PERRY CITY
ORDINANCE NO. 15-C

ADOPTION OF THE MUNICIPAL CODE

AN ORDINANCE OF PERRY CITY, UTAH, ADOPTING THE *PERRY MUNICIPAL CODE*; MAKING TECHNICAL CHANGES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Perry City (hereafter "City") is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§10-8-84 and 10-8-60, 1953, as amended, allows the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, in accordance with *Utah Code Annotated* §10-3-707, 1953, the City is "empowered to revise, codify and compile from time to time and to publish in book, pamphlet or looseleaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced shall be presented, but with errors, inconsistencies, repetitions, and ambiguities therein eliminated."

WHEREAS, the City retained the services of Municipal Code Online, Inc., to provided initial codification services and ongoing online support for the *Perry Municipal Code*;

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on February 12, 2015, to take public comment on this proposed Ordinance, after which the Planning Commission gave its recommendation to approve this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on March 5, 2015;

WHEREAS, the City desires to adopt the *Perry Municipal Code* along with the applicable maps and attachments provided herein;

NOW, THEREFORE, be it ordained by the City Council of Perry City, Utah, as follows:

Section 1: Repealer. All Ordinances of Perry City, Utah, prior to the date of this

Ordinance are hereby repealed, subsumed, and replaced with the *Perry Municipal Code* adopted herein.

Section 2: Adoption. The *Perry Municipal Code* attached hereto as Exhibit "A" along with and including all City Maps and other attached documents is hereby adopted in its entirety as provided in Exhibit "A" and incorporated herein by this reference.

Section 3. Effective Date. This Ordinance shall take effect immediately upon posting or publication.

PASSED AND ADOPTED by the Perry City Council on this 17th day of March, 2015

PERRY CITY CORPORATION
CORPORATE SEAL
BOX ELDER CO

PERRY CITY

BY Karen Cronin
Mayor Karen Cronin

ATTEST:

Alexandra K. Gray
City Recorder

COUNCIL MEMBERS: VOTING

	Aye	Nay
CHRISTENSEN	X	
GERLACH	X	
MONTGOMERY	X	
LEWIS	X	
JANA NELSON	X	

Perry City

Box Elder County, Utah

Municipal Ordinances

Compiled: Wednesday, March 25, 2015

Table of Contents

Preface

1 General Provisions

1.01 Code Adoption (Reserved)
1.03 General Provisions
1.05 Corporate Seal
1.07 General Penalty

1.01 Code Adoption (Reserved)

1.03 General Provisions

1.03.010 Definitions
1.03.020 Interpretation Of Language
1.03.030 Grammatical Interpretation
1.03.040 Acts By Agents
1.03.050 Prohibited Acts Include Causing And Permitting
1.03.060 Computation Of Time
1.03.070 Construction
1.03.080 Repeal Shall Not Revive Any Ordinances

1.05 Corporate Seal

1.05.010 Corporate Seal

1.07 General Penalty

1.07.010 General Penalty

2 Municipal Administration

2.01 Mayor
2.03 City Council
2.05 City Administrator
2.07 City Recorder
2.09 City Treasurer
2.11 City Attorney
2.13 Chief Of Police
2.15 Officers' Bonds
2.17 Officers' Salaries
2.19 Compensation Schedules
2.21 Appointment Of Officers
2.23 Office Vacancies
2.25 Municipal Justice Court
2.27 Fire Department
2.29 Elections
2.30 Financial And Property Administration
2.31 Records Access And Management
2.33 Personnel Policy

2.01 Mayor

2.01.010 Preside At Council Meetings
2.01.020 Duties

2.03 City Council

2.03.010 Regular Meetings
2.03.020 Special Meetings
2.03.030 General Powers

2.05 City Administrator

2.05.010 Creation, Appointment, And Removal
2.05.020 Qualifications
2.05.030 Office Of The City Administrator
2.05.040 Limitations
2.05.050 Compensation

2.07 City Recorder

2.07.010 Appointment: Duties

2.09 City Treasurer

2.09.010 Appointment: Duties

2.11 City Attorney

2.11.010 Appointment: Duties

2.13 Chief Of Police

2.13.010 Duties

2.15 Officers' Bonds

2.15.010 Oaths And Bonds Required

2.17 Officers' Salaries

2.17.010 Salaries

2.19 Compensation Schedules

2.19.010 Definitions: Elected Officers And Statutory/Appointed Officers
2.19.020 Compensation Schedule For Elected Officers
2.19.030 Compensation Schedule For Statutory/Appointed Officers
2.19.040 Acknowledgment Form For Statutory/Appointed Officers

2.21 Appointment Of Officers

2.21.010 Generally
2.21.020 Definitions: Exempt And Non-Exempt Statutory/Appointed Officers
2.21.030 Rights Of Exempt And Non-Exempt Statutory/Appointed Officers

2.23 Office Vacancies

2.23.010 Procedure

2.25 Municipal Justice Court

2.45.010 Dissolved
2.45.020 Prosecuting Attorney

2.27 Fire Department

2.27.010 Provision Of Equipment
2.27.020 Contract Services

2.29 Elections

2.29.010 Election For Mayor And Council Members
2.29.020 Filling Vacancy

2.30 Financial And Property Administration

2.30.010 Definitions
2.30.020 Uniform Fiscal Procedures Act
2.30.030 General Finance Administration
2.30.040 Acquisition And Disposal Of Property, Including Real Property
2.30.050 Acquisition Of Services And Supplies
2.30.060 Restrictions On Municipality Procurement Of Architect-Engineer Services
2.30.070 Building Improvements And Public Works Projects
2.30.080 Contracts And Obligations Generally
2.30.100 Reserved
2.30.100 Disposal Of Surplus Property
2.30.110 Unlawful Practices And Sanctions
2.30.120 Grants
2.30.130 Chief Deputy Recorder/Finance
2.30.140 City Treasurer/Payroll Clerk
2.30.150 Determination Of Non-Expendable Property

2.31 Records Access And Management

2.31.010 Adoption Of State Law
2.31.020 Fees
2.31.030 Retention Schedule

2.33 Personnel Policy

2.33.010 City Employees
2.33.020 Police Employees

3 Municipal Procedures

3.01 Introduction
3.02 Employment
3.03 Employment Status And Records
3.04 Employee Benefit Programs
3.05 Employee Compensation
3.06 Timekeeping/Payroll
3.07 Work Conditions And Hours
3.08 Leaves Of Absence
3.09 Employee Conduct And Disciplinary Action
3.10 Employee Grievances And Appeals
3.11 Termination Of Employment

3.01 Introduction

3.01.010 Introductory Statement
3.01.020 Employee Acknowledgement Form

3.02 Employment

3.02.010 Nature Of Employment
3.02.020 Employee Relations
3.02.030 Equal Employment Opportunity
3.02.035 Veteran's Bonus
3.02.040 Ethics And Conduct

3.02.050 Hiring Of Relatives
3.02.060 Immigration Law Compliance.
3.02.070 Conflicts Of Interest
3.02.080 Outside Employment.
3.02.090 Confidentiality
3.02.100 Disability Accommodation
3.02.110 Job Posting And Employee Referrals

3.03 Employment Status And Records

3.03.010 Employment Categories
3.03.020 Access To Personnel Files
3.03.030 Employment Reference Checks
3.03.040 Personnel Data Changes
3.03.050 Introductory Period
3.03.060 Employment Applications
3.03.070 Performance Evaluation
3.03.080 Employee Driver Qualification Standard

3.04 Employee Benefit Programs

3.04.010 Employee Benefits
3.04.020 Perry City Health Plan
3.04.030 Perry City Dental Plan
3.04.040 Benefits Continuation (COBRA)
3.04.050 Life Insurance
3.04.060 401k And Other Retirement Plans
3.04.070 Vacation Benefits
3.04.080 Holidays
3.04.090 Sick Leave Benefits
3.04.100 Workers' Compensation Insurance
3.04.110 Pay In Lieu Of Benefits

3.05 Employee Compensation

3.05.010 Salary Schedule

3.06 Timekeeping/Payroll

3.06.010 Timekeeping
3.06.020 Paydays
3.06.030 Administrative Pay Corrections
3.06.040 Pay Deductions And Setoffs
3.06.050 Circumstances In Which Perry City May Make Deductions From Pay From An Exempt Employee
3.06.060 Improper Deduction
3.06.070 Employment Termination
3.06.080 Policy

3.07 Work Conditions And Hours

3.07.010 Safety
3.07.020 Use Of Equipment
3.07.030 Use Of Phone And Mail Systems
3.07.040 Use Of Tobacco Products
3.07.050 Work Schedules
3.07.060 Rest And Meal Periods
3.07.070 Overtime And/or Compensation Time
3.07.080 On - Call Or Standby Duties
3.07.090 Emergency Closings
3.07.100 Travel Expenses
3.07.110 Visitors In The Workplace
3.07.120 Computer And E - Mail Usage
3.07.130 Workplace Monitoring.
3.07.140 Workplace Violence Prevention

3.08 Leaves Of Absence

3.08.010 Family Medical Leave
3.08.020 Personal Leave
3.08.030 Bereavement Leave
3.08.040 Training Leave
3.08.040 Military Leave
3.08.060 Time Off To Vote
3.08.070 Emergency Leave
3.08.080 Jury Duty
3.08.090 Witness Duty
3.08.110 Community Service
3.08.120 Administrative Leave

3.09 Employee Conduct And Disciplinary Action

3.09.010 Employee Conduct And Work Rules
3.09.020 Drug And Alcohol Use
3.09.030 Sexual And Other Unlawful Harassment Policy
3.09.040 Attendance And Punctuality
3.09.050 Personal Appearance
3.09.060 Return Of Property
3.09.070 Security Inspections
3.09.080 Solicitation
3.09.090 Drug Testing

3.09.100 Life-Threatening Illnesses In The Workplace
3.09.120 Recycling
3.09.130 Administrative Leave

3.10 Employee Grievances And Appeals

3.10.010 General Grievance Policy
3.10.020 Confidentiality
3.10.030 Filing

3.11 Termination Of Employment

3.11.010 Types Of Termination
3.11.020 Retirement
3.11.030 Voluntary Resignation
3.11.040 Resignation Of An Involuntary Termination: Agreement
3.11.050 Involuntary Termination
3.11.060 Reductions In Force/layoffs
3.11.070 Required Notice Prior To Termination
3.11.080 Termination Procedures
3.11.090 Administrative Leave

4 General Revenue

4.01 Assessments
4.03 Sales And Use Tax
4.04 Municipal Energy Sales And Use Tax
4.05 Municipal Transient Room Tax
4.07 Index Of Annual Budget And Tax Rate Approvals (Reserved)
4.09 Comprehensive Fee Schedule

4.01 Assessments

4.01.010 Assessments

4.03 Sales And Use Tax

4.03.010 Title
4.03.020 Purpose
4.03.030 Sales And Use Tax
4.03.040 Enactment Of Sales Tax Revenue Transfer For Transit Purposes
4.03.050 Violation And Penalty

4.04 Municipal Energy Sales And Use Tax

4.04.010 Definitions
4.04.020 Municipal Energy Sales And Use Tax
4.04.030 Exemptions From The Municipal Energy Sales And Use Tax
4.04.040 Existing Franchise Not Affected - Limitations
4.04.050 Tax Collection Options
4.04.060 Incorporation By Reference
4.04.070 License To Collect And Reporting Requirements

4.05 Municipal Transient Room Tax

4.05.010 Title
4.05.020 Purpose
4.05.030 Transient Room Tax Imposed
4.05.040 Penalties And Interest

4.07 Index Of Annual Budget And Tax Rate Approvals (Reserved)

4.07.010 09-I (Final Budget Amendment For Fiscal Year 08-09), Approved 06/11/09.
4.07.020 09-J (Final Budget FY 09-10), Approved 06/11/09.
4.07.030 09-Q, Initialed Called 09-21 (Final Tax Rates And Budget FY 09-10), Approved 08/13/09.
4.07.040 10-I (Final Amended Budget FY 09-10), Approved 06/10/10.
4.07.050 10-J (Final Budget FY 10-11), Approved 06/10/10.
4.07.060 10-16 (Flat Tax Rate Adjustment), Approved 08/12/10.

4.09 Comprehensive Fee Schedule

4.09.010 Administration Fees
4.09.020 Building Fees And Impact Fees
4.09.030 Monthly Utility Fees
4.09.040 Annual Business License Fees
4.09.050 Land Use Application Fees
4.09.060 Excavation Permit Fees
4.09.070 Park And Building Use Fees
4.09.080 Parking Citations And Other Civil Penalties
4.09.090 Police Reports And Animal Control Fees

5 Business Licenses And Regulations

5.01 Business Licensing
5.03 Alcohol Beverages
5.05 Residential Solicitation
5.07 Apartment House, Duplexes And Mobile Home Parks
5.09 Fees
5.11 Sexually Oriented Businesses

5.01 Business Licensing

5.01.010 Unlawful To Operate A Business Without A License.
5.01.020 Definitions
5.01.030 Adoption Of Study And Determination
5.01.040 Uniform Business License Regulations
5.01.050 Business License Application
5.01.060 Business License Fees
5.01.070 Exceptions To The Business License Fee
5.01.080 Licensing Authority, Review Authorities, And Other Authorities
5.01.090 Procedure For Business License Approval
5.01.100 Inspection And Enforcement Authority
5.01.110 License Denial And Revocation
5.01.120 Notice Of Issuance Or Denial
5.01.130 Appeal Authority
5.01.140 Penalties
5.01.150 Severability

5.03 Alcohol Beverages

5.03.010 Definitions
5.03.020 Identification Of License Classifications
5.03.030 Authorized License Classifications And License Fees
5.03.040 Licensing Requirements
5.03.050 Inspection And Enforcement
5.03.060 Restrictions
5.03.070 Suspension And Revocation
5.03.080 Appeals
5.03.090 Penalties

5.05 Residential Solicitation

5.05.010 Purpose
5.05.020 No Other City License Or Approval Required
5.05.030 Definitions
5.05.040 Exemptions From Chapter
5.05.050 Solicitation Prohibited
5.05.060 Registration Of Solicitors
5.05.070 Application Form
5.05.080 Written Disclosures
5.05.090 When Registration Begins
5.05.100 Issuance Of Certificates
5.05.110 Form Of Certificate And Identification Badge
5.05.120 Maintenance Of Registry
5.05.130 Non-Transferability Of Certificates
5.05.140 Denial, Suspension, Or Revocation Of A Certificate Of Registration
5.05.150 Appeal
5.05.160 Deceptive Soliciting Practices Prohibited
5.05.170 “No Soliciting” Notice
5.05.180 Duties Of Solicitors
5.05.190 Time Of Day Restrictions
5.05.200 Buyer’s Right To Cancel
5.05.210 Penalties

5.07 Apartment House, Duplexes And Mobile Home Parks

5.07.010 Definitions
5.07.020 License Requirement
5.07.030 License: Inspection Required Prior To Issuance
5.07.040 License: Application
5.07.050 License: Contents
5.07.060 License: Fee
5.07.070 License: Revocation
5.07.080 Violation: Misdemeanor

5.09 Fees

5.09.010 Assessment Generally
5.09.020 Fees
5.09.030 Time Of Payment And Term Of License

5.11 Sexually Oriented Businesses

5.11.010 Purpose Of Chapter
5.11.020 Purpose Of Provisions
5.11.030 Application Of Provisions
5.11.040 Definitions
5.11.050 License Required
5.11.060 Exemption From License Requirements
5.11.070 Business Categories: Number Of Licenses
5.11.080 Employee Licenses
5.11.090 License Application: Disclosure Required
5.11.100 License Fees
5.11.110 License Bond
5.11.120 Premises Location And Name
5.11.130 Issuance Conditions
5.11.140 Term Of License
5.11.150 Notice Of Change Of Information
5.11.160 Transfer Limitations
5.11.170 Display

