event the assessments become delinquent and/or are not paid. The development agreement shall provide for and allow payment of delinquent and/or unpaid assessments by the City and upon such payment by the City, the canal company shall transfer the water shares to the City, to hold as security for the repayment of all assessments paid by the City from the delinquent water share owner(s) or other person(s) responsible for the payment of such assessments. Upon payment of back assessments to the City, the shares will be returned to the applicant (owner). The water distribution system may not include open ditches or newly constructed open canals within or adjoining a subdivision except along rear or side lot lines. The subdivider shall work with irrigation, drainage or ditch companies to determine:

Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision.

Methods of distributing available secondary water to each lot and irrigated open space in the subdivision.

The size of pipe and culverts required.

The responsibility for the periodic inspection, cleaning and maintenance of such ditches, pipes and culverts. In cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the public works personnel in cooperation with the LUA and/or the City engineer.

- M. Street Lights. The developer shall be responsible to install city approved style of street lights within the subdivision. Street lights shall be placed at all intersections, at the end of cul-de-sacs, and at spacing not to exceed five hundred feet (500') measured along the street right of way line. Developer is also responsible to have power installed to the light.

### **13.60.020 Utility Connection Charges**

This section summarizes the costs for connection to the culinary water and sanitary sewer systems. These charges include City inspection of connections, materials and labor costs and a reserve fund. The connection and impact fees are paid at the time the building permit is issued.

- A. Culinary Water. The cost for each connection to the City's culinary water system shall be in accordance with the current connection and impact fees schedule listed in Appendix B, which includes the City's furnishing and installing the meter. Connection fees may be changed from time to time by resolution of the City Council.
- B. Sanitary Sewer. The cost for each connection to the sanitary sewer system shall be in accordance with the current fee schedule listed in Appendix B. In addition the subdivider shall furnish and install the service line from the main sewer line to the property line. Connection fees may be changed from time to time by resolution of the City Council.

### **13.60.030 Inspection**

All construction work involving the installation of improvements in subdivisions shall be subject to inspection by the City. Certain types of construction shall have continuous inspection, while others may have only periodic inspections. On construction requiring continuous inspections, no work shall be done except in the presence of the LUA in cooperation with the City Inspector.

- A. Continuous inspection may occur on the following types of work:
1. Preparation of street subgrade and compacted fill.
  2. Laying of street surfacing.
  3. Pouring of concrete for curb and gutter, sidewalks, and other structures.
  4. Laying of sewer pipe, drainage pipe, water pipe, valves, hydrants, and testing.
- B. Periodic inspections shall be required on the following:
1. Street grading and gravel base.
  2. Excavations for curb and gutter and sidewalks.
  3. Excavations for structures.
  4. Trenches for laying pipe.
  5. Forms for curb and gutter, sidewalks, and structures.

Requests for inspections shall be made to the City by the person responsible for the construction. Requests for inspection on work requiring continuous inspection shall be made three (3) days prior to the commencing of the work. Notice shall also be given one (1) day in advance of the starting of work requiring periodic inspection.

Appropriate agencies and departments and officials of the City shall inspect or cause to be inspected all buildings, fire hydrants and water supply and sewage disposal systems in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by appropriate department, agency or officials. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the developer by the inspector.

### **13.70 Compliance Required, Enforcement, Permits, Violations, Penalties, Changes And Amendments, Appeals, Written Agreements, Guidelines And Checklists, Exceptions To Ordinance, Validity, And Repeal Of Inconsistent Ordinances, Rules And Regulations**

#### 13.70.010 Compliance Required

#### 13.70.020 Enforcement

#### 13.70.030 Permits

#### 13.70.040 Violations

#### 13.70.050 Penalties

#### 13.70.060 Changes And Amendments

#### 13.70.070 Appeals

#### 13.70.080 Written Agreements

#### 13.70.090 Guidelines And Checklists

#### 13.70.100 Exception To Ordinance

#### 13.70.110 Validity

#### 13.70.120 Repeal Of Inconsistent Ordinances, Rules And Regulations

### **13.70.010 Compliance Required**

- A. Except as otherwise provided under "B", it shall be unlawful for any person to receive a building permit for a lot within a subdivision or subdivision phase until water, sewer, storm drainage and all other required underground utilities located under the street surfaces within the subdivision are installed, inspected and approved by the city and all streets in the subdivision are all weather roads at finished grade.
- A. A building permit may be issued for a lot within a subdivision prior to installation of all water, sewer and required utilities and rough grading of all streets within the subdivision upon a finding of all of the following conditions by the building official.
1. The lot fronts onto an already existing hard surfaced street;
  2. The main lines for utilities which will service the lot are located within the already existing and improved street;
  3. There is adequate fire flow protection and existing fire hydrants and fire protection devices for the lot as required by the uniform fire code, as adopted by the city, and other relevant city ordinances;
  4. There is adequate access to the lot for emergency utility vehicles;
  5. The issuance of the building permit will not threaten public health, safety and welfare;
  6. Issuance of the permit will not result in the waiver of any other requirements or performance guarantees for the subdivision.

C. It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable; which improvements shall include paved streets and sidewalks, and shall include curb and gutter as required by the LUA and the Planning and Zoning Commission. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed.

### **13.70.020 Enforcement**

The LUA, the Planning Commission, the City Council and such other departments and agencies and officials of the City government as are specified under the provisions of this title are hereby designated and authorized as the agencies charged with the enforcement of the provisions of this ordinance and shall enter such actions in court as are necessary. Failure of such department to pursue appropriate legal remedies shall not legalize any violation of such provisions.

### **13.70.030 Permits**

From the time of the effective date of this title, the building inspector shall not grant a permit, nor shall any City office, department or agency grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this title until a final subdivision plat therefore has been approved as herein required. Any license or permit issued in conflict with such provisions shall be void.

### **13.70.040 Violations**

No person shall subdivide any tract or parcel of land located wholly or in part in the City except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the LUA and the Planning Commission, nor offer for recording in the office of the County Recorder, any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provision of this title.

### **13.70.050 Penalties**

Hyde Park City may establish criminal penalties for violations of the provisions of this ordinance. Violations of any of the provisions of this ordinance are punishable as a class C misdemeanor. In addition to criminal sanctions, Hyde Park City may establish civil penalties.

### **13.70.060 Changes And Amendments**

This Subdivision Ordinance may be amended from time to time by the Hyde Park City Council after complying with the present requirements of 10-9a-205 and 10-9a-502 of the U.C.A., and as said sections may be amended. But all proposed amendments shall be first proposed to the LUA and the Planning and Zoning Commission for its recommendation, which shall be returned to the City Council within thirty (30) days. Failure of the LUA and P&Z Commission to submit its recommendations within the

prescribed time shall be deemed approval by such Commission of the proposed change or amendment. The Hyde Park City Council may overrule the P&Z Commission's recommendation by a majority vote of its members.