5.11.180 Statement In Advertisements
5.11.190 Effect Of License Revocation
5.11.200 Appeal Procedures
5.11.210 Out-Call Services: Operation Requirements
5.11.220 Semi Nude Dancing Agencies
5.11.230 Signs
5.11.240 Obscenity And Lewdness: Statutory Provisions
5.11.250 Legitimate Artistic Modeling
5.11.260 Location And Zoning Restrictions
5.11.270 Location Of Businesses: Restrictions
5.11.280 Seminude Entertainment Business: Location Restriction
5.11.290 Seminude Entertainment Business: Design Of Premises
5.11.300 Adult Business: Design Of Premises
5.11.310 Regulations And Unlawful Activities
5.11.320 Alcohol Prohibited
5.11.330 Violation: Injunction When
5.11.340 Violation: License Suspension Or Revocation
5.11.350 Performers: Prohibited Activities
5.11.360 Patrons: Prohibited Activities
5.11.370 Violation: Penalty And Responsibility
5.11.380 Nudity: Defenses To Prosecution

6 Criminal Code

6.01 Criminal Code
6.03 Public Indecency
6.05 Juvenile Night Curfew
6.07 Juvenile Day Curfew

6.01 Criminal Code

6.01.010 Definitions
6.01.020 Adoption By Reference Of The Utah Criminal Code
6.01.030 Mayor May Act To Remove Disruptive Person
6.01.040 Illegal Advertisement And Tampering
6.01.050 Discharge Of Weapon Or Device Prohibited: Fireworks Prohibited In Certain Circumstances

6.03 Public Indecency

6.03.010 Public Indecency Definitions
6.03.020 Construction And Severability
6.03.030 Penalty

6.05 Juvenile Night Curfew

6.05.010 Minors Prohibited In Public Places: Responsibility Of Parents And Guardians
6.05.020 Exemptions
6.05.030 Enforcement Body
6.05.040 Enforcement Procedures
6.05.050 Violations

6.07 Juvenile Day Curfew

6.07.010 Daytime Curfew For Minors
6.07.020 Parent’s Responsibility
6.07.030 Enforcement And Penalty

7 Fair Practices And Preservation Of Citizens' Rights

7.02 Non-Discrimination

7.02 Non-Discrimination

7.02.010 Findings And Policy
7.02.020 Unlawful Discrimination Prohibited
7.02.030 Definitions
7.02.040 Administration
7.02.050 No Private Right Of Action Or Special Rights
7.02.060 Applicability
7.02.070 Unlawful Housing Practices
7.02.080 Unlawful Employment Practices
7.02.090 Unlawful Action
7.02.100 Filing And Processing Complaints
7.02.110 Investigation
7.02.120 Conciliation
7.02.130 Disposition Of A Complaint
7.02.140 Offenses And Penalties

8 Public Health And Safety

8.01 Burning
8.03 Noise
8.04 Prohibiting The Launching Or Setting Off Of Fireworks Under Certain Circumstances
8.05 Rat Control
8.07 Intoxicating Chemical Compounds Prohibited
8.09 Discharge Of Weapons In City Limits
8.10 Public Safety Cost Recovery Procedures

8.01 Burning

8.01.010 Agricultural Burning
8.01.020 Burning Allowed By Permit
8.01.030 Permit Number Requirement
8.01.040 Types Of Burning Permitted
8.01.050 Non-permitted Burning
8.01.060 Fires On Wildlands Or Wildlife Habitats: Consent Required
8.01.070 Violation And Penalty
8.01.080 International Fire Code

8.03 Noise

8.03.010 Noise Regulations In General
8.03.020 Noises Prohibited
8.03.030 Exemptions
8.03.040 Violation And Penalty
8.03.050 Injunctions

8.04 Prohibiting The Launching Or Setting Off Of Fireworks Under Certain Circumstances

8.04.010 Purpose
8.04.020 Allowed And Prohibited Fireworks
8.04.030 Enforcement

8.05 Rat Control

8.05.010 Definitions
8.05.020 Respective Duties Of Owner And Occupant
8.05.030 Failure Of Owner To Rat Proof After Notice
8.05.040 Failure Of Occupant To Free Building Of Rats After Notice
8.05.050 Duty Of Owner To Maintain Rat Proofed Building In Rat Proof Condition
8.05.060 Inspections By Health Officer
8.05.070 Closing Building
8.05.080 Condemnation
8.05.090 Removing Rat Proofing: New Openings
8.05.100 Structures Wherein Foodstuffs Are Kept
8.05.110 Compliance With Chapter Before Issuance Of License
8.05.120 Duty Of Building Inspector To Submit Plans To Board Of Health
8.05.130 Duty Of Utility Companies: Wires
8.05.140 Storage Of Feed For Animals
8.05.150 Garbage Or Refuse Consisting Of Waste Animal Or Vegetable Matter
8.05.160 Rubbish, Which May Afford Food Or Harborage For Rats
8.05.170 Accumulations Of Material To Be On Open, Elevated Racks
8.05.180 Rules And Regulations Of Health Officer

8.07 Intoxicating Chemical Compounds Prohibited

8.07.010 Purpose
8.07.020 Prohibited Chemical Compounds
8.07.030 General Provisions
8.07.040 Enforcement

8.09 Discharge Of Weapons In City Limits

8.09.010 Definitions
8.09.020 Special Provisions
8.09.030 Unlawful To Discharge A Dangerous Weapon In The Railroad To Pineview Area
8.09.040 Unlawful To Allow A Bullet/Projectile To Enter The Railroad To Pineview Area
8.09.050 Unlawful To Discharge A Weapon Anywhere In The City Limits If It Endangers Safety Or Damages Property
8.09.060 Unlawful To Discharge A Weapon In Or On Any Public Parks Or City-Owned Property
8.09.070 Punishment For The Illegal Discharge Of A Weapon
8.09.080 Enhanced Punishment For The Illegal Discharge Of A Weapon In A School Zone

8.10 Public Safety Cost Recovery Procedures

8.10.010 Title
8.10.020 Purpose
8.10.030 Definitions
8.10.040 Recovery Authorization And Procedure
8.10.050 No Admission Of Liability
8.10.060 Actions To Recover Expense

9 Uniform Animal Control

9.01 Definitions
9.03 Administration
9.05 Licensing And Regulatory Permits
9.07 Prohibited Acts
9.09 Impoundment
9.11 Rabies Control
9.12 Residential Chickens
9.13 Other Animal Control Laws
9.15 Enforcement And Penalties

9.01 Definitions

9.01.010 Definitions

9.03 Administration

9.03.010 Animal Control Division Created
9.03.020 Power And Authority Of Animal Control Officials

9.03.030 Interfering With Officers Prohibited
9.03.040 Animal Shelter Provided
9.03.050 Restrictions, Rules, And Regulations

9.05 Licensing And Regulatory Permits

9.05.010 Licensing And Registration Of Dogs
9.05.020 Exemptions For Licensing
9.05.030 Tag And Collar Required
9.05.040 Removal Of Tag And Collar Unlawful
9.05.050 Kennel Licenses
9.05.060 Number Of Cats And/or Dogs Per Residence
9.05.070 Display Of Permit
9.05.080 Renewal Of Permit
9.05.090 Exemptions
9.05.100 Inspections
9.05.110 Suspension Or Revocation Of Permit
9.05.120 Notice Served

9.07 Prohibited Acts

9.07.010 Nuisance Animal
9.07.020 Abatement Of Public Nuisance Animals
9.07.030 Control And Fencing
9.07.040 Female Dogs/Cats In Heat
9.07.050 Possession Of Potentially Dangerous Animals
9.07.060 Possession Of Dangerous Animals
9.07.065 Custody Of Dangerous Animals
9.07.070 Failure To Properly Confine Potentially/Dangerous Animal
9.07.080 Animals At-Large Prohibited
9.07.090 Allowing Domestic Fowl To Trespass Prohibited
9.07.100 Staking Animals Improperly On Unenclosed Premises
9.07.110 Animal Waste
9.07.120 Wild Animals Prohibited

9.09 Impoundment

9.09.010 Impoundment Authorized
9.09.020 Impoundment Regulations And Record Keeping Requirements
9.09.030 Redemption Requirements
9.09.040 Terms Of Impoundment/Destruction And Disposal Of Animals
9.09.050 Declaration And Disposal Of Vicious Animal

9.11 Rabies Control

9.11.010 Animal Rabies Vaccination Requirements
9.11.020 Exceptions For Transient Animals
9.11.030 Vaccination Certification And Tags
9.11.040 Impounding Animals Without Valid Vaccination Tags
9.11.050 Rabid Animal Reports
9.11.060 Quarantine And Disposition Of Biting Or Rabid Animals
9.11.070 Duty To Report Bites

9.12 Residential Chickens

9.12.010 Conditions For Keeping Residential Chickens
9.12.020 Violations And Enforcement

9.13 Other Animal Control Laws

9.13.010 Cruelty To Animals
9.13.020 Defenses
9.13.030 Injuries And Communicable Diseases
9.13.040 Seizure Of Animals
9.13.050 Harboring Animals Prohibited Duty To Notify
9.13.060 Place Prohibited To Animals
9.13.070 Disposal Of Dead Animals

9.15 Enforcement And Penalties

9.15.010 Power And Authority Of Animal Control Officers
9.15.020 Penalties
9.15.030 Applicability Of Procedure For All Peace Officers

10 Transportation Code

10.01 General Provisions
10.03 Street Name Sign Requirements, And Approval Procedures
10.05 Traffic Control Devices
10.07 Vehicle Regulations
10.09 Off-highway Vehicles
10.11 Speed Limits
10.13 Stopping And Parking Regulations
10.15 Obstructions On The Public Right-of-way
10.17 Snow Removal
10.19 Encroachments
10.21 Pedestrians
10.23 Rule-making, Enforcement, Penalties, And Applicability To Other Ordinances

10.01 General Provisions

10.01.010 Definitions
10.01.020 Applicability
10.01.030 Enactment Of State Motor Vehicle Code

10.03 Street Name Sign Requirements, And Approval Procedures

10.03.010 Street Names
10.03.020 Street Name Signs
10.03.030 City Council Directing Traffic Engineer To Study Special Traffic Control Devices
10.03.040 Legislative And Financial Responsibility

10.05 Traffic Control Devices

10.05.010 Obedience To Traffic Control Devices
10.05.020 Traffic Control Devices
10.05.030 Unauthorized Traffic Control Devices Prohibited
10.05.040 Authority To Designate Crosswalks, Safety Zones, And Traffic Lanes
10.05.050 Authority To Designate One-Way Highways
10.05.060 Reserved
10.05.070 Restrictions Upon Use Of Highways
10.05.080 Weight And Size Limits
10.05.090 Vehicle Size And Weight Restrictions (Reserved)
10.05.100 Dynamic Braking Devices Prohibited
10.05.110 Obstruction Of View Prohibited

10.07 Vehicle Regulations

10.07.010 Interference With Control Of Vehicle Prohibited
10.07.020 Negligent Collision
10.07.030 Duty To Keep Proper Lookout
10.07.040 Noise Emanating From A Motor Vehicle

10.09 Off-highway Vehicles

10.09.010 Policy Declaration
10.09.020 Definitions
10.09.030 Registration Of Vehicles - Application - Issuance Of Sticker And Card - Proof Of Property Tax Payment - Records
10.09.040 Staggered Registration Dates - Registration Renewal
10.09.050 Falsification Of Documents Unlawful - Alteration Or Removal Of Serial Number Unlawful - Display Of Sticker
10.09.060 Off-Highway Husbandry Vehicles
10.09.070 Duplicate Registration Cards And Registration Stickers
10.09.080 Registration Fees
10.09.090 Vehicles Exempt From Registration
10.09.100 Vehicles Operated By Persons Age 16 Or Over
10.09.110 Vehicles Operated On Posted Public Land
10.09.120 Off-Highway Vehicles - Prohibited On Interstate Freeway
10.09.130 Operation Of Vehicles On Highways - Limits
10.09.140 Local Ordinances - Designating Routes - Supervision
10.09.150 Off-Highway Vehicle Designated Streets And Roads - Definitions - Exception - Penalty
10.09.160 Requiring Compliance With Traffic Laws
10.09.170 Vehicle Equipment Requirements - Rule Making - Exceptions
10.09.180 Protective Headgear Requirements - Owner Duty - Penalty For Violation
10.09.190 Operation By Person Under 16 Years Of Age Prohibited - Definitions - Exception - Pentalty
10.09.200 Supervision, Safety Certificate, Or Driver License Required - Penalty
10.09.210 Off-Highway Vehicle User Fee - Decal - Agents - Penalty For Fraudulent Issuance Of Decal - Deposit And Use Of Fee Revenue
10.09.220 Agencies Authorized To Erect Regulatory Signs On Public Land
10.09.230 Restrictions On Use Of Public Lands
10.09.240 Restrictions On Use Of Privately-owned Lands Without Permission - Unlawful For Person To Tamper With Signs Or Fencing On Privately-owned Land
10.09.250 Prohibited Uses
10.09.260 Permission Required For Race Or Organized Event
10.09.270 Authorized Peace Officers - Arrest Provisions
10.09.280 Penalties For Violations
10.09.290 Ordinances Or Local Laws Relating To Operation And Equipment Of Vehicles

10.11 Speed Limits

10.11.010 Establishing Speed Limits: Designation By Traffic Engineer
10.11.020 Reduced Speed School Zones

10.13 Stopping And Parking Regulations

10.13.010 Unauthorized Parking And Stopping Prohibited
10.13.020 Stopping And Parking Traffic Control Devices
10.13.030 Curb Markings
10.13.040 Regulation Of Parking
10.13.050 Vehicles For Sale Or Used For Merchandise Sale
10.13.060 Parking Of Certain Trucks
10.13.070 Removal And Impound Procedures For Illegally Parked Or Abandoned Vehicles

10.15 Obstructions On The Public Right-of-way

10.15.010 Obstruction Of Road Or Highway Is A Public Nuisance
10.15.020 Roadside Box Standards
10.15.030 Liability For Repair Of Sidewalk
10.15.040 Defects To Be Reported And Repaired
10.15.050 Building Material In Street
10.15.060 Obstructions Generally
10.15.070 Sales Attracting Crowds On A Sidewalk
10.15.080 Playing On Sidewalk Or In Street: No Driving On Sidewalk
10.15.100 Coasting On Street

10.15.110 Gates To Swing Inward
10.15.120 Billboards
10.15.130 Irrigation Water
10.15.140 Leaving Railroad Cars In Streets
10.15.150 Public Parade Regulations
10.15.160 Dropping, Sifting, And/or Leaking Loads

10.17 Snow Removal

10.17.010 Snow Removal From City Right-of-Way
10.17.020 Snow Removal From Sidewalks And Private Driveways
10.17.030 Parking Vehicles On Streets After Snowstorm

10.19 Encroachments

10.19.010 Notice To Remove: By Whom Given
10.19.020 Notice To Remove: To Whom Given, Posting, And Contents
10.19.030 Failure To Remove After Notice: Removal By Superintendent Of Streets And Sidewalks
10.19.040 Action To Abate

10.21 Pedestrians

10.21.010 Responsibility Of Driver To Exercise Caution
10.21.020 Pedestrian Has Right-of-Way At Crosswalk
10.21.030 Pedestrian To Yield Of Right-of-Way
10.21.040 Pedestrian Limited Access Area