#### **13.70.070 Appeals**

Any applicant, member of the LUA and P&Z Commission and/or property owners within 1,000 feet of the proposed subdivision property shall have the right to appeal the recommendation for or against a proposed subdivision by the Planning and Zoning Commission to the Appeals Authority within five (5) days of the date of such action. Any action taken and not appealed within said five (5) days shall be final. When a written appeal is received by the City Council within five (5) days of the time the action was taken, the City will publish notice of the appeal hearing fifteen (15) days prior to the scheduled date by publishing the notice in a newspaper of general circulation. Action by the Appeals Authority will be final.

#### **13.70.080 Written Agreements**

When and as written agreements are deemed to be necessary for the protection and understanding of all parties concerned, then they shall be entered into by all parties concerned, i.e., to cover areas of concern not specifically addressed by the Subdivision Ordinance or other requirements of the City, and shall be submitted with the preliminary plat to the LUA and the P&Z Commission and the City.

#### **13.70.090 Guidelines And Checklists**

The City is hereby authorized and empowered to promulgate by way of resolution certain guidelines and/or checklists relative to this Ordinance. These materials shall be provided to any interested person upon request and upon payment of a fee specified by the City. These materials shall be for instructional purposes only and represent an attempt to aid those seeking to comply with this Ordinance. In the event any conflict arises between such guidelines and this Ordinance or other regulations, resolutions or policies of the City, then said Ordinances, resolutions, regulations or policies shall be deemed controlling and all questions shall be resolved in their favor. Failure to follow guidelines or checklists may be cause for delay of approval.

#### **13.70.100 Exception To Ordinance**

Where unusual topographic or other exceptional conditions exist, the City Council may vary the requirements of this Ordinance after receiving the recommendations of the LUA and P&Z Commission and/or the City Engineer, provided that such variations will not substantially impair the intent of this Ordinance.

#### **13.70.110 Validity**

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part specifically so declared to be invalid.

#### **13.70.120 Repeal Of Inconsistent Ordinances, Rules And Regulations**

All ordinances, rules and regulations, or parts thereof, of Hyde Park City which are repugnant to or inconsistent or in conflict with this Ordinance are hereby repealed.

### **13.80 Subdivision Checklists And Guidelines**

This is a checklist covering the entire development process. This document does not replace the Subdivision Ordinance. There are individual checklists made up for each step: Sketch Plan, Preliminary Plat and Final Plat. The City will use those checklists to monitor completion of requirements. You may obtain a copy of each of the checklists at the City office or on our website. [hydepark.utahlinks.org]

Developer takes one step at a time, not moving along until each step is satisfied.

- A. Developer contacts the City and obtains a copy of the Subdivision Ordinance and the Zoning Ordinances of Hyde Park City. There is a charge for these publications or they are available on the Hyde Park City Website. [hydepark.utahlinks.org]
- B. Developer presents six (6) copies of the sketch plan to the City offices seven (7) days prior to a scheduling a meeting with the LUA. After approval of the LUA the sketch plan is forwarded to the Planning and Zoning Commission.
- C. If the LUA and Planning and Zoning Commission approve the concept presented in the sketch plan, developer prepares a preliminary plat and delivers seven (7) copies to the LUA with the preliminary plat fees at least ten (10) days prior to the next LUA meeting. (See fee Schedule.). LUA reviews the plat. After approving the LUA forwards it to Planning Commission.
- D. City engineer reviews the preliminary plat, makes a field inspection and transmits to the LUA and Planning Commission his conclusions and recommendations.
- E. The Fire Department reviews the plat for conformance with the Fire Code.
- F. The Planning and Zoning Commission reviews the preliminary plat, holds a public hearing and either approves or rejects the plat.
- G. When the preliminary plat is approved, City Council reviews the plat and/or reviews any appeals of the P&Z action by the developer.
- H. The developer proceeds with preparation of the construction drawings and final plat and delivers three (3) copies of construction drawings and four (4) copies of the final plat to the City two weeks prior to meeting with the LUA and P& Z Commission again.
- I. Developer pays fees to the City for checking the final plat. (See fee schedule.)
- J. City engineer reviews the final plat and construction drawings and transmits to the LUA and/ or the P&Z Commission as required with his conclusions and recommendations.
- K. LUA and P&Z Commission shall review and rework as necessary with the developer until they subsequently recommend approval to the City Council. All items shall be in compliance with the ordinance before being forwarded to the City Council.
- L. City Council shall receive the recommendation of approval from the LUA and P&Z Commission, review the Final Plat and approve or deny the subdivision.
- M. City engineer reviews construction drawings, makes a field inspection, the developer's engineer estimates the cost of construction. The City determines the inspection fee. A development agreement is signed between the developer and the City.
- N. Developer pays fees to the City for checking construction drawings, field inspections and any other costs required by the Development Agreement.
- O. Developer provides security of performance.
- P. Final plat is recorded with the County Recorder.
- Q. Developer constructs improvements as shown on construction drawings and following Hyde Park City subdivision specifications within one year of date of filing the

final plat with the County Recorder.

- R. LUA and City engineer provide inspections during construction.
- S. Developer's engineer provides record drawings of completed construction to the City engineer.
- T. LUA and City engineer furnishes developer with a punch list of construction corrections following the final inspection.
- U. Developer completes any punch list items and provides a one-year guarantee on public improvements.
- V. City releases the security of performance upon satisfactory recommendation of the City engineer, except for the security of performance amount to be held during the one-year guarantee period.



## **14 Comprehensive Planning**

- [14.10 Purpose](#)
- [14.20 Surrounding Influences](#)
- [14.30 Public Opinion Survey](#)
- [14.40 Sensitive Community Resources](#)
- [14.50 Community Vision](#)
- [14.60 General Development](#)
- [14.70 Transportation](#)
- [14.80 Open Space, Parks, And Recreation](#)
- [14.90 Annexation](#)
- [14.100 Planning Commission Operational Policy](#)

### **14.10 Purpose**

The purpose of the General Plan is to guide Hyde Park City's government in assessing future development proposals and decisions concerning the physical development of the City while preserving its character and traditions.

The Planning Commission is the official government entity responsible for creating the General Plan. It should be updated as needed by reviewing, modifying and/or building on the existing General Plan document and by receiving input from the citizenry and officials of the City.

The General Plan applies to all lands, public and private, within the urban service boundary plan and the areas included in the annexation policy declaration. It establishes general development policies, which are specifically upheld, implemented, and regulated by City ordinances. The Plan looks to the future, well beyond any current proposal before the City. The General Plan helps Hyde Park City manage its growth--residential, commercial, industrial and recreational by providing the basis for zoning and development decisions. The General Plan defines the goals of the City.

### **14.20 Surrounding Influences**

Through its Annexation Policy Declaration and Urban Service Boundary Plan, Hyde Park City has established a common boundary to the south with North Logan City; to the north with Smithfield City; and a small common boundary with Logan City by the airport. On the east is US Forest Service land. To the west is unincorporated Cache County land, west of the airport and this land to 2400 West is included in Hyde Park's annexation policy declaration. The City may, as requested by property owners, annex lands within its Annexation Policy Declaration area provided there is the ability to provide adequate public services and it is deemed beneficial to the City to incorporate that land.