10.23 Rule-making, Enforcement, Penalties, And Applicability To Other Ordinances

10.23.010 Pedestrian Limited Access Area Traffic Engineer Rules And Regulations
10.23.020 Police Chief Rules And Regulations
10.23.030 Enforcement
10.23.040 Violation And Penalties
10.23.050 Applicability Of Other Ordinances

11 Buildings And Construction, Including Rules To Adopt Standards And Guidelines

11.01 Building Codes Adopted
11.03 Building Permit Requirements
11.05 Regulation Of Temporary Dwelling Units
11.07 Procedures For Adopting And Amending Public Works Standards And Architectural Design Guidelines
11.09 Penalties

11.01 Building Codes Adopted

11.01.010 Names Of Building Codes Adopted

11.03 Building Permit Requirements

11.03.010 Building Permits: Site Plan Required
11.03.020 Rural Road Agreement Required
11.03.030 Building And Occupancy Permits Required
11.03.040 Building And Occupancy Permits To Comply With This Code
11.03.050 Fees For Permits And Amendments
11.03.060 Inspection And Approval Required Prior To Occupancy

11.05 Regulation Of Temporary Dwelling Units

11.05.010 Intent
11.05.020 Definitions
11.05.030 When Allowed: Conditions
11.05.040 Time Periods
11.05.050 Penalty

11.07 Procedures For Adopting And Amending Public Works Standards And Architectural Design Guidelines

11.07.010 Process To Approve The First Edition Of The Revised Public Works Standards
11.07.020 Process To Approve Amendments To The First Edition Standards Or Design Guidelines
11.07.030 Approval By PWS Review Committee Of Amended Standards Or (New Or Amended) Design Guidelines
11.07.040 Legislative Review Process

11.09 Penalties

11.09.010 Available Penalties

12 Public Service Ordinances

12.01 Questar Gas Franchise
12.03 Parks, Trails, And Recreation
12.05 Storm Water And Drainage
12.07 Culinary Water
12.09 Wastewater
12.11 Garbage Collection

12.01 Questar Gas Franchise

12.01.010 Effective Date
12.01.020 Purpose
12.01.030 Grant Of Franchise
12.01.040 Consideration
12.01.050 Term
12.01.060 Acceptance

12.01.070 Construction And Maintenance Of Facilities.
12.01.080 Compliance With Ordinances -- Conflict
12.01.090 Information Exchange
12.01.100 Relocation
12.01.110 Terms Of Service
12.01.120 Indemnification
12.01.130 Assignment
12.01.140 Insurance
12.01.150 Effect Of Invalidity
12.01.160 Amendment

12.03 Parks, Trails, And Recreation

12.03.010 Superintendent
12.03.020 Applicability
12.03.030 Designated Park Hours
12.03.040 Prohibited Activities
12.03.050 Activities Requiring Permit
12.03.060 Penalty
12.03.070 Required Amenities For All Parks, Trails, And Trailheads
12.03.080 Characteristics And Amenities For Mini-Parks, Neighborhood Parks, Community Parks, Trails, And Trailheads
12.03.090 Purpose And Application
12.03.100 Purpose And Application
12.03.110 Location Of Trails, Paths, Public Spaces, Waterway Corridor Setbacks
12.03.120 Trails, Paths, And Other Public Space Improvement Requirements
12.03.130 Purpose And Application
12.03.140 Location Of Parks, Open Space, And Other Public Spaces
12.03.150 Parks, Open Space, And Other Public Spaces Purchase Fees

12.05 Storm Water And Drainage

12.05.010 Purpose And Intent
12.05.020 Best Management Practices
12.05.030 Easements
12.05.040 Definitions
12.05.050 Prohibited Discharge Standards
12.05.060 Requirements And Penalties
12.05.070 Permits
12.05.080 Storm Water Pollution Prevention Plan
12.05.090 Civil Penalty: Administrative Hearing

12.05.060 Requirements And Penalties

12.05.060.1 Authority To Inspect
12.05.060.2 Requirement To Monitor And Analyze
12.05.060.3 Manhole Covers
12.05.060.4 Drinking Water Protection
12.05.060.5 Compliance With Federal And State Law
12.05.060.6 Penalty

12.05.070 Permits

12.05.070.1 Storm Sewer Connection Permit
12.05.070.2 Permit For Storm Water Construction Activity
12.05.070.3 Application For Permit
12.05.070.4 Proper Operation And Maintenance
12.05.070.5 Inspection And Entry
12.05.070.6 Revocation Or Suspension Of Permit

12.05.080 Storm Water Pollution Prevention Plan

12.05.080.1 Required Information
12.05.080.2 Goals And Criteria
12.05.080.3 Exemptions
12.05.080.4 Appeal
12.05.080.5 Compliance With Federal And State Law
12.05.080.6 Enforcement: Penalty

12.05.090 Civil Penalty: Administrative Hearing

12.05.090.1 Civil Penalties For Violations
12.05.090.2 Amount Of Penalties Set By Resolution
12.05.090.3 Enforcement Officers
12.05.090.4 Notices
12.05.090.5 General Contractor Responsibility
12.05.090.6 Property Owner Responsibility
12.05.090.7 Payment Of Penalties
12.05.090.8 Hearings
12.05.090.9 Collection
12.05.090.10 Appeals

12.07 Culinary Water

12.07.010 General Provisions
12.07.020 Applications, Fees, And Charges
12.07.030 Regulations Including Prohibited Actions
12.07.040 Installation
12.07.050 Jurisdiction Of City Outside City Limits
12.07.060 Water Source Protection
12.07.070 Water Conservation Plan

12.07.080 Power To Adopt Additional Regulations: Penalties

12.07.010 General Provisions

12.07.010.1 Adoption Of Ordinance
12.07.020.2 Supervision
12.07.030.3 Water Connections

12.07.020 Applications, Fees, And Charges

12.07.020.1 Application For Water Service Connection
12.07.020.2 Owner And Tenant Responsibilities
12.07.020.3 Deposit And Application Fee
12.07.020.4 Water Connection And Rates
12.07.020.5 Service Billings Payment And Delinquency

12.07.030 Regulations Including Prohibited Actions

12.07.030.1 Turning On Water After Being Turned Off: Prohibited
12.07.030.2 Separate Connections
12.07.030.3 Maintenance On Service Connections
12.07.030.4 Control Of Water Resources
12.07.030.5 Waste Of Water
12.07.030.6 Non-Liability For Damages
12.07.030.7 Access To Places Supplied With Water
12.07.030.8 Cross-Connections Prohibited

12.07.040 Installation

12.07.040.1 Permit For Installations
12.07.040.2 Damage To Waterworks Property
12.07.040.3 Opening Or Closing Fire Hydrant
12.07.040.4 When Cost Of Installing Service Pipe To Be Paid By Applicant: Credit Upon Account

12.07.050 Jurisdiction Of City Outside City Limits

12.07.050.1 Prevention Of Pollution Or Contamination Outside Of The City
12.07.050.2 Supply Of Water Services To Persons Outside City Limits
12.07.050.3 Perry City Water User's Agreement For Surplus Water

12.07.060 Water Source Protection

12.07.060.1 Short Title And Purpose
12.07.060.2 Definitions
12.07.060.3 Establishment Of Wellhead Protection Zone
12.07.060.4 Permitted Uses
12.07.060.5 Prohibited Uses
12.07.060.6 Administration

12.07.070 Water Conservation Plan

12.07.070.1 Introduction
12.07.070.2 Description Of Perry City And Its Water System
12.07.070.3 Inventory Of Water Resources
12.07.070.4 Present Water Use And Future Water Needs
12.07.070.5 Overview Of Water Problems And Goals
12.07.070.6 Current Conservation Practices
12.07.070.7 Current Water Rates
12.07.070.8 Cost Analysis

12.07.080 Power To Adopt Additional Regulations: Penalties

12.07.080.1 Power To Adopt Additional Regulations
12.07.080.2 Penalties

12.09 Wastewater

12.09.010 General Provisions
12.09.020 Discharge
12.09.030 Connections
12.09.040 Requirements
12.09.050 Regulations
12.09.060 Inspections
12.09.070 Pretreatment
12.09.080 Backflow And Cross-connections
12.09.090 Fees, Rates, And Penalties

12.09.040 Requirements

12.09.040.1 Settling Tanks
12.09.040.2 Pipe Requirements
12.09.040.3 Changes In Direction
12.09.040.4 Manner Of Making Excavations
12.09.040.5 Variation From Provisions Of This Chapter

12.09.050 Regulations

12.09.050.1 Injuring Sewer Appliance Or Appurtenance
12.09.050.2 Prohibited Substances In Sewers
12.09.050.3 Discharge Of Dangerous Or Harmful Substances Into Public Sewers: Enumeration Of Restricted Substances
12.09.050.4 Discharging Rain Water, Etc Into Sanitary Sewer: Overflow From Blow-off Boilers
12.09.050.5 Distance Of Other Pipes From Sewer
12.09.050.6 Construction Of Drain Under Council Regulations
12.09.050.7 Destruction

12.09.060 Inspections

12.09.060.1 Inspection
12.09.060.2 Work Done Without Inspection
12.09.060.3 Failure To Remedy Defective Work
12.09.060.4 Use Of Licensed Plumber's Name

12.09.070 Pretreatment

12.09.070.1 Preamble
12.09.070.2 Purpose And Policy
12.09.070.3 Administration
12.09.070.4 Definitions
12.09.070.5 Prohibited Discharge Standards
12.09.070.6 Dilution
12.09.070.7 Pretreatment Facilities
12.09.070.8 Accidental Discharge/Slug Control Plans
12.09.070.9 Hauled Wastewater
12.09.070.10 Wastewater Analysis
12.09.070.11 Wastewater Discharge Permit Requirement
12.09.070.12 Wastewater Discharge Permitting: Existing Connections
12.09.070.13 Wastewater Discharge Permitting: New Connections
12.09.070.14 Wastewater Discharge Permit Application Contents
12.09.070.15 Application Signatories And Certification
12.09.070.16 Wastewater Discharge Permit Decisions
12.09.070.17 Wastewater Discharge Permit Duration
12.09.070.18 Wastewater Discharge Permit Contents
12.09.070.19 Wastewater Discharge Permit Appeals
12.09.070.20 Wastewater Discharge Permit Modification Or Revocation
12.09.070.21 Wastewater Discharge Permit Transfer
12.09.070.22 Wastewater Discharge Permit Reissuance
12.09.070.23 Right Of Entry: Inspection And Sampling
12.09.070.24 Confidential Information
12.09.070.25 Notification Of Violation
12.09.070.26 Consent Orders
12.09.070.27 Show Cause Hearing
12.09.070.28 Compliance Orders
12.09.070.29 Cease And Desist Orders
12.09.070.30 Administrative Fines
12.09.070.31 Emergency Suspensions
12.09.070.32 Termination Of Discharge
12.09.070.33 Injunctive Relief
12.09.070.34 Remedies Nonexclusive
12.09.070.35 Severability

12.09.080 Backflow And Cross-connections

12.09.080.1 Purpose
12.09.080.2 Definitions
12.09.080.3 City Responsibility
12.09.080.4 Consumer's Responsibility
12.09.080.5 Plumbing Official Or Building Inspector Responsibility
12.09.080.6 Certified Backflow Assembly Technicians, Surveyors Or Repair Person's Responsibilities
12.09.080.7 Inspection And Maintenance Requirements
12.09.080.8 Violation: Discontinuance Of Service

12.09.090 Fees, Rates, And Penalties

12.09.090.1 Sewer And Water Bills
12.09.090.2 Application For Sewer Service And Monthly Fees And Charges
12.09.090.3 Property Outside City Limits
12.09.090.4 Connection Fee: Discontinuance Of Water Service To NonConnected Property
12.09.090.5 Rates
12.09.090.6 Service To Commercial, Industrial And Other Users
12.09.090.7 Special Rates
12.09.090.8 Board Of Equalization, Rates, And Rebates
12.09.090.9 Penalty

12.11 Garbage Collection

12.11.010 Purpose
12.11.020 Billing For Nonpayment
12.11.030 Discontinuance And Reestablishment Of Service
12.11.040 Regular Rates
12.11.050 Special Rates
12.11.060 Board Of Equalization: Corrections Of Rates In Special Circumstances

13 Comprehensive Planning

13.01 General Plan
13.02 Moderate Income Housing Plan
13.03 Parks, Trails, And Critical Lands Master Plan
13.05 Storm Drain Capital Facilities Plan
13.07 Transportation Master Plan
13.09 Culinary Water Capital Facilities Plan
13.11 Wastewater Capital Facilities Plan
13.13 Emergency Management Plan
13.15 Public Safety Capital Facilities Plan

13.01 General Plan
13.02 Moderate Income Housing Plan
13.02.010 General Provisions
13.02.020 Moderate Income Housing Plan 2010-2011 Biannual Update Report

13.03 Parks, Trails, And Critical Lands Master Plan
13.03.010 Introduction
13.03.020 Community Character
13.03.030 Definitions And Types Of Service
13.03.040 Definitions And Standard Guidelines For Park, Trail, And Critical Land Types
13.03.050 Critical Land Definition And Types
13.03.060 Needs Analysis

13.05 Storm Drain Capital Facilities Plan
13.05.010 Overview Of The Perry City Storm Drain System Capital Facilities Plan
13.05.020 Existing System Evaluation
13.05.030 Future System Evaluation
13.05.040 Finance Element: Funding Of Future Storm Drainage Facilities
13.05.050 Appendices

13.07 Transportation Master Plan
13.07.010 Introduction
13.07.020 Roadways And Traffic Conditions
13.07.030 Future Conditions Analysis
13.07.040 Capital Improvement Program
13.07.050 Conclusion And Recommendations
13.07.060 Appendices

13.09 Culinary Water Capital Facilities Plan
13.09.010 Overview Of The Perry City Culinary Water System Capital Facilities Plan
13.09.020 Existing System Evaluation
13.09.030 Future System Evaluation
13.09.040 Finance Element: Funding Of Future Culinary Water Facilities

13.11 Wastewater Capital Facilities Plan
13.11.010 Existing And Future Conditions
13.11.020 Environmental Review
13.11.030 Development And Screening Of Alternatives
13.11.040 Evaluation Of Viable Alternatives And Plan Adoption
13.11.050 Selected Plan, Description, And Implementation
13.11.060 Appendices

13.13 Emergency Management Plan
13.13.010 Purpose And Intent
13.13.020 Legislation
13.13.030 Summary Of Emergency Situations
13.13.040 Perry City Government Responsibility In The Event Of Emergency/Disaster
13.13.050 Duties And Responsibilities In The Event Of An Emergency
13.13.060 Description Of Emergency Condition: Levels 1, 2, And 3
13.13.070 Description Of Emergency Response Conditions
13.13.080 Supporting Agencies
13.13.090 Phases Of Emergency Management
13.13.100 Plan Implementation
13.13.110 Evacuations
13.13.120 Emergency Support Functions
13.13.130 Emergency Management Plan Maintenance

13.15 Public Safety Capital Facilities Plan
13.15.010 Executive Summary
13.15.020 Overview Of The Capital Facilities Plan
13.15.030 Overview Of Perry City
13.15.040 Existing Fire/EMT Facilities And Demands
13.15.050 Law Enforcement
13.15.060 Finance Element
13.15.070 Appendix (Perry City Fire Response Map)

14 Subdivision Regulations
14.01 General Subdivision Regulations
14.02 Existing Residential Condominiums: Option To Become Pruds

14.01 General Subdivision Regulations
14.01.010 Recording Of Final Plat Required Before Lots May Be Sold
14.01.020 Optional Process For Large Residential Property (10 Or More Acres)
14.01.030 Optional Processes For Subdivisions Using Metes And Bounds Descriptions: Small Residential (1 To 3 Lots) And Large Commercial (20 Or More Acres)