### **14.30 Public Opinion Survey**

The results of public opinion surveys should be considered when revising the General Plan.

### **14.40 Sensitive Community Resources**

Certain natural and built resources within the City should be protected. They contribute to the physical appearance of the community and many are mandated by the federal government to be protected. Others are deemed desirable by the City. They are deemed to be sensitive open space in all future development and include community visual amenity, wetlands, flood hazards, natural drainage corridors, natural resource amenities, geologic hazards, utility limitations, steep slopes, unstable soils and water recharge and culinary water source zones.

### **14.50 Community Vision**

- [14.50.010 Vision Statements](#)
- [14.50.020 Growth Rate](#)
- [14.50.030 Growth Capacity](#)
- [14.50.040 Economic Base](#)

City officials and staff are committed to decision making that is citizen based and in accordance with State and Federal guidelines. The process of updating the General Plan will involve citizen input from past and current surveys, polling the citizen base of Hyde Park City. A major portion of the planning effort involves citizens of the community to give guidance to the plan. Growth continues to be a major concern in the City and focus on related problems and solutions are critical to planning issues.

#### **14.50.010 Vision Statements**

The City of Hyde Park should promote efforts to build commerce, adequate services, a safe environment, and a community where life, for all, can be enjoyed. Growth and development within the City will be directed by its government to ensure that valuable resources are sustained for the benefit of the residents of the City. The following statements will be the basis for planning and zoning decisions and they are the foundation for the General Plan:

- A. Community Development - The City of Hyde Park should be growing and seeking continual improvement in all aspects of community development including residential, commercial, industrial, recreational, and social. All existing and new developments must work to preserve the qualities of the community that are vital to its citizens. Developers will be required to preserve the valuable resources of the City. At a minimum, new development will be required to provide significant amounts of usable open space including landscaping and street trees. Areas inappropriate for development will be set aside for undevelopable open space. The three major components of community development are:
  1. Residential Development. Residential growth will, and should, occur in Hyde Park. Growth must be managed by ensuring that developers install the infrastructure that is required to meet the needs of the community and not encumber the current infrastructure.
  2. Commercial and Industrial Development. The City of Hyde Park should foster revenue and employment-producing commercial and industrial projects. New businesses will create opportunities for citizens to maintain or enhance community services. The following statements will guide this effort:

- a. Increased tax-generating commercial/industrial development will strengthen the economic base of the community and assist to stem the rise of residential property taxes. Without tax producing land development, the cost of operating the City will continue to increase and will be paid primarily by residential property owners.
  - b. All new developments shall be required to provide complete infrastructure and quality improvements that will enhance the project and the City for many years.
3. Park, Recreation, and Usable Open Space Development. The City will continue to develop recreational projects in accordance with current needs and anticipated future recreational demands of the citizenry. Parklands and /or usable open space will be established as a part of all new planned residential subdivisions developed in the city. A recreational plan should be developed by the City to assist in recreational decision-making.
- B. Infrastructure and City Services - Growth of City utility services (i.e., water, sewer, roads, emergency services, etc.) will be planned, constructed, and maintained to keep pace with the needs of the community. New services will be financed principally by those benefiting from the services. The City should continue to follow utility development plans that are updated periodically.
- C. Community Character - There are many natural and built resources of the City that are of great worth to its citizens. They must be sustained for the long-term benefit and safety of residents and property owners. The attractive character of Hyde Park is composed of the following physical elements:
  1. Sensitive Lands. Certain areas within the City and within the future annexation areas of the City have characteristics which present special problems for development and which are valuable resources of open space to the community. The loss of these areas will adversely affect the visual quality of the City and efforts should be made to preserve these resources. It is necessary to minimize: vegetation removal, soil and slope instability, erosion, and water runoff. There is also a need to maintain recreational access corridors within lineal natural drainage systems.
  2. Animal Management The presence of animals in Hyde Park was a basic element of life in the early community. The rural character of the City is enhanced by the appearance of animals throughout the community.
  3. Community History. The City should team with historical organizations to preserve historical documents and sites.

#### **14.50.020 Growth Rate**

- A. Hyde Park is currently growing at a rate exceeding 2.7% (27 homes per year). State Demographic Models suggest that the population growth rate will stabilize at 2% annually by the year 2017. The growth rate should continue provided that the City's capacity to grow keeps pace with the capacity to maintain acceptable levels of service. Residential growth will be gauged by funds derived from impact fees and the growth of commercial revenue to support the maintaining and extension of residential infrastructure and services, recognizing that City infrastructure and services are, for the most part, installed by developers and then maintained by the City. If available services lag behind residential growth demands, permits would be limited until needed resources are developed and increased to support additional development. A well-planned Capital Improvement Program (CIP) that supports the use of impact fees is an essential component of a plan to manage growth. The CIP should be a prioritized schedule of capital improvements over a definite period of time which supports the growth demands of the City. The CIP should identify the following:
  1. Location and cost of proposed facilities
  2. Expansion of facility capacity
  3. The need for service facilities
  4. Sources of available financing of each improvement
  5. Level of acceptable service standards
  6. Statement of planned capacity for each service or facility
- B. An Urban Service Boundary (USB) is established by the existing services in the City as shown on the water, sewer and road master plans. Organized development in perimeter areas and where City services do not exist will continue to expand the Urban Service Boundary. This will require that new projects build and expand new infrastructure in the City where services are not adequate. Urban Services should be designed to follow the Master Road Plan establishing standards for roads, sewer, and water services and other critical City services. The USB must be integrated with the CIP.
- C. As a part of establishing an USB, the City has coordinated with Logan, Smithfield and North Logan to develop similar USB plans. Future annexation areas for Hyde Park will follow accepted boundary agreements between the communities.

#### **14.50.030 Growth Capacity**

Past and recent public input has required that all residential neighborhoods should be uniform and consistent throughout the City. Residential zoning will be applied in all areas. Based on this approach it was determined that all undeveloped areas should have a uniform density of no greater than 2 dwellings for one acre of land. The future land area available for new growth amounts to about 1,763 acres. This acreage includes undeveloped areas within current City boundaries and anticipated annexation areas to the south, north, and west. This would allow 3,526 new homes over a 75-year period. Based on a growth rate of 2.7% per year, the expected population of Hyde Park could be 13,400 in the year 2075.

#### **14.50.040 Economic Base**

Community viability and well-being is directly associated with the economic condition within the City. Commercial development provides areas, in which to shop or work, which increases the sales tax and provides job opportunities for residents and their children who may wish to reside in the community. Convenience is increased because residents do not have to travel long distances to the work place or to purchase household needs. The Mayor and the City Council should work to encourage well-established businesses to come to Hyde Park. A proven strong business district will assist the citizens in maintaining their quality of life.