14.02 Existing Residential Condominiums: Option To Become Pruds
14.02.010 A Residential Condominium Development May Be Re-Designated As A PRUD
14.02.020 Requirements To Be Re-Desginated As A PRUD
14.02.030 Acting Upon An Application To Be Re-Designated As A PRUD; Record Plat
14.02.040 Administration Of The PRUD; Applicable Ordinances

14.02.050 Legal Effect Of The Re-Designation

15 Land Use

15.01 General Land Use Provisions
15.03 Planning Commission Rules Of Procedure
15.05 Land Use Authorities And Appeal Authorities
15.07 Zoning, Including Procedures, Land Use Chart, Area Requirements, And Zoning Maps
15.09 Foothill Development Areas
15.11 Wetlands And Sensitive Soils Areas
15.13 Agriculture Protection Areas
15.15 Flood Control And Special Regulations
15.16 Escrow Agreements, CCc And R's And Development Agreements
15.17 Design Review Procedure
15.19 Streets, Trees, Parkways, And Parking
15.21 Streetlight Regulations
15.23 Landscape Regulations
15.25 Standards For Residential Fences, Pools, And Miscellaneous Structures
15.27 Sign Regulations
15.29 Conditional Use Permits
15.31 Excavation And Reclamation
15.33 Home Occupations
15.34 Regulations For Large Scale Utility Lines, Wireless Telecommunications Towers, Microwave Towers, And Miscellaneous Infrastructure
15.35 Nonconforming Uses

15.01 General Land Use Provisions

15.01.010 Outline
15.01.020 Purpose And Interpretation
15.01.030 Departmental Organization
15.01.040 Enforcement And Penalties
15.01.050 Pending Rule And Effect
15.01.060 Definitions
15.01.070 Land Use Agreements

15.03 Planning Commission Rules Of Procedure

15.03.010 General Provisions Regarding Planning Commission
15.03.020 Members Of The Planning Commission
15.03.030 Terms, Vacancies, Training, And Removal Of Members
15.03.040 Designation Of Officers And Staff
15.03.050 Procedures For Meetings
15.03.060 Ethics And Conflict Of Interest
15.03.070 Procedures To Be Followed By Applicants
15.03.080 Rules Governing Public Input
15.03.090 Planning Commission Votes
15.03.100 Decisions

15.03.010 General Provisions Regarding Planning Commission

15.03.010.1 Governing Statutes And Ordinances
15.03.010.2 Authority Limited To What Is Specially Identified
15.03.010.3 Functions Of The Planning Commission

15.03.020 Members Of The Planning Commission

15.03.020.1 Number Of Members And Manner Of Appointment
15.03.020.2 Residency Requirement
15.03.020.3 Powers And Duties Of Alternate Planning Commission Members

15.03.030 Terms, Vacancies, Training, And Removal Of Members

15.03.030.1 Terms And Vacancies
15.03.030.2 Commencement Of Terms: Time Of Appointment
15.03.030.3 Initial Training Qualifications For Permanent Planning Commission Members
15.03.030.4 Continuing Training Qualifications For Permanent Planning Commision Members
15.03.030.5 Not A City Official
15.03.030.6 No Land Use/Real Estate Compensation (On Owner Or Commission Basis)
15.03.030.7 No Compensation (From The City) For Members Of The Planning Commission
15.03.030.8 Procedures For Removal (For Cause) Of Planning Commission Members
15.03.030.9 Decision Regarding Removal Of A Planning Commission Member

15.03.040 Designation Of Officers And Staff

15.03.040.1 Officers And Staff And Their Duties
15.03.040.2 Chair, Vice Chair, And Acting Chair Of The Planning Commission
15.03.040.3 Officer Terms, Vacancies, And Duties
15.03.040.4 Community Development Department To Act As Staff To The Planning Commission
15.03.040.5 Community Development Department To Provide Minutes, Agendas, And Information Regarding Land Use Applications To The Planning Commission

15.03.050 Procedures For Meetings

15.03.050.1 Planning Commission Quorum
15.03.050.2 Planning Commission: Decisions By Majority (Roll Call) Vote.
15.03.050.3 Members To Vote On All Issues And To Recuse/Abstain When Conflicts Arise
15.03.050.4 Rules Of Procedure; City Attorney To Decide Rules Application
15.03.050.5 Time Of Planning Commission Meetings
15.03.050.6 Protecting Due Process Rights: Constitutional Takings
15.03.050.7 Reliance Upon City Council (Or Other City) Rules Of Procedure

15.03.060 Ethics And Conflict Of Interest

15.03.060.1 Definition: Conflict Of Interest
15.03.060.2 Action Required
15.03.060.3 Determination
15.03.060.4 Ethics Rules
15.03.060.5 Ethical Guidelines Chart

15.03.070 Procedures To Be Followed By Applicants

15.03.070.1 Deadline For An Application To Be On An Agenda
15.03.070.2 Mandatory Appearance At Meetings
15.03.070.3 Application Form
15.03.070.4 Information To Be Included On The Application

15.03.080 Rules Governing Public Input

15.03.080.1 Chair To Recognize Speakers
15.03.080.2 One Individual Speaks At A Time
15.03.080.3 Time Limit To Speak
15.03.080.4 Limit Redundant Comments
15.03.080.5 Motion To Limit (Or End) Discussion
15.03.080.6 Public Hearing And Public Comments Rules

15.03.090 Planning Commission Votes

15.03.090.1 Procedure From Calling Agenda Item To Time Of Vote
15.03.090.2 Planning Commission Abstaining Votes: For Any Vote Other Than Minutes Or Procedural
15.03.090.3 Reconsideration Of An Open-Ended, Failed Vote
15.03.090.4 Open-Ended, Failed Vote Becomes A Final Vote If Not Timely Reconsidered
15.03.090.5 Final Vote: Limited Reconsideration After The Meeting Is Over
15.03.090.6 Immediate Forwarding Of Final Votes To Higher Authority
15.03.090.7 Remand From Higher Authority For Further Action
15.03.090.8 Retention Of Recommendations Of Staff

15.03.100 Decisions

15.03.100.1 Recording Votes, Including Abstaining Votes
15.03.100.2 Reasons And Conditions Of Decisions
15.03.100.3 Recording Decisions In Minutes
15.03.100.4 Notice Of Decision To Applicants

15.05 Land Use Authorities And Appeal Authorities

15.05.010 Legislative Intent Of This Title
15.05.020 Appeal Authorities
15.05.030 Appeals To District Court Or To The Ombudsman
15.05.040 Land Use Authorities
15.05.050 Legislative Land Use Action
15.05.060 Land Use Powers Of The City Attorney, City Administrator, Governing Body, And Community Development Department
15.05.070 Perry City Land Use Charts

15.05.010 Legislative Intent Of This Title

15.05.010.1 Primary Intent Of This Land Use Ordinance Title
15.05.010.2 Intent With Regards To Legislative Land Use Powers
15.05.010.3 Intent With Regards To Administrative Land Use Powers
15.05.010.4 Intent With Regards To Appeals And Quasi-Judicial Land Use Powers
15.05.010.5 Land Use Powers Of The Planning Commission
15.05.010.6 Miscellaneous Intent; Compliance With Law

15.05.030 Appeals To District Court Or To The Ombudsman

15.05.030.1 Appeals To District Court
15.05.030.2 Appeals To The Property Rights Ombudsman's Office

15.05.050 Legislative Land Use Action

15.05.050.1 Summary Of Legislative Land Use Action
15.05.050.2 Petition To Avoid Unnecessary Or Excessive Delays: Procedural Petitions
15.05.050.3 Definition Of Quasi-Legislative Body
15.05.050.4 Incorporation By Reference Of Applicable Provision Of Chapter 43.04

15.05.060 Land Use Powers Of The City Attorney, City Administrator, Governing Body, And Community Development Department

15.05.060.1 Land Use Powers And Duties Of The City Attorney And Assistants
15.05.060.2 No Land Use Powers For The City Administrator And Assistants
15.05.060.3 Limited Land Use Powers For The Mayor And City Council
15.05.060.4 Land Use Powers Of The Planning Commission
15.05.060.5 Department May Only Be Overruled By A Designated Higher Authority

15.05.070 Perry City Land Use Charts

15.05.070.1 Agricultural Uses
15.05.070.2 Residential Uses
15.05.070.3 Municipal Uses
15.05.070.4 Recreational Uses
15.05.070.5 Educational And Religious Uses
15.05.070.6 Medical Uses
15.05.070.7 Commercial Uses
15.05.070.8 Special Commercial Uses
15.05.070.9 Light Commercial Uses
15.05.070.10 Manufacturing- Industrial Uses

15.07 Zoning, Including Procedures, Land Use Chart, Area Requirements, And Zoning Maps

15.07.005 Intent And General Provisions
15.07.010 Zoning Districts
15.07.020 Zone Descriptions
15.07.030 Rules For Locating Boundaries
15.07.040 Zoning Boundary Policy
15.07.050 Airport Overlay Zone
15.07.060 Neighborhood Commercial Zones
15.07.070 In-Fill Development (In NC2 And NC3 Zones)
15.07.080 Zoning Administration
15.07.090 Penalties
15.07.100 Land Use Chart
15.07.110 Area, Frontage, Setback, And Height Requirements
15.07.120 Zoning Map

15.07.005 Intent And General Provisions

15.07.005.1 Filing Of Zoning Ordinance And Zoning Map

15.07.010 Zoning Districts

15.07.010.1 List Of Zones

15.07.020 Zone Descriptions

15.07.020.1 Agricultural
15.07.020.2 Agricultural Limited
15.07.020.3 Rural Residential
15.07.020.4 Rural Residential 1/2 Acre
15.07.020.5 Low Density Residential 1/2 Acre (20,000 Sf)
15.07.020.6 Low Density Residential 1/3 Acre
15.07.020.7 Low Density Residential 1/4 Acre (10,000 Sf)
15.07.020.8 Medium Density Residential (8,000 Sf)
15.07.020.9 Commercial (C)
15.07.020.10 Commercial (C1)
15.07.020.11 Interstate Commercial
15.07.020.12 Nc2 And Nc3 -Neighborhood Commercial
15.07.020.13 Mu-C Mu-O Mu-R Mixed Use Commercial, Office, And Residential
15.07.020.14 M/I- Manufacturing/Industrial Limited
15.07.020.15 M/I L- Manufacturing/Industrial Limited
15.07.020.16 Environmentally Sensitive
15.07.020.17 Caveat Regarding Zone Descriptions (And Development Standards)

15.07.030 Rules For Locating Boundaries

15.07.030.1 Basic Rules
15.07.040.2 Final Decisions And Appeals For Locating Boundaries
15.07.040.3 Zoning Boundary Divides A Parcel

15.07.040 Zoning Boundary Policy

15.07.040.1 Purpose And Intent
15.07.040.2 General Guidelines For Zoning Boundary Policy
15.07.040.3 Final Decisions And Appeals Regarding Zoning Boundary Policy Applications

15.07.050 Airport Overlay Zone

15.07.050.1 Purpose And Intent
15.07.050.2 General Provisions
15.07.050.3 Definitions
15.07.050.4 Airport Zoning Commision: For The Portions Of Perry City That Fall Within The Outer Approach Zone
15.07.050.5 Airport Board Of Adjustment: For The Portion Of Perry City That Falls Within The Outer Approach Zone
15.07.050.6 Schedule Of Uses
15.07.050.7 Airport Master Plan
15.07.050.8 Airport Overlay Zones
15.07.050.9 Regulations
15.07.050.10 Notifications
15.07.050.11 Airport Development Standards

15.07.060 Neighborhood Commercial Zones

15.07.060.1 Intent And Purpose
15.07.060.2 Types Of Neighborhood Commercial Zones
15.07.060.3 Approval Process
15.07.060.4 Area Requirements
15.07.060.5 Site Development Standards
15.07.060.6 Protection Of Adjoining Residential Properties
15.07.060.7 General Regulations
15.07.060.8 Building Permit Issuance
15.07.060.9 Time Limitations

15.07.070 In-Fill Development (In NC2 And NC3 Zones)

15.07.070.1 Definition Of In-Fill Development
15.07.070.2 Exception To Non-Application Of Zoning Boundary Policy
15.07.070.3 Intent And Purpose On In-Fill Development
15.07.070.4 Criteria For Approval

15.07.080 Zoning Administration

15.07.080.1 Zoning Administrator: Authority And Duties
15.07.080.2 Amendments To Zoning Ordinance And Map
15.07.080.3 Petition By Landowners For Annexation
15.07.080.4 Written Zone Change Application Required

15.07.080.5 Zone Change Fee Required
15.07.080.6 Procedure For Zone Change Amendment
15.07.080.7 Reversion To Original Zoning Designation
15.07.080.8 Development Agreement

15.07.090 Penalties
15.07.090.1 Available Penalties

15.07.100 Land Use Chart
15.07.100.1 General Regulations
15.07.100.2 Classification Of New And/Or Unlisted Uses
15.07.100.3 Abbreviations For Land Use Chart
15.07.100.4 Additional Information ("Notes") Regarding Land Use Chart
15.07.100.5 Guide For Land Use Chart
15.07.100.6 Legislative History For This Chapter (Reserved)

15.07.110 Area, Frontage, Setback, And Height Requirements
15.07.110.1 Requirements For A, Es, Al, And R1a Zones
15.07.110.2 Requirements For RE 1/2, R 1/2, And R3MHP/R3MHS Zones
15.07.110.3 Requirements For R 1/3, R1, And R2 Zones
15.07.110.4 Requirements For M/I, M/I L, Mixed Use IC, C, C1, NC2, And NC3 Zones
15.07.110.5 City Staff To Make Recommendations During The Design Review Process
15.07.110.6 Septic Tanks Only Available As An Option If Allowed By Title 16

15.09 Foothill Development Areas
15.09.010 Purpose
15.09.020 Special Terms
15.09.030 Scope And Application
15.09.040 Density, Lot Size, Width, And Characteristics
15.09.050 Road, Access And Fire Requirements
15.09.060 Pruds- Planned Residential Unit Development
15.09.070 Development Standards
15.09.080 Review And Approval Procedure
15.09.090 Final Approval
15.09.100 Construction, Grading And Contour Maps

15.09.010 Purpose
15.09.010.1 Legislative Intent
15.09.010.2 Purpose

15.09.020 Special Terms
15.09.020.1 Average Slope
15.09.020.2 Area
15.09.020.3 Development Site
15.09.020.4 Natural Vegetation
15.09.020.5 Useable Land

15.09.030 Scope And Application
15.09.030.1 Application In All Zones
15.09.030.2 Reconciliation With Similar Provisions
15.09.030.3 Lack Of Retroactive Application
15.09.030.4 Road Grades

15.09.040 Density, Lot Size, Width, And Characteristics
15.09.040.1 Single Family Dwelling Units

15.09.050 Road, Access And Fire Requirements
15.09.050.1 Dwelling Access To Fire Department Apparatus

15.09.060 Pruds- Planned Residential Unit Development
15.09.060.1 Maximum Available Units Per Acre

15.09.070 Development Standards
15.09.070.1 Intent

15.09.080 Review And Approval Procedure
15.09.080.1 Approval By Planning Commission For Environment Sensitive Development Area

15.09.090 Final Approval
15.09.090.1 Final Approval

15.09.100 Construction, Grading And Contour Maps
15.09.100.1 No Construction Before Final Approval

15.11 Wetlands And Sensitive Soils Areas
15.11.010 Wetlands And Sensitive Soils Requirements
15.11.020 Penalties

15.11.010 Wetlands And Sensitive Soils Requirements
15.11.010.1 Requirements For Delineated Wetland Areas
15.11.010.2 Requirements For Non-Delineated Wet And/Or Sensitive Soil Areas

15.11.020 Penalties
15.11.020.1 Available Penalties

15.13 Agriculture Protection Areas
15.13.010 Purpose And Intent
15.13.020 Definitions
15.13.030 Procedural Requirements

15.13.010 Purpose And Intent
15.13.010.1 Purpose
15.13.010.2 Intent

15.13.030 Procedural Requirements
15.13.030.1 Perry City Planning Commission
15.13.030.2 Minimum Size For Agriculture Protection Areas
15.13.030.3 Fees For Accepting And Processing Applications For Designation Of Agriculture Protection Areas
15.13.030.4 Filing Procedure

15.15 Flood Control And Special Regulations
15.15.010 Flood Damage Prevention

15.16 Escrow Agreements, CCc And R's And Development Agreements
15.16.010 Development Agreements

15.16.010 Development Agreements
15.16.010.1 Optional Process For Development Agreements For Commercial Property (20 Or More Acres)

15.17 Design Review Procedure
15.17.010 Intent And Purpose
15.17.020 Application
15.17.030 General Provisions
15.17.040 Procedure For Approval
15.17.050 Other Requirements
15.17.060 Approval By City Council

15.17.010 Intent And Purpose
15.17.010.1 Intent And Purpose
15.17.010.2 Compliance With Municipal Code

15.17.020 Application
15.17.020.1 Application
15.17.020.2 Compliance With Municipal Code
15.17.020.3 No Physical Change To A Site

15.17.030 General Provisions
15.17.030.1 Compliance With Municipal Code
15.17.030.2 Effect On Adjacent Property
15.17.030.3 City Council Surety For Completion

15.17.040 Procedure For Approval
15.17.040.1 Obtain Perry City Land Use Ordinances
15.17.040.2 Preparation Of Site Plan And/Or Concept/Preliminary Plan
15.17.040.3 Time Limit On Approval
15.17.040.4 Public Hearing
15.17.040.5 Planning Commission Recommendation
15.17.040.6 Preparation And Submittal Of Final Site Plan
15.17.040.7 Submittal Of Final Site Plan To Perry City Staff Professional Consultants
15.17.050.8 Approval Of Final Site Plan By Planning Commission

15.17.050 Other Requirements
15.17.050.1 Requirements For Bond And/Or Other Approved Assurance
15.17.050.2 Impact Fees

15.17.060 Approval By City Council
15.17.060.1 Final Approval By City Council
15.17.060.2 Inspection
15.17.060.3 Time Limit Of Final Site Plan Approval
15.17.060.4 Ongoing Maintenance

15.19 Streets, Trees, Parkways, And Parking
15.19.010 Streets And Sidewalks
15.19.020 Trees And Shrubs
15.19.030 Parkway Between Curb And Gutter
15.19.040 Health And Safety Hazards
15.19.050 General Parking Design
15.19.060 Recreational Vehicle Parking
15.19.070 Commercial Vehicles In Residential Districts
15.19.080 Penalties, Snowstorm Parking, And Applicability To Other Ordinances

15.19.010 Streets And Sidewalks
15.19.010.1 Applicable State Law

15.19.010.2 Superintendent Of Streets And Sidewalks
15.19.010.3 Adoption Of Minimum Standards For Public Utility And Street Improvements

15.19.020 Trees And Shrubs

15.19.020.1 Purpose And Policy
15.19.020.2 Definitions
15.19.020.3 City Forester
15.19.020.4 Permit Required
15.19.020.5 Appeal Of City Council's Decision
15.19.020.5 Trees Located Withing Public Property
15.19.020.6 Interference With City Employees And Willful Injury To Trees
15.19.020.7 Penalty
15.19.020.8 List Of Approved Street Trees For Perry City

15.19.030 Parkway Between Curb And Gutter

15.19.030.1 Responsibility Of Property Owner
15.19.030.2 Permission To Fill With Permanent Material
15.19.030.3 Sprinklers/Watering In Parking Strip

15.19.040 Health And Safety Hazards

15.19.040.1 Purpose
15.19.040.2 Inspector: Office Created
15.19.040.3 Assistant Inspectors: Office Created
15.19.040.4 Inspector: General Duties
15.19.050.5 Inspector: Duties If Conditions Exist
15.19.050.6 Type Of Mail Service Allowed
15.19.050.7 Request For A Hearing
15.19.050.8 If Administrative Law Judge Upholds Inspector's Decision
15.19.060.9 If Administrative Law Judge Overrules Or Modifies Inspector's Decision
15.19.060.10 Inspector To File Amended Notice And Proof Of Service
15.19.060.11 Failure To Comply With Notice And Proof Of Service
15.19.060.12 City's Options After Failure To Make Payment
15.19.060.13 Collection By Lawsuit
15.19.060.14 Applicable State Law

15.19.050 General Parking Design

15.19.050.1 Intent And Purpose
15.19.050.2 Off Street Parking : General Provisions
15.19.050.3 Parking Stall Chart: Commercial
15.19.050.4 Parking Stall Chart: Residential
15.19.050.5 Parking Relationship To Proposed User Considerations
15.19.050.6 Parking Area Functional Considerations
15.19.050.7 Parking Layout And Concept Design Considerations
15.19.050.8 Visual Impact Design Considerations

15.19.060 Recreational Vehicle Parking

15.19.060.1 Definitions
15.19.060.2 Regulations
15.19.060.3 State Of Emergency Exception

15.19.070 Commercial Vehicles In Residential Districts

15.19.070.1 Definitions
15.19.070.2 Regulation
15.19.070.3 Exceptions To The Regulation

15.19.080 Penalties, Snowstorm Parking, And Applicability To Other Ordinances

15.19.080.1 Penalties
15.19.080.2 Parking Vehicles On Streets After Snowstorm
15.19.080.3 Applicability To Other Ordinances

15.21 Streetlight Regulations

15.21.010 Intent And Purpose
15.21.020 General Provisions
15.21.030 Penalties

15.21.010 Intent And Purpose

15.21.010.1 Purpose
15.21.010.2 Intent

15.21.020 General Provisions

15.21.020.1 City Engineer To Accept Or Reject Proposed Installation Plan
15.21.020.2 Most Restrictive Provision Applies
15.21.020.3 Installation Of Decorative Lighting By Design Review
15.21.020.4 Compliance With Public Works Standards Required

15.21.030 Penalties

15.21.030.1 Available Penalties

15.23 Landscape Regulations

15.23.010 Intent And Purpose
15.23.020 Plan Preparation And Standards For Review
15.23.030 Minimum Landscaped Area Requirements
15.23.040 Specific Landscape Design And Site Planning Criteria

15.23.050 General Landscape Design Considerations
15.23.060 Enforcement And Inspection

15.23.010 Intent And Purpose

15.23.010.1 Primary Purpose
15.23.010.2 Intent
15.23.010.3 Reasons For Legislation
15.23.010.4 Applicability

15.23.020 Plan Preparation And Standards For Review

15.23.020.1 Design Plan And Preparation
15.23.020.2 Design Plan Submission
15.23.020.3 Landscape And Irrigation Elements
15.23.020.4 Planning Commission Requests And Fees

15.23.030 Minimum Landscaped Area Requirements

15.23.030.1 Minimum Landscaped Area Requirements
15.23.030.2 Plant Material Requirements
15.23.030.3 Plant Material Size Requirement

15.23.040 Specific Landscape Design And Site Planning Criteria

15.23.040.1 Landscape Buffer Requirement
15.23.040.2 Distance Requirement From Pavement To Street Or Parking Area
15.23.040.3 Fence Requirement
15.23.040.4 Safe Sight Line Requirement

15.23.050 General Landscape Design Considerations

15.23.050.1 Definition
15.23.050.2 Storm Water Detention Basins And Special Areas
15.23.050.3 City Parkway Strips
15.23.050.4 Plant Material For Landscape Design

15.23.060 Enforcement And Inspection

15.23.060.1 Certificate Of Temporary Occupancy
15.23.060.2 Final Inspection Regulation
15.23.060.3 Landscape Change Approval
15.23.060.4 Landscape Maintenance Review

15.25 Standards For Residential Fences, Pools, And Miscellaneous Structures

15.25.010 Standards For Residential Fences
15.25.020 Standards For Residential Swimming Pools

15.25.010 Standards For Residential Fences

15.25.010.1 Front, Side, And Rear Yards
15.25.010.2 Corner Lots
15.25.010.3 Obstruction To View
15.25.010.4 Measurement Where Elevation Is Different
15.25.010.5 Special Exception For Height Requirements For Residential Fences

15.25.020 Standards For Residential Swimming Pools

15.25.020.1 Pool As An Accessory Use
15.25.020.2 Location
15.25.020.3 Fence And Lights

15.27 Sign Regulations

15.27.010 Purpose And Definition
15.27.020 General Provisions
15.27.030 Location
15.27.040 Rules And Regulations
15.27.050 Sign Types, Standards, And Design

15.27.010 Purpose And Definition

15.27.010.1 Purpose
15.27.010.2 Definitions

15.27.020 General Provisions

15.27.020.1 Conformity, Amortization, And Removal Of Signs
15.27.020.2 Permit For Signs
15.27.020.4 Building Code Requirements
15.27.020.5 UDOT Controls And Regulation
15.27.020.6 State And/Or Federal Sign Requirements

15.27.030 Location

15.27.030.1 Corner Lot Triangle
15.27.030.2 Window Sign Location
15.27.030.3 Business And Identification Signs
15.27.030.4 Additional Location Restrictions

15.27.040 Rules And Regulations

15.27.040.1 Noise
15.27.040.2 Painting, Pasting, And Gluing
15.27.040.3 Prohibited Signs

15.27.040.4 Lighting
15.27.040.5 Sign Maintenance
15.27.040.6 Penalty

15.27.050 Sign Types, Standards, And Design

15.27.050.1 Business Advertising Signs For A, AL, C, C-1, M/I, NC2, And NC3 Zones
15.27.050.2 Shopping Center Signs For C, C-1, NC1 And NC2 Zones
15.27.050.3 Directional Signs: On-Premise (Allowed In All Zones)
15.27.050.4 Directional Signs: Off-Premise
15.27.050.5 Detached Advertising Signs For A, AL, C, C-1, M/I, NC2, And NC3 Zones
15.27.050.6 Electronic Message Display Sign For A, AL, C, C-1, M/I, NC2, And NC3 Zones
15.27.050.7 Billboard Signs
15.27.050.8 Marquee Signs For C, C-1, NC2, And NC3 Zones
15.27.050.9 Temporary Event Signs (Allowed In All Zones)
15.27.050.10 Temporary Off-Premise Commercial Signs For NC2 And NC3 Zones
15.27.050.11 Construction And Development Signs (Allowed In All Zones)
15.27.050.12 Political Or Campaign Signs (Allowed In All Zones)
15.27.050.13 Property Sale Signs
15.27.050.14 Regulations Applicable To School And Church Signs
15.27.050.15 Signs For Residential Uses
15.27.050.16 Subdivision Signs
15.27.050.17 Pointe Perry Development

15.29 Conditional Use Permits

15.29.010 Intent And Purpose
15.29.020 General Provisions
15.29.030 Process
15.29.040 Standards For Review
15.29.050 Conditions Of Use
15.29.060 Regulations

15.29.010 Intent And Purpose

15.29.010.1 Applicability To Land Use Chart
15.29.010.2 Compatible Uses
15.29.010.3 Purpose Of Conditional Use Permits

15.29.020 General Provisions

15.29.020.1 Required Permit
15.29.020.2 Home Occupations
15.29.020.3 Revocation

15.29.030 Process

15.29.030.1 Process For Reviewing Permits
15.29.030.2 Application And Accompanying Documents
15.29.030.3 Notice To Nearby Property Owners
15.29.030.4 Pre-Application Conference
15.29.030.5 Information To Be Included On Application
15.29.030.6 Payment Of Public Hearing Costs
15.29.030.7 Public Hearing Held By Planning Commission
15.29.030.8 Approval By Special Uses And Appeals Board

15.29.040 Standards For Review

15.29.040.1 List Of Standards

15.29.050 Conditions Of Use

15.29.050.1 Planning Commission To Address Specific Conditions Listed In This Chapter
15.29.050.2 Parcel Size
15.29.050.3 Location Of The Parcel
15.29.050.4 Traffic Considerations
15.29.050.5 Utility Capacity
15.29.050.6 Emergency Vehicle Access
15.29.050.7 Location Of Off-Street Parking
15.29.050.8 Parking For Residential Use
15.29.050.9 Joint Parking Facilities
15.29.050.10 Use Of Parking Spaces
15.29.050.11 Marking Of Spaces
15.29.050.12 Parking Space Design Standards
15.29.050.13 Surfacing
15.29.050.14 Lighting
15.29.050.15 Fencing, Screening, And Landscaping
15.29.050.16 Building Design
15.29.050.17 Trash Collection
15.29.050.18 Signage
15.29.050.19 Feed Storage
15.29.050.20 Hazardous Waste
15.29.050.21 Hazardous Materials
15.29.050.22 Noise
15.29.050.23 Outdoor Storage
15.29.050.24 Outdoor Work
15.29.050.25 Above Ground Storage Tanks
15.29.050.26 Hours Of Operation

15.29.060 Regulations

15.29.060.1 Plat Approval

15.29.060.2 Expiration
15.29.060.3 Appeals
15.29.060.4 Fee
15.29.060.5 Expansion Of A Conditional Use
15.29.060.6 Inspection

15.31 Excavation And Reclamation

15.31.010 General Purpose
15.31.020 Gravel Pits
15.31.030 Public Way
15.31.040 Private Development

15.31.010 General Purpose

15.31.010.1 Purpose
15.31.010.2 Definitions
15.31.010.3 Enforcement
15.31.010.4 Severability

15.31.020 Gravel Pits

15.31.020.1 Reclamation Objectives
15.31.020.2 Conditional Use Excavation Permit Applicable To Both New And Existing Excavation Facilities
15.31.020.3 Location Of New Excavation Sites Or Operations
15.31.020.4 Application Requirements For New Excavation Facilities
15.31.020.5 Application Requirements For Existing Excavation Facilities, Expansion, Amendment, And/Or Renewal:
15.31.020.6 Planning Commission Review Procedures Of Applications
15.31.020.7 Filing Fee For Application For Application For Conditional Use Excavation Permit
15.31.020.8 Changes To Conditional Use Excavation Permit
15.31.020.9 Special Regulations Applying To New And Existing Excavation Facilities
15.31.020.10 Timeline For Implementation For Existing Excavation Facilities
15.31.020.11 Provision Of Surety Required On New And Existing Excavation Facilities
15.31.020.12 Filing Of An Annual Progress Report For New And Existing Excavation Facilities
15.31.020.13 Transfer To Successor Owner/Operator Of The Excavation Operation
15.31.020.14 Time Frame Within Which Compliance Is Required By Existing Excavation Facilities
15.31.020.15 Public Emergency And Governmental Exceptions To Regular Requirements

15.31.030 Public Way

15.31.030.1 Public Way Excavations
15.31.030.2 Construction Permit Requirement
15.31.030.3 Construction Permit Application
15.31.030.4 Work Without Permit Penalty
15.31.030.5 Fees
15.31.030.6 Insurance Requirements
15.31.030.7 Completion Bond
15.31.030.8 Application Requirements For Special Districts
15.31.030.9 Manner Of Excavation
15.31.030.10 Sidewalk And Curb Ramps
15.31.030.11 Inspections And Enforcement
15.31.030.12 Backfill Requirements
15.31.030.13 Restoration Of Surface Required
15.31.030.14 Failure Of Comply
15.13.030.15 Collection Of Expenses By Lawsuit
15.31.030.16 Protection Of The Public

15.31.040 Private Development

15.31.040.1 Private Development Excavations And Fill
15.31.040.2 Exceptions
15.31.040.3 Construction Permit Required
15.31.040.4 Construction Permit Application
15.31.040.5 Work Without Permit Penalty
15.31.040.6 Manner Of Excavation
15.31.040.7 Inspections And Enforcement
15.31.040.8 Excavation And Grading
15.31.040.9 Fees

15.33 Home Occupations

15.33.010 General Provisions
15.33.020 Additional Requirements For Particular Occupations
15.33.030 License And/Or Permit Requirements

15.33.010 General Provisions

15.33.010.1 Intent And Purpose
15.33.010.2 Definition Of Home Occupation
15.33.010.3 Visiting Clientele, As Per Municipal Code Section 43.04.100
15.33.010.4 Variables To Determine Approval

15.33.020 Additional Requirements For Particular Occupations

15.33.020.1 Professional Office
15.33.020.2 Licensed Family Group Care Provider Definition
15.33.020.3 Residential Certificate Child Care Provider Definition
15.33.020.4 Preschool And Teaching (Music Lessons, Dance, Instruction, Etc.)
15.33.020.5 Construction And/Or Repairs Business

15.33.030 License And/Or Permit Requirements

15.33.030.1 Business License

Preface

The Perry Municipal Code of Perry City, Utah, was initially published in house, and its most recent complete adoption was made by the Perry City Council in 2011. In 2015, codification and administration of the Municipal Code began in-house under the direction of the City Recorder, Susan Obray, and with the assistance of Municipal Code Online, Inc. This Municipal Code shall be cited as the Perry Municipal Code or "PMC" as an acronym.