### **14.60 General Development**

- 14.60.010 Residential Development
- 14.60.020 Commercial And Industrial Development
- 14.60.030 Commercial Area
- 14.60.040 Industrial Area

The General Development in the City is regulated in the residential, commercial and industrial zones covering the future land uses of Hyde Park. The annexation of property will occur as property owners request annexation and as the City reviews its options to serve the future growth in the proposed annexation.

#### **14.60.010 Residential Development**

Residential land dominates the urbanized use of land in Hyde Park. The preferred life-style of the City's residents has been, and shall be focused on single-family detached houses. A structuring of this pattern of development shall be done in correlation to the Master Road Plan.

- A. Residential Areas. A maximum density is established for each residential zone at two dwelling units per acre.
- B. Elderly Housing. The City has made and will continue to make an effort to enable the private sector to accommodate Senior citizen housing by creating an ordinance allowing higher density planned unit developments.
- C. Affordable Housing. The Utah Code requires that communities prepare a plan to provide moderate-income housing. Moderate income housing is defined in the Utah Code section 11-38-102 as: "housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the metropolitan statistical area for households of the same size".

#### **14.60.020 Commercial And Industrial Development**

A well-developed community provides areas for business as well as residential use. This offers citizens the opportunity to carry on commerce near their homes. This is convenient and cost effective. Simultaneously, commercial areas provide revenue for City operations that residential areas may not fully provide. General land use policy allows for all general uses, residential and business, while acknowledging that many residential and business uses require separation.

Hyde Park has an excellent business area with access to the primary highway (US 91) and the airport. Rail is also present but there are no spurs on the current rail line. This access to key transportation facilities, particularly the airport, makes the area attractive to potential businesses.

Current zoning allows for commercial and industrial areas. The commercial zone encompasses the area two blocks east and west of the highway. The industrial zone lies to the west of the commercial zone and will extend for at least one half mile west of the airport due to airport restrictions on residential development.

#### **14.60.030 Commercial Area**

This area is targeted to retail and service oriented businesses. As such, the area should be designed and maintained to follow the commercial zoning ordinance.

#### **14.60.040 Industrial Area**

This area is targeted at businesses producing, storing and transporting goods and services. The area should be attractive but with a high focus on functionality. Special attention should be paid to transportation assets such as the airport and rail line.

### **14.70 Transportation**

- 14.70.010 Master Road Plan
- 14.70.020 East/West Collectors
- 14.70.030 North/South Arterials
- 14.70.040 Future Roadways And Rights-Of-Way
- 14.70.050 Other Transportation Issues
- 14.70.060 Public Transportation
- 14.70.070 Recreational Trails

The City's transportation and circulation system consists of vehicular streets, public transit, limited bicycle paths and some pedestrian sidewalks and trails. Within the Commercial and Industrial Zones, streets should accommodate trucks, with an emphasis on continuous traffic at moderate speed.

The road network of the City serves the internal needs of the community and it must also facilitate the movement of people, goods, and services in, out, and through the community. The roadway system of this General Plan is supportive with the Cache Metropolitan Planning Organization (CMPO) Long Range Transportation Plan. Federal funds administered by the CMPO will help the City to develop parts of the Master Road Plan.

#### **14.70.010 Master Road Plan**

The purpose of the Master Road Plan is to show the proposed location of future streets within the City. This map is the guide for decisions when developments are proposed in the vicinity of a planned major street. It also becomes a record of the recommendations and rationale of previous City administrations. The recommended locations and alignment of the Master Roads Map are general in nature, which does not identify specific locations for these streets. The final alignment can vary from the street plan general location but should meet the intent of the plan.

#### **14.70.020 East/West Collectors**

East-West collectors will function to move traffic between residential and manufacturing/commercial zones within the City. They are also intended to relieve congestion on some existing north /south streets. East-west traffic will become a more significant problem as residential, manufacturing, and commercial zones expand throughout the City. Three improved roadways are planned to facilitate east-west movement:

- A. 600 South (3100 North / 1200 East to 600 West-County). This corridor should be developed as an east-west collector road. This roadway should serve the industrial / manufacturing developments west of the highway and the commercial areas near the highway. Eastward, it should connect the residential bench of North Logan and Hyde Park to the highway and employment areas west of the highway.
- B. Hyde Park Lane/ Center Street (3700 North / 1200 East to 600 West-County). Hyde Park Lane is the historic east-west roadway of the City. The road is classified as a collector. On the west this road extends all the way to the airport and west of the airport the road continues on and aligns with 3400 North. It is anticipated that this will become a major east-west road corridor in Hyde Park. This roadway is the primary access point to U.S. 91 and will be the means by which traffic in the commercial and industrial sections of the City will enter the highway.
- C. 450 North (4200 North / 1600 East to 2400 West-County, Eastern annexation boundary to western annexation boundary ). Currently this roadway is a small rural lane west of U.S. 91 going all the way to 2400 West, and some newly developed sections through new residential developments to the east. It will intersect at Highway 91 and serve the industrial/manufacturing developments west of the highway and the commercial areas near the highway. East of Highway 91 the road should be aligned to the south to join 450 North.

- D. 200 South. Currently this road extends from 1600 East in North Logan to 200 West in Hyde Park. The master road plan suggests that this road should continue to Highway 91.

#### **14.70.030 North/South Arterials**

U.S. Highway 91 functions as a funnel for north-south traffic. This busy highway has forced increased traffic onto 100 West and 250 East. The goal is to develop several new north/south roads that will allow better flow of traffic. New corridors are required to accommodate growth in the area and they are described as follows:

- A. 800 West-County. This road west of the airport does not currently exist in Hyde Park but would be an important road for accessing the land west of the runway. It would run from 3700 North to 4200 North and should continue North to align with 800 West in Smithfield.
- B. US. 91 This roadway is the region's only north / south major arterial. It is the only high volume/high speed roadway. It needs to be preserved as such a roadway and City planning efforts are focused on limiting and controlling access to the corridor.
- C. 200 West-County (900 West / 600 South to 500 North-City). This new roadway is a key element to commercial and industrial development in the area west of Highway 91. It should connect to similar future roads in Smithfield and North Logan. Currently a section of this road is built between Hyde Park Lane to 500 North.
- D. CMPO / 400 West (200 East / 3100 North to 4400 North-County). This corridor will become an arterial roadway that will be critical to preserving the function of U.S. 91 as a regional major arterial roadway. It is planned as a road that will permit efficient movement of traffic through the commercial districts planned for the western parts of Hyde Park east of Highway 91.
- E. 250 East (800 East-County). This roadway is another heavy use corridor connecting Hyde Park with Logan, North Logan, and the University. The USU Campus is a special trip generator which attracts significant traffic to 250 East (800 East). The roadway, however, disappears in Hyde Park when it meets 200 South and it terminates to the south at the University. For this reason it cannot become an arterial connecting Smithfield and Logan through Hyde Park. The relative narrowness of the road through North Logan and the existence of an elementary school on the road limit consideration of the road for improvements or widening.
- F. 700 East (1200 East-County). This road must become a road connecting Smithfield and Logan through Hyde Park. North Logan plans to improve the alignment for more efficiency as a north/south arterial. It is imperative that this road is developed to accommodate traffic flow to the south from the eastern bench. The road through North Logan will require widening. Eventually, this road will continue north around the western base of Round Hill and connect to a similar road in Smithfield. The development of 1200 East as an arterial will help to accommodate additional traffic to south destinations.
- G. 1000 East (1600 East-county). This roadway is only a small local street at this time. In Logan and North Logan 1600 East functions as a collector road for the east bench, but it is currently substandard. It ends at the Hyde Park City boundary (200 South). It has been proposed by the CMPO that this road be extended to connect with the Greystone subdivision and then curve northwest to merge with 700 East (at approximately 1200 East and 4300 North-County) and continue to Smithfield.

#### **14.70.040 Future Roadways And Rights-Of-Way**

New development should be required to provide new roads as defined in the Master Road Plan. The design of new development areas should include future roads as shown on the Master Road Plan. Rights-of-way should be dedicated and improvements made to all properties at the time plats are approved and as development occurs.

#### **14.70.050 Other Transportation Issues**

Intersections should be designed to accommodate safe pedestrian crossing. All intersections should be lighted for pedestrians at night to allow safe crossing and vehicle maneuvering. All intersections should have well marked street identification signs. School crossings and trail or pathway crossings should be considered and planned as new growth develops.

Traffic control devices should be used to regulate traffic in a safe and efficient manner. Stop signs and speed limit signs should be placed when sound transportation engineering principles justify such action. Traffic control should only be used to legitimately increase safety and/or efficiency of streets. If the control of vehicular speed is a concern on a particular street other "traffic calming" techniques should be explored as part of a long term, complete solution to the problem.

Roads designed to move traffic for the benefit of the City should not be arbitrarily controlled to render roads ineffective as a transportation facility. Land use decisions along any City street should consider the long-term effects on the efficiency of the road to move traffic.

#### **14.70.060 Public Transportation**

As public transportation needs increase, the City officials should promote mass transit use by cooperating with the Cache Valley Transit District. The Railroad ROW at 600 West-County should be preserved to accommodate possible light-rail transportation.

#### **14.70.070 Recreational Trails**

City officials should actively promote walking and bicycling for its residents. A bicycle path system should be developed as part of a community-wide trail system. This system should serve the recreational cyclist as well as those who use the bike for transportation. Such a system will require public financing and commitment. A trail system is proposed to connect parks, recreation, shopping areas, and employment.

The recreational paths should involve the public walkways and canal maintenance easements, where possible. A priority for recreational trails and walks is to retain and develop areas for non-motorized traffic. The banks of the canals should continue to be used as a trail/walkway. Additional canal maintenance easements should be planned and set aside for trails/walkways where existing residential areas do not abut the canal. Other trails/walkways should be established north and south on the undeveloped portions of the canals. East and west trails/walkways should connect residential areas to schools, parks and commercial/industrial area. All parks and open space should include trails and walkways.

The High Power Transmission Line corridor is an excellent location to create trails connecting to north and south destinations. The Lake Bonneville Trail system should be supported and this area would be an excellent extension of this system. These proposals are consistent and supportive of the CMPO Long Range Pedestrian/Bicycle Plan. The General Plan and the CMPO Plans should be continually coordinated and mutually supportive. The City should investigate the need to provide for equestrian trails as rural areas are urbanized.

### **14.80 Open Space, Parks, And Recreation**

#### **14.80.010 Existing Parks And Recreation**

#### **14.80.020 Future Open Space, Parks, And Recreation**

A major priority for City residents is to have more usable open space, protect undevelopable open space and increase recreational opportunities. Access to surrounding public lands in adjacent mountain areas should also be provided as private land develops. Usable open space as set-aside or by other means of creating usable open space should be required within each planned residential subdivision development to insure that everyone has access to open space.

Drainage channels, streams and canals offer unique opportunities for recreation and can link neighborhoods to open spaces and parks. The importance of natural drainage channels cannot be over emphasized. They have been created, over time, by local flooding. They should be preserved and maintained as natural floodways to contain future floodwaters. Storm water runoff from development should not empty into these channels unless sound storm water management practices can justify such action. These channels should remain open and they should be enhanced to accommodate additional storm water.

The City should continue to acquire parks and usable open space in expanding areas of development. Areas should be established where usable open space and sensitive lands can be harmoniously preserved adjacent to residential developments. Such land areas will be used for recreation where possible and/or to provide for public safety. Development of a network of permanent, multifunctional, publicly and privately owned open spaces should be a consistent goal of City government.

#### **14.80.010 Existing Parks And Recreation**

The following are specific improvements for park and recreation facilities:

- A. Lee Park. Lee Park continues to serve the needs of residents. Improvements need to be made for parking, lighting, and maintenance for future growth.
- B. Civic Center Park. The Civic Center and the Pioneer Heritage Monument complement the park atmosphere of this site. It is recommended that the existing park atmosphere be both maintained and expanded around the Civic Center. Consideration should be given to adding picnic areas and a small pavilion in the park area. Improvements need to be made for parking, lighting, and maintenance for future growth.
- C. Lions Park. The Lions Park should continue to be developed according to the existing plan.

#### **14.80.020 Future Open Space, Parks, And Recreation**

Additional parks should be created at other locations throughout the City. Property should be obtained to create multiple parks of varied sizes, similar to Lee Park and Lions Park, to permit the common use by all citizens throughout the City.

- A. Usable and undevelopable Open Space Corridors. Natural and built recreation corridors should be established to link all parks within the system. Where connections are impossible, streets and adjacent walks may be used to link various park and recreation facilities.

### **14.90 Annexation**

Annexation should be consistent with the Urban Services Boundary and in accordance with State Law.

### **14.100 Planning Commission Operational Policy**

#### **14.100.010 Process To Make Changes**

Implementation of the general plan comes through working documents, such as the zoning and subdivision ordinances and other ordinances, resolutions and studies deemed appropriate by the City Council.

The general plan is to guide Hyde Park City's government in assessing future development proposals and decisions concerning the physical development of the City. If a conflict exists between the general plan and the ordinances, it should be a priority of the Planning Commission to reconcile them.

Hyde Park City has adopted an ordinance creating a Land Use Authority (2007 – 05) to aid in ensuring ordinance compliance of all development proposals.

#### **14.100.010 Process To Make Changes**

Changes to the General Plan must follow Utah State Code, dealing with Municipal Land Use and Management.

## **15 Development And Public Facilities**

### **15.10 Infrastructure And Development Improvements**

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### **15.10 Infrastructure And Development Improvements**

This ordinance shall apply to all areas that are serviced by roads, curb and gutter, sidewalks, water lines, sewer lines, trails or other infrastructure constructed by Hyde Park City in all zones within the city and areas outside of the city for future use.