This Municipal Code maintains a structure by subject matter using a decimal numbering system identifying the title, chapter, and section (for example: **1.01.010**).

- The first number in the sequence (**1**.01.010) designates the **title** level
- The second series of numbers (1.**01**.010) designates the **chapter** level
- The last series (1.01.**010**) designates the **section** level
- If a fourth series exists comprising letters or numbers beyond the section level, it designates a **subsection** level.

This complete set of numbers is designed to aid in searching the Municipal Code and to assist in subsequent codification as new ordinances are added to the Municipal Code.

Vacant titles, chapters, or sections may be designed for future use and may be marked "Reserved" to ease internal expansion. The legislative history written as footnotes at the bottom of legislative text identifies specific legal sources. These sources contain documents which may or may not be linked.

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

NOTICE: THE MUNICIPAL CODE MAY NOT REFLECT OTHER RULES PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING OTHER REGULATIONS AND TECHNICAL SPECIFICATION. THE MUNICIPAL CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE CITY COUNCIL THAT HAS YET TO BE UPDATED ONLINE. FOR MORE INFORMATION CONTACT THE CITY OFFICE AT 435-723-6461 AND/OR SUSAN.OBRAY@PERRYCITY.ORG

15.34.030.8 Co-Location
15.34.030.9 Removal Of Abandoned Antennae And Towers
15.34.030.10 Nonconforming Uses

15.35 Nonconforming Uses

15.35.010 Existing Nonconforming Uses And Noncomplying Structures
15.35.020 Additions, Enlargements, Or Moving
15.35.030 Lapse And/Or Continuation Of Use And Miscellaneous Provisions

15.35.010 Existing Nonconforming Uses And Noncomplying Structures

15.35.010.1 Maintenance Permitted
15.35.010.2 Repairs And Alterations
15.35.010.3 Certificate Of Existence

15.35.020 Additions, Enlargements, Or Moving

15.35.020.1 Requirements For Amending, Modifying, And/Or Enlarging
15.35.020.2 Public Hearing And Finding
15.35.020.3 Additions Or Extensions To Residential Noncomplying Structures
15.35.020.4 Alteration Where Parking Is Insufficient
15.35.020.5 Restoration Of Damaged Buildings
15.35.020.6 Change Of Use
15.35.020.7 Expansion Of Use Permitted

15.35.030 Lapse And/Or Continuation Of Use And Miscellaneous Provisions

15.35.030.1 One-Year Vacancy
15.35.030.2 Continuation Of Use
15.35.030.3 Occupation Withing One Year After Use Became Nonconforming
15.35.030.4 Nonconforming Use Of Land
15.35.030.5 Yearly Fluctuation Of Inventory

16 Temporary Ordinances

16.01 Temporary Emergency Exceptions: Temporary Use And/or Obstruction Of Right-of-Way
16.03 Temporary Noise And Gravel Pit Provisions
16.05 Temporary Allowance For An Existing Sign At Approx 2645 S On Highway 89

16.01 Temporary Emergency Exceptions: Temporary Use And/or Obstruction Of Right-of-Way
16.03 Temporary Noise And Gravel Pit Provisions
16.05 Temporary Allowance For An Existing Sign At Approx 2645 S On Highway 89

1 General Provisions

1.01 Code Adoption (Reserved)
1.03 General Provisions
1.05 Corporate Seal
1.07 General Penalty

1.01 Code Adoption (Reserved)

1.03 General Provisions

1.03.010 Definitions
1.03.020 Interpretation Of Language
1.03.030 Grammatical Interpretation
1.03.040 Acts By Agents
1.03.050 Prohibited Acts Include Causing And Permitting
1.03.060 Computation Of Time
1.03.070 Construction
1.03.080 Repeal Shall Not Revive Any Ordinances

1.03.010 Definitions

The following words and phrases, whenever used in the ordinances of the City of Perry, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. City: The City of Perry, or the area within the territorial limits of the City, and such territory outside the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.
2. Council: The City Council of the City of Perry "All its members" or "all Council members" means the total number of Council members holding office.
3. County: This term refers to the county of Box Elder.
4. Law: This term denotes applicable federal law, the Constitution and statutes of the state of Utah, the ordinances of the City, and when appropriate, any and all rules and regulations which may be promulgated thereunder.
5. May: The word "may" is permissive.
6. Month: One calendar month.
7. Must/shall: These are each mandatory terms.
8. Oath: An oath includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
9. Owner: As applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirely, of the whole or part of such building or land.
10. Person: A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
11. Personal Property: Money, goods, chattels, things in action and evidences of debt.
12. Preceding/Following: These terms mean next before and next after, respectively.
13. Property: The term includes real and personal property.
14. Real Property: This term includes lands, tenements, and herditaments.
15. Sidewalk: That portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
16. State: This term refers to the state of Utah.
17. Street: Streets include all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
18. Tenant/Occupant: These terms are applied to a building or land, and include any person who occupies the whole or a part of such building or land, whether alone or with others.
19. Written: Printed, typewritten, mimeographed, multigraphed, typed, or otherwise reproduced in permanent visible form.
20. Year: This term refers to one calendar year.

1.03.020 Interpretation Of Language

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

1.03.030 Grammatical Interpretation

The following grammatical rules shall apply in the ordinances of the City unless it is apparent from the context that a different construction is intended:

1. Gender: Each gender includes the masculine, feminine and neuter genders.
2. Singular and Plural: The singular number includes the plural and the plural includes the singular.
3. Tenses: Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

1.03.040 Acts By Agents

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent.

1.03.050 Prohibited Acts Include Causing And Permitting

Whenever in the ordinances of the City any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the face of such act or omission.

1.03.060 Computation Of Time

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

1.03.070 Construction

The provisions of the ordinances of the City and all proceedings under them are to be construed with a view to affect their objects and to promote justice.

1.03.080 Repeal Shall Not Revive Any Ordinances

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.

1.05 Corporate Seal

1.05.010 Corporate Seal

1.05.010 Corporate Seal

The official corporate seal of the City shall be one and seven-eighths inches in diameter and the following device: Inside the inner circle the words, “Corporate Seal,” and near the outer circle the words, “City of Perry, Box Elder County, Utah.”

1.07 General Penalty

1.07.010 General Penalty

1.07.010 General Penalty

Except in cases where a different punishment is prescribed by ordinance, any person convicted of violating any ordinance of the City shall be punished by a fine not to exceed one thousand dollars ($1,000.00), imprisonment not to exceed six (6) months, or both.

2 Municipal Administration

2.01 Mayor
2.03 City Council
2.05 City Administrator
2.07 City Recorder
2.09 City Treasurer
2.11 City Attorney
2.13 Chief Of Police
2.15 Officers' Bonds
2.17 Officers' Salaries
2.19 Compensation Schedules
2.21 Appointment Of Officers
2.23 Office Vacancies
2.25 Municipal Justice Court
2.27 Fire Department
2.29 Elections
2.30 Financial And Property Administration
2.31 Records Access And Management
2.33 Personnel Policy

2.01 Mayor

2.01.010 Preside At Council Meetings
2.01.020 Duties

2.01.010 Preside At Council Meetings

The Mayor shall preside at all meetings of the City Council and in case that he is absent from said meeting one of the Council members may be appointed by the Council to act in his place during his absence.

2.01.020 Duties

The Mayor shall perform the duties which are, or may be, prescribed by law, or by ordinance, and shall see that the laws and ordinances are faithfully executed.

2.03 City Council

2.03.010 Regular Meetings
2.03.020 Special Meetings
2.03.030 General Powers

2.03.010 Regular Meetings

The time of holding the regular meetings of the City Council shall be fixed by resolution of the Council members. All meetings may be adjourned from time to time as business may require, and a majority of the City Council shall form a quorum to do business at all general meetings and at all special meetings, due notice of which shall have been given.

2.03.020 Special Meetings

If at any time the business of the City requires a special meeting of the City Council, such meeting may be ordered by the Mayor or any two members of the City Council. The order shall be entered in the minutes of the City Council. The order shall provide at least three hours' notice of the special meeting and notice thereof shall be served by the City Recorder on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a member at any specially called meeting constitutes a waiver of the notice required in this section.

2.03.030 General Powers

The Council members shall perform all duties as are, or may be, prescribed by the statutes of the state, or by the City ordinances, and shall perform such other acts and take such other measures not inconsistent with law, as may be necessary for the efficient government of the City.

2.05 City Administrator

2.05.010 Creation, Appointment, And Removal
2.05.020 Qualifications
2.05.030 Office Of The City Administrator
2.05.040 Limitations
2.05.050 Compensation

Amended by Ord. 15-E on 3/17/2015

2.05.010 Creation, Appointment, And Removal

The office and position of "City Administrator" is hereby created and the appointment or removal for such shall be made by the Governing Body as a group, the Mayor and the members of the City Council each having one vote, and with the Mayor's vote and at least three Council Members' votes being required to take any action (to appoint, remove or take other action). The appointment to this office and position shall be subject to the terms and conditions of any contract or agreement between the City and appointee made contemporaneous with or subsequent to the appointment. One of the terms and conditions of any contract or agreement between the City and appointee made contemporaneous with or subsequent to the appointment.

2.05.020 Qualifications

Any candidate for the office and position of City Administrator shall:

1. Have at least a four-year college degree (or graduate degree) in a field relating to public administration, political science, legal studies or law, public policy, or equivalent.
2. Have at least two years experience working in state or local government.
3. Preference may be given to those candidates that have supervisory experience, relevant certificates or licenses, demonstrate experience in policy implementation, or have other similar experience.
4. Comply with other requirements or preferences as required by law, ordinance, or policy established by the City Council.
5. Live within a 30 minute response time to the City office, unless otherwise negotiated.

2.05.030 Office Of The City Administrator

The office of City Administrator shall be under the supervision and control of the Governing Body. The City Administrator shall perform (or in some instances, supervise the performance of) the following duties:

1. Administer and exercise supervisory control of departments, offices, or divisions of the City, and subordinate officers and employees of the City as assigned by the Mayor;
2. Manage the day-to-day operations of the City as directed by the Mayor and Council;
3. Investigate, examine, or inquire into the affairs or operations of any department, office, division, or commission of the City as needed or authorized by the Mayor and Council;
4. Recommend to the Mayor the hiring, disciplining, or termination of any City employee, or appointed officer;
5. Conduct performance evaluations for subordinates, recommend pay increases for City employees, and initiate pay adjustments as prescribed by ordinance or policy;
6. Assist in the formulation, administration, and enforcement of all laws, the municipal code, and other ordinances, policies, and procedures as directed by the Mayor and Council;
7. Assist in the preparation of the annual budget;
8. Have authority to sign checks and financial instruments on behalf of (substituting for) the Mayor for routine and Council-approved payments, including payroll, bills, invoices and other financial obligations (with the City Treasurer or Deputy Treasurer also signing);
9. Exercise general supervision over all public buildings, parks, and other public property under the control and jurisdiction of the City, and ensure proper operation and maintenance of all City offices and facilities;
10. Attend Council meetings as necessary, and act as parliamentarian (as needed);
11. Employ consultants and professional counsel to aid administration as authorized by the Mayor and Council;
12. Examine performance requirements, delivery schedules, and estimates of costs for various contracts involving the City, to ensure completeness and accuracy;
13. Prepare or supervise the preparation of bids, specifications, progress reports and other items that may be required in connection with existing or proposed contracts as directed by the Mayor and Council;
14. Review bids and proposals from other agencies for conformity to contract requirements and help determine acceptable bids and proposals;
15. Assist in negotiating various contracts;
16. Monitor City contracts for compliance, expiration, and renewal as directed by the Mayor;
17. Assist in affairs relating to other entities, agencies, governments, or municipalities as directed by the Mayor and Council;
18. Assist with Public relations and media affairs by preparing and issuing communications and/or news releases and by directing media operations operated by the municipality as directed by the Mayor;
19. Oversee a proper and effective relationship with the local justice court, as directed by the Mayor and Council; and
20. Perform such other duties as may be delegated or assigned to the City Administrator.

2.05.040 Limitations

The City Administrator shall not accept outside employment or contract work without prior written approval from the Mayor and Council.

A Member of the Governing Body may not serve as City Administrator. The City
Administrator shall not simultaneously serve as City Recorder, City Treasurer or director/head of a department other than the Administrative Services Department (referred to as "special positions"), and if an individual is serving in a special position when appointed as City Administrator, then said individual is deemed to be removed from said special position and the special position is deemed to be vacant (and can then be filled according to applicable law). Any vacancy within the office and position of City Administrator shall be filled according to
Section 2.05.010 herein. Nothing in this chapter shall be construed to limit the powers of
the Mayor or Council, nor is this chapter a change in form of government under the Utah Code Ann. 10-3b-103.

2.05.050 Compensation

Compensation for this office and position shall be in accordance with Chapter 2.17 of the
Perry City Municipal Code. The pay range for this position will depend upon qualifications and experience and will be as outlined in the compensation schedule (staff pay scale) adopted by the Governing Body.

2.07 City Recorder

2.07.010 Appointment: Duties

2.07.010 Appointment: Duties

On or before the first Monday in February following the municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder. The City Recorder shall perform such duties as are prescribed by state law and City ordinances or resolutions. The City Recorder is ex officio the City Auditor and shall perform the duties of that office.

2.09 City Treasurer

2.09.010 Appointment: Duties

2.09.010 Appointment: Duties

On or before the first Monday in February following the municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Treasurer. The City Treasurer shall perform such duties as are prescribed by state law and City ordinances or resolutions.

2.11 City Attorney

2.11.010 Appointment: Duties

2.11.010 Appointment: Duties

On or before the first Monday in February following the municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Attorney. The City Attorney shall exercise the powers and duties given to the City Attorney by state law and by ordinances and resolutions of the City.