Hyde Park City shall notify affected property owners at the time the city makes infrastructure improvements, allowing them an opportunity to participate at the time of construction. Those who choose not to participate will be required to sign a waiver of acknowledgment. Those who acknowledge under protest may appeal to the city council.

The cost for all improvements shall be reimbursed to Hyde Park City by the owner(s) who receive direct benefit of such improvements no later than at the time they develop or improve their property for beneficial use. Costs reimbursed to the city shall be actual costs incurred and documented by Hyde Park City. Land acquisition for dedicated rights-of-way shall also be based on actual costs to the city for the same. All costs for improvements placed within any right-of-way as described above shall become an improvement cost related to that property and its future development as described herein. This includes, but is not limited to, engineering, road base, curb and gutter, asphalt surfacing, water and sewer installation, sidewalks and trails.

In the event of unusual circumstances the city council shall consider these circumstances on a case-by-case basis, making a decision that upholds the intent of this ordinance.

It shall be the responsibility of the city to keep an accurate accounting of the infrastructure improvements made and paid for by the city—date, site, type of improvement and cost, with appropriate documentation. Notice of the infrastructure improvement and requirement for reimbursement at the time of property development will be attached to land titles affected by a particular improvement as a part of the record-keeping process.

### **15.20 Commercial Development Incentives**

#### **15.20.010 General Purpose**

#### **15.20.020 Administration**

#### **15.20.010 General Purpose**

Commercial Development Incentives. The City Council of Hyde Park, at its sole discretion, may elect to reimburse all or part of any development fee or assessment and public infrastructure and service improvements associated with a new business development. In addition, the City may also elect, at its sole discretion, to provide public infrastructure and service improvements within the Hyde Park City limits as an incentive to attract new business that will enhance the tax revenue base of the City.

To provide such incentives and reimbursements, the City Council must find that the financial benefit derived by the City will outweigh the costs associated with reimbursements and any associated service or infrastructure improvements.

Applicants will indicate their intention to be considered for reimbursement under the Commercial Development Incentive Ordinance in writing and by showing projected tax revenues in a professionally prepared four-year business plan. If an existing business, the request must be accompanied by a tax payment history of the most recent two years. These will be submitted to the City Council for their review.

#### **15.20.020 Administration**

Administration. All fees and infrastructure improvements will be paid by the applicant requesting consideration under the Commercial Development Incentive Ordinance. All documentation, including invoices and cancelled checks will be presented to the City verifying the amounts paid on fees and infrastructure improvements. The City will obtain sales tax revenue amounts from the report from the State Tax Commission of the State of Utah. Reimbursement will be paid quarterly after the city receives its portion from the state up to the maximum number of years allowed by State Code. Within that predesignated period of time 50% of the sales tax revenue from the business received by Hyde Park City may be reimbursed to the business, up to the total cost of the fees and improvements made, or the total costs of those items that the City Council previously agreed to reimburse under this ordinance. A development agreement will be presented for city infrastructure, describing said infrastructure and parties paying for it; also naming business, whether owned or leased, whose sales tax will be applied for this incentive. All agreements shall be in writing.

### **15.30 Drinking Water Source Protection**

#### **15.30.010 Short Title And Purpose**

#### **15.30.020 Definitions**

#### **15.30.030 Establishment Of Drinking Water Source Protection Zones**

#### **15.30.040 Permitted Uses**

#### **15.30.050 Prohibited Uses**

#### **15.30.060 Administration**

#### **15.30.010 Short Title And Purpose**

- A. This ordinance shall be known as the "Drinking Water Source Protection Ordinance."
- B. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the city by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for the city water system and by the designation and regulation of property uses and



conditions which may be maintained within such zones.

#### **15.30.020 Definitions**

When used in this ordinance the following words and phrases shall have the meaning given in this Section:

- A. Design standard- means a control that is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of a design standard.
- B. Land management strategies- means zoning and non-zoning controls which include, but not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground-water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.
- C. Pollution source- means point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution sources:
  - 1. Animal feeding operation- means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.
  - 2. Animal unit- means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0 .
  - 3. Extremely hazardous substances- means those substances that are identified in the Sec. 302 (EHS) column of the "TITLE III LIST OF LISTED - Consolidated List of Chemicals Subject to Reporting Under SARA Title III." (EPA 560/4-91-011).
- D. Potential contamination source- means any facility or site that employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.
- E. Regulatory agency- means any governmental agency with jurisdiction over hazardous waste as defined herein.
- F. Sanitary landfill- means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes are disposed of on land by placing earth cover thereon.
- G. Septic tank/drainfield systems- means a system that is comprised of a septic tank and a drain-field that accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drainfield system discharges cannot be controlled with design standards.
- H. Wellhead- means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

#### **15.30.030 Establishment Of Drinking Water Source Protection Zones**

There is hereby established use districts to be known as zones one, two, three and four of the drinking water source protection area identified and described as follows:

- A. Zone one is the area within a 100-foot radius from the wellhead.
- B. Zone two is the area within a 250-day ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- C. Zone three (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- D. Zone four is the area within a 15-year ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

#### **15.30.040 Permitted Uses**

The following uses shall be permitted within drinking water source protection zones:

- A. Any use permitted within existing agricultural, single family residential, multi-family residential, and commercial districts so long as uses conform to the roles and regulations of the regulatory agencies.
- B. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

#### **15.30.050 Prohibited Uses**

The following uses or conditions shall be and are hereby prohibited within drinking water sources protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 15.30.040 of the ordinance.

- A. Zone one- The location of potential contamination sources as defined herein, unless they are controlled with design standards.
- B. Zone two- The location of pollution sources as defined herein, unless their contaminated discharges are controlled with design standards.
- C. Zones three and four- The location of potential contamination sources unless they are controlled through land management strategies.

#### **15.30.060 Administration**

The policies and procedures for administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the City of Hyde Park, as the same is presently enacted or may from time to time be amended.

### **15.40 Municipal Park Impact Fees**

15.40.010 Impact Fees Imposed

15.40.020 Service Areas

15.40.030 Time Of Collection



15.40.040 Adjustment Of Impact Fees

15.40.050 Accounting, Expenditure And Refund Of Impact Fees

15.40.060 Administrative Challenges And Appeals Procedure

**15.40.010 Impact Fees Imposed**

Impact fees are hereby imposed as a condition of the issuance of a building permit by the city for any development activity which creates additional demand and need for public facilities for public parks, as set forth in Exhibit A which is attached hereto and incorporated herein by this reference. These fees may be changed from time to time by resolution.

**15.40.020 Service Areas**

The entire area of the city and any areas outside the city serviced by such systems are hereby designated and established as one service area with respect to the parks system.

**15.40.030 Time Of Collection**

Unless otherwise provided by the city council, impact fees shall be paid to the city prior to the issuance of a building permit by the city.

**15.40.040 Adjustment Of Impact Fees**

- A. The city may adjust the impact fees imposed pursuant to this ordinance as necessary in order to:
  1. Respond to unusual circumstances in specific cases;
  2. Ensure that the impact fees are imposed fairly;
  3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the city council; and
  4. Allow a credit against impact fees, as approved by the city council, for dedication of land for, improvement to, or new construction of, any system improvements by the applicant or developer if the facilities are identified in the city's Capital Facilities Plans and are required by the city as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.
  5. Adjust the park impact fee for inflation in a manner consistent with the Utah Impact Fee Act based on current information derived from the Engineering News Record Index for the Salt Lake City Metropolitan area.
- B. The city council shall have the authority to make such adjustments based upon information submitted by an applicant or developer and a recommendation from the city's Planning Commission.
- C. The city may adopt policies consistent with this ordinance and any resolutions passed by the city council to assist in the implementation, administration and interpretation of this ordinance related to Municipal Impact Fees.

**15.40.050 Accounting, Expenditure And Refund Of Impact Fees**

The city shall account for, expend and refund impact fees collected pursuant to this Chapter in accordance with the provisions of the Utah Impact Fees Act.

**15.40.060 Administrative Challenges And Appeals Procedure**

- A. Any person or entity required to pay an impact fee imposed by the city who believes the fee does not meet the requirements of the law may file a written request for information with the city as provided by law.
- B. Within two weeks of the receipt of the request for information, the city shall provide the person or entity with the written analysis required by the Act and with any other relevant information relating to the impact fee.
- C. Within 30 days after pay an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall file a written appeal with the Hyde Park City Recorder setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal the recorder shall forward the appeal, together with a recommendation, to the city council and shall schedule a public hearing before the city council on the appeal for the purpose of receiving input from all interested persons. The city council shall thereafter render its decision on the appeal no later than 30 days after the date the appeal was filed with the city recorder. Any person or entity who has failed to comply with the administrative remedies established by this Section, may not file or join an action challenging the validity of any impact fee.
- D. Any person or entity who was a party to an appeal under this Section who is adversely affected by the decision of the city council may petition the District Court for a review of the decision within 90 days of a decision upholding an impact fee by the city council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the First District Court for Cache County.
- E. In the event a petition is filed with the District Court, the city shall transmit to the reviewing Court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- F. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsection "E" above.
- G. If there is a record:
  1. The District Court's review is limited to the record provided by the city; and
  2. The District Court may not accept or consider any evidence outside the city's record unless that evidence was offered to the city and the court determines that it was improperly excluded by the city.
- H. If there is an inadequate record, the court may call witnesses and take evidence.
- I. The District Court shall affirm the decision of the city if the decision is supported by substantial evidence in the record.
- J. The judge may award reasonable attorney's fees and costs to the prevailing party in an action brought under this section.

**15.50 Stormwater Ordinance**

15.50.010 General

15.50.020 Definitions

15.50.030 Stormwater System Design

15.50.040 Stormwater System Construction  
15.50.050 Stormwater System Operation And Maintenance  
15.50.060 Illicit Discharges  
15.50.070 Enforcement  
15.50.080 Penalties  
15.50.090 Appeals  
15.50.100 Inspections  
15.50.110 Stormwater Inspection Fee

#### **15.50.010 General**

A. Purpose. It is the purpose of this ordinance to:

1. Protect, maintain, and enhance the environment of Hyde Park City.
2. Establish responsibilities for controlling and managing storm water runoff.
3. Protect the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city and state.
4. Enable the City to comply with the National/Utah Pollution Discharge Elimination System permit (NPDES /UPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
5. Allow the City to exercise the powers granted by Utah Code, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
  - a. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
  - b. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
  - c. Establish standards to regulate the quantity of stormwater discharged and to regulate storm water contaminants as may be necessary to protect water quality;
  - d. Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments, and other projects whether public or private;
  - e. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
  - f. Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
  - g. Expend funds to remediate or mitigate the detrimental effects of negatively affected land or other sources of stormwater contamination, whether public or private.

B. City shall administer the provisions of this ordinance. Nothing in this ordinance shall relieve any person from responsibility for damage to other persons or property, nor impose upon Hyde Park City its officers, agents or employees, any liability for damage to other persons or property.

#### **15.50.020 Definitions**

For the purpose of this chapter, the following definitions shall apply: 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 its' most reasonable application.

Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- A. "Best management practices" or "BMPs" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by Hyde Park City and that have been incorporated by reference into this ordinance as if fully set out therein. For purposes of this Title, the relevant BMP's are more particularly defined in Hyde Park City Guidance Document for Storm Water Management.).
- B. "City" means the City of Hyde Park, or authorized designee.
- C. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- D. "Construction activities" means activities as defined in the Stormwater Construction Permit.
- E. "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- F. "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.
- G. "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
- H. "Illicit connections" means illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system.
- I. "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §3(4).
- J. "MS4 Permit" means the General Permit for Discharges for Small Municipal Separate Storm Sewer Systems (MS4), Permit latest version.
- K. "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- L. "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- M. "Municipal separate storm sewer system (MS4)" ("Municipal separate storm water system") means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and

storm drains.

- N. "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.
- O. "Notice of Violation" (N.O.V.) means whenever the City finds that a person is in non-compliance with this ordinance, the City will order compliance by written notice of violation to the responsible person. Requirements in this Notice are at the discretion of the City, and may include monitoring, payment to cover costs relating to the non-compliance, and the implementation of Best Management Practices.
- P. "Person" means any and all entities, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- Q. "Pre-development" means the status of an item prior to any modification. (i.e. native condition)
- R. "Property Owner" means landowner of property within the boundary of Hyde Park City.
- S. "Runoff" means that portion of water or precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- T. "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.
- U. "Sedimentation" means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream.
- V. "Storm Water" means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- W. "Stormwater Construction Permit" means Storm Water General Permit for Construction Activities Permit latest version as required by the Utah Department of Environmental Quality, Division of water Quality.
- X. "Stormwater Management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- Y. "Stormwater Pollution Prevention Plan (SWPPP)" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels during and after construction.
- Z. "Stormwater runoff" means that portion of stormwater on a drainage area that is discharged from the area into the municipal separate stormwater system.
- AA. "Stormwater utility" means the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other storm water rules and regulations adopted by the municipality.
- AB. "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.
- AC. "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- AD. "UPDES" means Utah Pollution Discharge Elimination System.

#### **15.50.030 Stormwater System Design**

- A. Stormwater system design and construction documents shall conform to the standards adopted by the city.
- B. Stormwater outfall design and water quality shall meet federal, state and local discharge requirements.

#### **15.50.040 Stormwater System Construction**

- A. Erosion and sediment control practices on construction sites must meet the technical requirements as required in the Stormwater Construction Permit.
- B. Erosion and sediment control practices must be applied to all construction activities required by the Stormwater Construction Permit including new development and redevelopment.
- C. All construction activities listed under Stormwater Construction Permit shall prepare a SWPPP in accordance with said Permit.
  - 1. The SWPPP shall be submitted and reviewed by the City prior to application for said permit.
- D. Erosion and sediment BMP's used for construction activities, listed on the SWPPP and sediment and erosion control plans shall protect water quality, reduce the discharge of pollutants, and control waste such as, but not limited to soils, sediment, oils, discarded building materials, concrete truck washout, chemicals, litter and sanitary waste that may cause adverse impact to water quality.