2.13 Chief Of Police

2.13.010 Duties

2.13.010 Duties

The Chief of Police shall perform such duties as are now prescribed, or as may hereafter be prescribed by law, ordinance or resolution.

2.15 Officers' Bonds

2.15.010 Oaths And Bonds Required

2.15.010 Oaths And Bonds Required

The following regarding required oaths and bonds:

1. All officers of the City, whether elected or appointed, before they enter upon the duties of their respective offices, shall take and subscribe the constitutional oath of office; and every such officer, before entering upon the duties of his office, shall execute a bond with good and sufficient sureties, to be approved by the City Council, payable to the City in the respective penal sums as are specifically fixed and provided for by resolution or ordinance of the City Council, conditioned for the faithful performance of the duties of his office and the payment of all money received by such officer according to law, this code and any other ordinances of the City.
2. The premium charged by the corporate surety for any bond required as above shall be a legal charge against the funds of the City.
3. All bonds given by the officers of the City shall be filed with the City Recorder, except the bond of the City Recorder, which shall be filed with the City Treasurer.

2.17 Officers' Salaries

2.17.010 Salaries

2.17.010 Salaries

The salaries of the elective and appointive officers of the City shall be set from time to time by ordinance of the City Council after public hearing conforming to the requirements of UCA Section 10-3-818.

2.19 Compensation Schedules

2.19.010 Definitions: Elected Officers And Statutory/Appointed Officers
2.19.020 Compensation Schedule For Elected Officers
2.19.030 Compensation Schedule For Statutory/Appointed Officers
2.19.040 Acknowledgment Form For Statutory/Appointed Officers

2.19.010 Definitions: Elected Officers And Statutory/Appointed Officers

These terms shall be defined as follows:

1. Elected Officer: This term includes those officers identified in Section 2.19.020.
2. Statutory/Appointed Officer: This term includes those officers identified in Section 2.19.030. See Sections 2.21.020 and 2.21.030 for the definitions of "Exempt Statutory/Appointed Officer" and "Non-Exempt Statutory/Appointed Officer."
3. Ceremonial Appointments: This term includes Deputy Recorders and others who are appointed and/or who take an oath of office but who are not identified in Section 2.19.030 and thus are not "Statutory/Appointed Officers" for purposes of Title 2.

2.19.020 Compensation Schedule For Elected Officers

Effective with the paycheck including pay for work performed on January 1, 2008, the compensation on a two week basis and annual basis for the referenced elected officers shall be as follows:

1. Mayor: $150.00 every two (2) weeks; $3,900.00 annually; and
2. City Council Member: $100.00 every two (2) weeks; $2,600.00 annually.

2.19.030 Compensation Schedule For Statutory/Appointed Officers

Effective retroactive with the paycheck including pay for work performed on July 1, 2014, the compensation on an hourly and annual basis for the referenced Statutory/Appointed Officers shall be as follows:

1. City Recorder ($21.43 Hourly; approx. $44,574.40 Annually); and
2. City Treasurer ($16.87 Hourly; approx. $17,544.80 Annually, based on approximately 1040 hours/year, instead of 2080 hours/year); and
3. Police Chief ($24.57 Hourly; approx. $51,105.60 Annually).

2.19.040 Acknowledgment Form For Statutory/Appointed Officers

As a condition of being appointed or hired as a Statutory/Appointed Officer and before a paycheck is provided or oath of office is taken, each such officer shall sign a form acknowledging that he/she voluntarily (and in consideration of pay to be received) agrees to be bound by and understands the terms of Perry Municipal Code, Sections 2.21.020 and 2.21.030. After a Statutory/Appointed Officer is approved by the City Council, the Mayor shall sign the acknowledgment form with the City Recorder attesting to the signature (or a Deputy Recorder attesting if the form is for the City Recorder).

2.21 Appointment Of Officers

2.21.010 Generally
2.21.020 Definitions: Exempt And Non-Exempt Statutory/Appointed Officers
2.21.030 Rights Of Exempt And Non-Exempt Statutory/Appointed Officers

2.21.010 Generally

On or before the first Monday in February following the municipal election, the Mayor, with the advice and consent of the City Council, shall appoint such City officers as are required by state law or City ordinance. Appointed officers shall continue in office until their successors are appointed and qualified unless sooner removed by the City Council.

2.21.020 Definitions: Exempt And Non-Exempt Statutory/Appointed Officers

These terms shall be defined as follows:

1. Exempt Statutory/Appointed Officer: This term automatically includes the City Administrator and the Police Chief and also includes (if one or more of the following conditions apply) any employee filling a Statutory/Appointed Officer position who either:
    a. Has an employment contract; and/or
    b. Is exempt pursuant to IRS regulations; and/or
    c. Is full-time in his/her Statutory/Appointed Officer responsibilities.
2. Non-Exempt Statutory/Appointed Officer: This person is an employee filling a Statutory/Appointed Officer position who is not included in the definition of Exempt Statutory/Appointed Officer. As long as it is not in conflict with subsection (1) above, this definition includes:
    a. A full-time employee who is a Statutory/Appointed Officer part-time and fulfills other responsibilities part-time; and
    b. A part-time employee who is a Statutory/Appointed Officer, whether or not he/she fulfills other responsibilities part-time.

2.21.030 Rights Of Exempt And Non-Exempt Statutory/Appointed Officers

The following rights shall be available for the referenced positions:

1. Merit employee status is only acquired when specifically hired as a merit employee or as otherwise set forth in state law or in the Personnel Policy, Title 3 of the Perry Municipal code; and
2. When an individual accepts a position as an Exempt Statutory/Appointed Officer (whether or not having previously served as a Perry City employee or officer), he/she does not have, acquire, or retain any "merit employee status" (he/she automatically waives and forfeits merit status), but does retain any rights set forth in state law, in the Personnel Policy (Title 3 of the Perry Municipal Code), or in an employment contract; and
3. A Non-Exempt Statutory/Appointed Officer, who was previously hired as a merit employee, would retain his/her "merit employee status" if not re-appointed to a Non-Exempt Statutory/Appointed Officer position; and
4. A Non-Exempt Statutory/Appointed Officer, who was not previously hired as a merit employee, would no longer be an employee or officer of Perry City if not re-appointed to a Non-Exempt Statutory/Appointed Officer position (and if not hired to another position of employment).

2.23 Office Vacancies

2.23.010 Procedure

2.23.010 Procedure

Any vacancy in any of the elective offices of the City occasioned by death, resignation, removal or otherwise may be filled for the unexpired term of such office by a majority vote of the whole City Council.

2.25 Municipal Justice Court

2.45.010 Dissolved
2.45.020 Prosecuting Attorney

2.45.010 Dissolved

Pursuant to action taken by the judiciary of the State of Utah, Perry City's Justice Court has been dissolved. Unless otherwise determined by the Mayor and City Council, the Box Elder County Justice Court shall act as the Justice Court for Perry City.

2.45.020 Prosecuting Attorney

The City Attorney may act as the Prosecuting Attorney for Perry City. In the alternative, the Mayor (with the advice and consent of the City Council) may appoint or enter into a contract with another attorney as the Prosecuting Attorney, said attorney to then act under the direction of the City Attorney.

2.27 Fire Department

2.27.010 Provision Of Equipment
2.27.020 Contract Services

2.27.010 Provision Of Equipment

The Mayor and the City Council may provide the necessary firefighting equipment for the residents of the City.

2.27.020 Contract Services

If in the opinion of the Mayor (and concurred in by the City Council) the City will be better served by arranging and contracting for said fire protection services with the county, another city, an interlocal agreement, a local district, a quasi-municipal corporation, or similar contract or agreement, then and in that event the Mayor (with the advice and consent of the City Council) is authorized to so contract for such services.

2.29 Elections

2.29.010 Election For Mayor And Council Members
2.29.020 Filling Vacancy

2.29.010 Election For Mayor And Council Members

The following regarding elections for Mayors and Council Members:

1. Election for Mayor and Council Members shall be conducted according to the municipal election section of the Utah Code, reference Title 20A and other related provisions.
2. This section provides for the candidates for Mayor and Council members to be nominated at a primary election if required. A primary election will be held only when the number of candidates filing for an office exceeds twice the number to be elected. The candidates nominated at the primary election plus candidates that were not required to run in the primary are to be placed on the November ballot.

2.29.020 Filling Vacancy

If any person nominated resigns or declines nomination or dies before election day, or if any certificate of nomination is insufficient or inoperative, the vacancy thus occasioned may be filled in the manner required by State law.

2.30 Financial And Property Administration

2.30.010 Definitions
2.30.020 Uniform Fiscal Procedures Act
2.30.030 General Finance Administration
2.30.040 Acquisition And Disposal Of Property, Including Real Property
2.30.050 Acquisition Of Services And Supplies
2.30.060 Restrictions On Municipality Procurement Of Architect-Engineer Services
2.30.070 Building Improvements And Public Works Projects
2.30.080 Contracts And Obligations Generally
2.30.100 Reserved
2.30.100 Disposal Of Surplus Property
2.30.110 Unlawful Practices And Sanctions
2.30.120 Grants
2.30.130 Chief Deputy Recorder/Finance
2.30.140 City Treasurer/Payroll Clerk
2.30.150 Determination Of Non-Expendable Property

2.30.010 Definitions

The definitions of Utah Code Annotated §§10-6-106 and 11-39-101, 1953 as amended, are hereby incorporated herein by this reference. Unless the context requires otherwise, the following terms shall have the following meanings:

1. "Finance officer" means the city employee designated by the city council to administer city finances in accordance with Utah Code Annotated §§10-6-158.
2. "Encumbrance" means an obligation of the city.
3. "Services" shall mean professional and other skilled services such as auditing, architecture, engineering, surveying, appraisals, legal service, or counseling, sought or obtained from sources other than regular city employees, and does not include any contract for municipal type services, such as law enforcement, fire protection, garbage removal, snow removal, and other similar services.
4. "A significant parcel of real property" for the purposes of Utah Code Annotated §10-8-2, means any real property owned by the municipality that is not a road, street, public right-of-way, or utility easement.
5. "Supplies" means any and all tangible articles or things which shall be furnished to or used by any city department or employee within the scope of his employment with the city.

2.30.020 Uniform Fiscal Procedures Act

The accounting, budgeting, and financial reporting procedures of the municipality shall be in accordance with the Uniform Fiscal Procedures Act, provided in Title 10, Chapter 6 of the Utah Code Annotated, or any successor statute.

2.30.030 General Finance Administration

1. Department administration. Financial administration is governed by state law and the municipal code under the Administrative Department, as supervised by the city administrator, and include the following duties and responsibilities:
    a. City treasurer. The city treasurer shall perform the functions set forth in The City Council Policies and Procedures book.
    b. Finance officer. The city's designated finance officer shall perform the functions set forth in The City Council Policies and Procedures book.
2. Purchase orders. Purchase orders, including blanket purchase orders, shall be required for all purchases by the city unless otherwise authorized by this chapter. The finance officer shall administer all purchase orders in the form and manner as determined by the finance officer. No billing against the city shall be valid as applied against a purchase order unless:
    a. The person picking-up an item was authorized by the city to do so at the time of pick-up; and,
    b. The supplier can provide the city with a legible signature of that person.
3. Petty cash. A petty cash fund may be maintained by the finance officer in an amount not to exceed $100.00.
4. Payment formalities. Payment of any debt shall be tendered in the form and manner authorized by the mayor.
5. Conflict of laws. Notwithstanding the provisions of this chapter, whenever any purchase or encumbrance is made involving state or federal funding, and the applicable state or federal laws or regulations are in conflict with this chapter so as to potentially jeopardize the use of those state or federal funds, then the conflicting provisions of this chapter shall not apply and the municipal officials involved shall follow the procedure required by the applicable state or federal regulations.
6. Indemnification. The city shall indemnify its officials against all civil claims brought by another for reason of any expenditure in excess of the approved budget or for non-conformance to state or local law.

2.30.040 Acquisition And Disposal Of Property, Including Real Property

1. Governing law. The appropriation, acquisition, or disposal of property shall conform to the applicable requirements of Utah Code Annotated §10-8-2, 1953 as amended, and the provision of this chapter.
2. Real property disposition. The disposition of municipal real property is as follows:
    a. The sale, lease, encumbrance, or other conveyance of real property owned by the municipality shall be made by the majority vote of the city council subject to this section, after a recommendation from the Planning Commission (unless the City Council specifically votes that a Planning Commission recommendation is not necessary).
    b. The city shall comply with the requirements of Utah Code Annotated §10-8-2 (4), 1953, as amended, for the disposal of "a significant parcel of real property" owned by the city.
        i. Before approving an action disposing of a significant parcel of real property owned by the city shall provide reasonable notice of the proposed disposition at least fourteen (14) days before the opportunity for public comment under Utah Code Annotated §10-8-2 (4)(a)(ii).
        ii. "Reasonable notice," for purposes of Utah Code Annotated §10-8-2(4)(a)(ii), constitutes the publication of at least one (1) legal notice in a newspaper of general circulation in the municipality that:

            (1) Indicates the city proposes to dispose of a significant parcel of real property owned by the municipality.
            (2) Describes the significant parcel of real property owned by the municipality proposed for disposal.
            (3) Indicates the date, time, and place of the public hearing before the city council, which will be held no sooner than fourteen (14) days after the publication of the legal notice.

2.30.050 Acquisition Of Services And Supplies

1. Budgetary compliance. Each department head may acquire and administer services and supplies as needed so long as such conforms to the annual budgetary policies adopted by the city council.
2. Service contracts. Subject to city council approval, each department head responsible for the implementation of a proposed service contract may solicit or award a service contract. As part of a service contract, the department head may outline the scope of work detailing the specific services contemplated, all work to be performed, and the time frame for completion of the work to be accomplished. Each department head may also establish criteria for awarding a service contract, including the type of work to be performed, experience required, professional qualifications, past performance, location and accessibility, schedule for completion, projected time involved, or associated costs.
3. Interlocal agreements. Any interlocal agreement requires city council approval in order to be effective. Further city council action is not required to make any payment on an interlocal agreement after said interlocal agreement has been duly approved by the city council.
4. Withholding allotment. The mayor is authorized to withhold from any department the allotment of funds for any budgetary item or other purchase in the event that the mayor determines that the city's anticipated expenditures are exceeding revenues during a given fiscal year or in the event of a financial emergency determined by the mayor.
5. Emergency acquisitions. In case of an actual emergency, an authorized official who purchases services or supplies in the normal course of duty may purchase directly any services or supplies whose immediate procurement is essential is vitally for life, health, safety, or welfare of the public. The authorized purchasing official shall promptly send the finance officer a requisition and a copy of the over-the-counter delivery order, and, if required by the mayor, a full written report of the circumstances of the emergency.

2.30.060 Restrictions On Municipality Procurement Of Architect-Engineer Services

If the municipality elects to obtain architecture or engineering services, it shall follow the procedures of Utah Code Annotated §10-7-20.5, 1953, as amended, for such services as defined by that section.