#### **15.50.050 Stormwater System Operation And Maintenance**

- A. Operation and maintenance of stormwater facilities within the city shall be in conformance with the requirements of the MS4 Permit.
- B. All stormwater infrastructure located on private land or that is to be accessed through private land, must have access easements for the purpose of inspection and repair. These easements must be binding on the current property owner and all subsequent owners, heirs and successors of the property and must be properly recorded in the land record.
- C. Privately Owned Stormwater Infrastructure
  - 1. Where the city chooses to not inspect, operate or maintain stormwater infrastructure, responsibility for the maintenance and repair of stormwater facilities shall be assigned to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
  - 2. Where stormwater infrastructure is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense, and bill the same to the property owner. In the event that payment is not made, the city's cost of performing the maintenance shall be a lien against the property.
- D. Maintenance Easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners, heirs and successors of the property and must be properly recorded in the land record.
- E. Maintenance Agreement: The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners, heirs and successors. The maintenance agreement shall:
  - 1. Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
  - 2. Provide for annual inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by a Registered Storm Water Inspector or registered professional engineer licensed to practice in the State of Utah who will submit a sealed report of the inspection to the city.
  - 3. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be approved by the city.
  - 4. Provide that if the property is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense, and bill

the same to the property owner. The maintenance agreement shall also provide that the city's cost of performing the maintenance shall be a lien against the property.

- F. Dedication: The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular storm water facility in question.

#### **15.50.060 Illicit Discharges**

- A. Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system. Prior situations or conditions are not exempt from the requirements of this ordinance.
- B. Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described in the MS4 Permit.
- C. Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- D. Reduction of stormwater pollutants by the use of Best Management Practices (BMP's). Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliance with the provisions of this section.
- E. Stockpiling of materials in city rights-of-way. Stockpiling of materials in city rights-of-way shall be reviewed and approved by the city prior to placement. Approved BMP's associated with stockpiling of material must be implemented and shown on the SWPPP.
- F. Notification of spills. In the event of a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 5 years.
- G. Cleanup of spills. Within the requirements of the law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into storm water and / or the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

#### **15.50.070 Enforcement**

- A. Enforcement authority. The City shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the criminal and civil penalties provided in this ordinance.
- B. Notification of violation.
1. Written Notice. Whenever the City finds that any person discharging storm water has violated or is violating this ordinance or a permit or order issued hereunder, the City will serve upon the owner, occupant, or persons conducting operations on the property, written notice of the violation. Such notice will identify the date of the violation, the conditions violating this chapter and give notice that they must be corrected within the next forty-eight (48) hours to ten (10) calendar days, depending on the severity of the violation, as determined by the Registered Stormwater Inspector. Within one (1) business day of receiving this notice, the person shall submit to the City an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- a. Consent Orders. The City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (ii) and (iii) below.
- b. Compliance Order. When the City finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, the City may issue an order to the violator directing that, following a specific time period, adequate structures, devices, etc., be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
- c. Cease and Desist Orders. When the City finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
- (1) Comply forthwith; or
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

#### **15.50.080 Penalties**

- A. Infractions: In minor violations, as determined by the registered stormwater inspectors, a penalty for infractions may be implemented. Such penalty shall be consistent with the severity of the violation. Penalties for specific infractions are established by resolution through the City Council. See prevailing fee schedule.
- B. Criminal penalties, as determined by the registered stormwater inspectors, first offense: any person violating the provisions of this ordinance for the first time may be assessed a Class C Misdemeanor with a maximum fine as set by resolution. See prevailing fee schedule. Fines may be assessed per day for each violation.
- C. Criminal penalties second offense: any person violating the provisions of this ordinance for the second time may be assessed a Class B Misdemeanor with a maximum fine as set by resolution. See prevailing fee schedule. Fines may be assessed per day for each violation.
- D. Measuring civil penalties. In assessing a civil penalty, the City may consider:
1. The harm done to the public health or the environment;
2. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
3. The economic benefit gained by the violator;

4. The amount of effort put forth by the violator to remedy this violation;
  5. Any unusual or extraordinary enforcement costs incurred by the municipality;
  6. The amount of penalty established by ordinance or resolution for specific categories of violations; and
  7. Any equities of the situation, which outweigh the benefit of imposing any penalty or damage assessment.
- E. Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;
1. All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
  2. The costs of the municipality's maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this ordinance.
  3. Recovery of costs imposed on the City, including attorney's fees, by state or federal entities.
- F. Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- G. Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

#### **15.50.090 Appeals**

- A. Appeals to the Appeal Authority. Any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the municipality's appeal authority.
- B. Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- C. Public hearing. Upon receipt of an appeal, the municipality's appeal authority shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the appeal authority shall be final.
- D. Appealing decisions of the municipality's appeal authority. Any alleged violator may appeal a decision of the appeal authority. Any appeal to the appeal authority must be made to the district court within thirty (30) days from when the written decision is made.

#### **15.50.100 Inspections**

- A. Purpose. To be in accordance with the MS4 Permit, the City will conduct inspections to monitor all discharges to natural water bodies including lakes, rivers, stream and canals, storm water controls and BMPs.
- B. Scope. Inspections relating to the MS4 Permit include but are not limited to illicit discharges, construction activities and post construction operation and maintenance of storm water controls, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs either publicly or privately owned.
- C. Access.
  1. Visual Inspections. Visual inspections by the City of discharges to natural water bodies, spills and storm water related controls on private property within the City limits of Hyde Park are permitted by the City at any time.
  2. Other Inspections. When a visual inspection is not adequate to determine the extent of discharges to natural water bodies, spills or determine the status of storm water related controls on private property, real or suspect, the City will give 24 hours' notice of the inspection to take place and the extent of the inspection. Equipment and manpower necessary to perform the inspection will be allowed to access and work as necessary to determine the state of the situation.
  3. Emergency Inspections. During times of emergency including discharges to natural water bodies, spills or potential damage to life or property, real or suspect, the City may access the location of concern on private property as necessary and with the equipment required to determine the status of the situation. Reasonable attempts to contact the property owner prior to the inspection will be made prior to accessing private property.
- D. Fees for inspections. Fees for inspections shall be as adopted by resolution through the City Council. See prevailing fee schedule.

#### **15.50.110 Stormwater Inspection Fee**

For New Homes and Small Construction Projects (not subdivision development) that require a stormwater Notice of Intent (NOI) inspection fees shall be \$300.



## Benchmarks / Statistics

COVER: 1.1990914 second(s).

TOC: 2.2854613 second(s).

FIRST CHAIN: 0.035547 second(s).

CONTENT: 31.872433 second(s).

SECOND CHAIN: 0.2792513 second(s).

FOOTER: 0.0627482 second(s).

TOTAL: 35.7345322 second(s).