2.30.070 Building Improvements And Public Works Projects

1. Capital projects. The city shall follow the procedures of Utah Code Annotated §11-39-101, et. seq, 1953 as amended, for all applicable building improvements or public works projects that exceed the "bid limit" amount as calculated under state law.
2. Plans and costs. Any applicable building improvement or public works project paid for by the city shall be in accordance with Utah Code Annotated §11-39-102, 1953 as amended.
3. Request for bids. The city shall issue a request for bids or proposals for applicable projects in accordance with Utah Code Annotated §11-39-103, 1953 as amended.
4. Bid award procedures. The procedures for administration of bids is as follows:
    a. The city reserves the right to reject any and all bids.
    b. No bidder shall have any right, legal or equitable, or claim against the city for any expense or cost incurred by him in the preparation or submission of his bid, which is rejected, regardless of the reasons for the rejection.
    c. The municipality expressly reserves the right to waive minor or slight irregularities in a bid which in the judgment of the mayor or his designee are in the best interest of the city.
    d. The decision of any department head or his designee on irregularities on a bid shall be final and conclusive and shall not create any right to bidders.
    e. Except as otherwise provided herein, supplies and services shall be obtained from the lowest responsible bidder defined in Utah Code Annotated §11-39-101.
        i. In determining the lowest responsible bidder, the municipality may consider the following criteria, in addition to price, in rejecting a bid:

            (1) The ability, capacity and skill of the bidder to perform the service required.
            (2) Whether the bidder can perform the contract or provide his services promptly, or within the time specified without delay or interference.
            (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
            (4) The quality and performance of previous services by the bidder.
            (5) Previous and existing compliance by the bidder with the laws and ordinances relating to contractor services.
            (6) Sufficiency of the financial resources of the bidder to perform the contract or provide the services.
            (7) Quality, availability and adaptability of the supplies or contractual services to the particular use required.
            (8) The ability of the bidder to provide future maintenance and service.
            (9) The number and scope of conditions attached to the bid or price quotation.
            (10) Such other factors as may be specified in Utah Code Annotated §11-39-101, 1953, as amended, or as otherwise provided by law or ordinance, including the ability of the city to determine factors based upon the specifics of the project, project inventory, any mechanic's expertise, or considerations for ease in maintenance.

    f. In the event that a bid award is not given to the low bidder, a complete statement and reason for placing the award elsewhere shall be prepared by the city and shall be filed with the other papers relating to the bid solicitation.
5. Projects not requiring bids. A contract involving a building improvement or public works project not requiring a bid, as provided in this section, such shall be administered in by the department head subject to oversight by the mayor.

2.30.080 Contracts And Obligations Generally

1. Limited liability. No liability against the city shall or may be created and no expenditure of public funds may be made which is not for a valid corporate purpose as provided under Utah Code Annotated §10-8-2, 1953, as amended.
2. Validity. No contract is valid or binding against the city unless:
    a. The contract is in written form and within budgetary limits.
    b. The contract has been duly approved by the city council where expressly required.
    c. The contract has been approved as to form by the city attorney if indicated on the contract.
    d. Contract has been executed by the mayor.
    e. Contract has been attested by the city recorder.
3. Insurance and bonds. Where required by state or local law, a department head or the city council may require insurance certificates and/or appropriate bonds in the form and manner approved by the finance officer.
    a. When required such documents are conditions precedent to the city entering a contract, such documents shall:
        i. Name the city and/or other political subdivision(s) involved as an additional insured.
        ii. Outline an approved cancellation clause.
        iii. Be in a sum sufficient to protect the interest of the municipality.
        iv. Be issued by an entity authorized or licensed to conduct business in the state, and be of sound reputation, as determined by the city treasurer.

b. The contractor under any contract for a building improvement or public works project exceeding the bid limit shall be required to post performance and/or material bonds as determined by the department head.

4. Withholding payment. If any payment on a contract is retained or withheld, it shall be placed in an interest-bearing account and the interest shall accrue for the benefit of the contractor and subcontractors to be paid after the project is complete and accepted by the city. It is the responsibility of the contractor to ensure that any interest accrued on the retained amount is distributed by the contractor to subcontractors on a pro rata basis.
5. Refusal to receive bid. Subject to due process and the general appeal process established in the municipal code, and in conjunction with the applicable department head, the finance officer may establish rules and procedures and/or issue determinations to preclude contractors or suppliers from submitting bids where:

    a. The contractor has failed to perform prior contracts or services as required.
    b. The contractor has not satisfactorily completed a prior contract after notice of the same.
    c. The contractor has failed to complete a contract according to the documents or specifications relating to the project or other specifications.
    d. The contractor has failed to perform work in a timely and satisfactory manner.

6. Pre-qualification. The finance officer may maximize public benefit and costs as appropriate to join with other units of government in cooperative purchasing arrangements. The purchasing agent may purchase supplies, materials, and equipment from the vendor who has submitted the lowest bid price for such items to the State of Utah Purchasing Office at the quoted price, without any solicitation or price quotation or invitation to bid.
7. Negotiation. The applicable department head, or their designee, shall handle negotiation with any prospective awarded bidder relating to the negotiation of the final contract terms and conditions. Should negotiations fail to reach a final contract, the department head may terminate negotiation and proceed with the next appropriate bidder, in order, until satisfactory terms are negotiated.
8. Exceptions. This section does not apply to contracts involving: interlocal agreements, legal or judicial services, court or administrative proceedings, interpreters, expert witnesses, emergency situations, investigatory services, situations waived by the mayor, or contracts administered by another agency where the city is a participant.
9. Implementation. The finance officer may recommend to the mayor rules and regulations to effectively implement this chapter.

2.30.100 Reserved
2.30.100 Disposal Of Surplus Property

No municipal-owned property, except property that is consumed in normal operations, shall be disposed of or released to ownership by anyone other than the municipality unless such property has been declared surplus by the city as provided by the Perry Municipal Code, The City Council Policies and Procedures book (Capitalization Policy).

2.30.110 Unlawful Practices And Sanctions

1. Unlawful practices. The following unlawful practices apply:

    a. For any bidder or prospective bidder, or any employee or officer thereof, in restraint of freedom of competition or otherwise, by agreement with any other person, bidder, or prospective bidder, to bid a fixed price, or to “rotate” bidding practices among competitors.
    b. For any person to offer or to give to any employee of the city or any member of his immediate family, any gain, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it could reasonably be intended to influence him or could reasonably be expected to influence him in his duties concerning the award of any contract or order of purchase, or for any city employee to directly or indirectly solicit or directly or indirectly accept any such gift for such purpose.
    c. For any city employee or officer to disclose, in advance of the opening of the bids the content of any bid invited through the formal competitive bidding procedure.
    d. For any city employee or officer to actively participate in the awarding of a contract from which he will directly benefit.
    e. For any city employee or officer or other person to appropriate public property for personal or private use without approval proper disposition under this chapter.

2. Sanctions. The council hereby finds that unlawful practices involving contract would not have been entered into on behalf of the city if such had been discovered prior to the execution of the contract. In this regard, the council finds that no city officer or employee has authority, either actual, apparent or implied, to negotiate or execute any unlawful contract and that such contract shall, at the discretion of the council, be voidable. Notwithstanding, the city council may opt to ratify by majority vote any contract where misconduct was discovered and made known to the city council and found to be insignificant. The city may impose following sanctions:

    a. At the discretion of the council, the following contracts are voidable:

        i. Contracts which result from a conflict of interest under this chapter or other applicable law.
        ii. Contracts awarded to a person or firm that tried to influence the award of such contract by offering something of value to any city officer or employee.
        iii. Contracts awarded by a city officer or employee circumventing the requirement of this chapter or other applicable statute.

    b. Any city employee or officer committing any unlawful practices may be temporarily placed on unpaid administrative leave, as determined by the mayor, while the city seeks any appropriate legal redress.
    c. All employees, officers, persons, or firms responsible for any unlawful practices prohibited by this chapter shall be liable to the city for any losses incurred by the city resulting from the unlawful practices.

2.30.120 Grants

Any grant application that anticipates or proposes to bind the municipality to a particular project, commits the city financially, or requires matching funds must first be authorized by the city council, unless such project is appropriated in the operating budget.

2.30.130 Chief Deputy Recorder/Finance

Statutory performance. Perform the functions set forth in Utah Code Annotated §10-6-158. Give or cause to be given to every person paying money to the city treasury, a receipt or other evidence of payment therefor consistent with Utah Code Annotated §10-6-142, 1953 as amended.

2.30.140 City Treasurer/Payroll Clerk

Statutory performance. Require all municipal or department expenditures to conform with the requirements of Utah Code Annotated § 10-6-121.

2.30.150 Determination Of Non-Expendable Property

The Chief Deputy Recorder/Finance or other designee by the Mayor is authorized and directed to determine whether each piece of equipment or other personal property that is acquired by Perry City in connection with the development, management, and maintenance of the properties owned or operated by Perry City, shall be classified as material or non-expendable, as defined in the preceding sections. The Chief Deputy Recorder/Finance or other designee by the Mayor is further directed to ensure that the determination is documented in the appropriate records of Perry City and retained for the information and guidance of its personnel and for audit purposes.

2.31 Records Access And Management

2.31.010 Adoption Of State Law
2.31.020 Fees
2.31.030 Retention Schedule

2.31.010 Adoption Of State Law

The Utah Government Records Access and Management Act, UCA Chapter 63-2, is adopted by reference as if fully set out in this chapter. A copy of UCA Chapter 63-2 is on file in the office of the City Recorder for public inspection.

2.31.020 Fees

The City shall establish by ordinance or written formal policy adopted by the City Council a fee schedule to cover the City's actual cost of duplicating records.

2.31.030 Retention Schedule

The City may establish by ordinance or resolution a retention schedule for City records, which schedule shall be reported to the state archives.

2.33 Personnel Policy

2.33.010 City Employees
2.33.020 Police Employees

2.33.010 City Employees

The following regarding all City employees:

1. The City shall have rules, regulations and policies for employees of the City.
2. The rules, regulations and policies for the employees are contained in a document titled “Personnel Policy,” codified as Title 3 in the Perry Municipal Code.

2.33.020 Police Employees

The following regarding police employees:

1. The City shall have additional rules, regulations, standards and policies applicable to only police employees of the City.
2. The additional rules, regulations, standards and policies for the police employees are contained in a book titled “Police Policy and Procedures,” said book and amendments thereto to be approved by the Police Chief and by the Mayor.

3 Municipal Procedures

3.01 Introduction
3.02 Employment
3.03 Employment Status And Records
3.04 Employee Benefit Programs
3.05 Employee Compensation
3.06 Timekeeping/Payroll
3.07 Work Conditions And Hours
3.08 Leaves Of Absence
3.09 Employee Conduct And Disciplinary Action
3.10 Employee Grievances And Appeals
3.11 Termination Of Employment

3.01 Introduction

3.01.010 Introductory Statement
3.01.020 Employee Acknowledgement Form

3.01.010 Introductory Statement

The introduction for this title is as follows:

1. This handbook is designed to acquaint you with Perry City and provide you with information about working conditions, employee benefits, and some of the policies affecting your employment. You should read, understand, and comply with all provisions of the handbook. It describes many of your responsibilities as an employee and outlines the programs developed by Perry City to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.
2. No employee handbook can anticipate every circumstance or question about policy. As Perry City continues to grow, the need may arise and Perry City reserves the rights to revise, supplement, or rescind any policies or portion of the handbook from time to time as it deems appropriate, in its sole and absolute discretion. This handbook is not, and shall not be construed as, an explicit or implied contract, shall not modify any existing status of any Perry City employee, and shall not create any due process requirement in excess of federal or state law. Employees will, of course, be notified of such changes to the handbook as they occur.
3. The provisions of Utah Code Annotated 10-3-1101 et seq. as amended, are incorporated herein by reference.

3.01.020 Employee Acknowledgement Form

The following is the Employee Acknowledgement Form for Perry City Employees:

1. The employee handbook describes the policies, practices and benefits of employment with Perry City. I agree to abide by the policies in this handbook and I accept the responsibility for informing myself about these policies and understand that I should consult my supervisor, the City Recorder, or the City Administrator, regarding any questions not answered in the handbook. I have entered into my employment relationship with Perry City voluntarily and acknowledge that there is no specified length of employment.
2. Since the information in this Personnel Policies and Procedures handbook is necessarily subject to change, I understand that the information that I have received may be changed or replaced by other policies and procedures, which Perry City may adopt in the future. I understand and acknowledge that no one has promised me that Perry City will not change these policies, and understand that Perry City has reserved the right to change these policies in the future.
3. For Probationary Employees and Exempt Department Heads, I understand and agree that my employment with Perry City may be terminable at-will, meaning that either Perry City or I may terminate the employment relationship at any time for any reason. I understand that neither Perry City nor I have any obligation to base a termination decision on anything other than intent not to continue the employment relationship. No one has promised me that my employment will only be terminated for cause, or only for any particular reason, or will only be terminated through some particular process or procedure above, beyond, or in addition to such due process as may be required by federal or state law.
4. I understand and agree that no one at Perry City has authority to offer me employment on terms different from what is stated in this handbook, and I understand and agree that no one in Perry City is authorized by Perry City to promise in the future that the terms of my employment will be different from what is stated in this handbook.

   EMPLOYEE'S NAME (printed): _____
   EMPLOYEE'S SIGNATURE: _____
   DATE: _____

3.02 Employment

3.02.010 Nature Of Employment
3.02.020 Employee Relations
3.02.030 Equal Employment Opportunity
3.02.035 Veteran's Bonus
3.02.040 Ethics And Conduct
3.02.050 Hiring Of Relatives
3.02.060 Immigration Law Compliance.
3.02.070 Conflicts Of Interest
3.02.080 Outside Employment.
3.02.090 Confidentiality
3.02.100 Disability Accommodation
3.02.110 Job Posting And Employee Referrals

3.02.010 Nature Of Employment

The following regarding the nature of employment:

1. Employment with Perry City is voluntarily entered into, and the employee is free to resign at any time, with or without cause. Policies set forth in this handbook are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between Perry City and any of its employees. The provisions of the handbook have been developed at the discretion of the administration and with the approval of the city council and may be amended or cancelled at any time, at Perry City's discretion.
2. Employees are responsible for informing themselves about the policies, practices, and benefits set forth in Perry City's handbook by reading them and, if necessary, asking that they be explained to them.
3. These provisions supersede all existing policies and practices and may not be amended or added to without the express written approval of the Mayor and Perry City Council.

3.02.020 Employee Relations

The following regarding employee relations:

1. Perry City believes that the work conditions, wages, and benefits it offers to its employees are competitive with those offered by other employers in this area and in city government. If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their supervisors.
2. Our experience has shown that when employees deal openly and directly with supervisors, the work environment can be excellent, communications can be clear, and attitudes can be positive. We believe that Perry City amply demonstrates its commitment to employees by responding effectively to employee concerns.

3.02.030 Equal Employment Opportunity

The following regarding equal employment opportunity:

1. In order to provide equal employment and advancement opportunities to all individuals, employment decisions at Perry City will be based on qualifications and abilities. Perry City does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, or any other characteristic protected by law.
2. Perry City will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship to the City. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training.
3. Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or the City Administrator. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

3.02.035 Veteran's Bonus

In accordance with Title 71, Chapter 10 of the Utah Code Ann., 1953, as amended, Perry City grants a veteran's bonus as part of the initial hiring process with Perry City to each veteran, disabled veteran, or spouse of a veteran or disabled veteran, as specified below. This veteran's bonus does not apply to promotional opportunities.

1. Definitions:
    a. "Veteran" means an individual who has been separated or retired under honorable conditions (and provides Perry City with a copy of a Form DD214) and who has either: (i) served on active duty in the armed forces for more than 180 consecutive days; (ii) served as a member of a reserve component in a campaign or expedition for which a campaign medal has been authorized; or (iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty.
    b. "Disabled veteran" means a veteran who provides Perry City with documentation identifying that he/she: (i) has established the existence of an actual service-related injury or disability; (ii) is receiving compensation, disability retirement benefits, or a pension because of a public statute administered by the federal Department of Veterans Affairs or a branch of the armed services; or (iii) is a purple heart recipient.
2. Applying the Veteran's Bonus: When a veteran or disabled veteran (or spouse, widow, or widower of a veteran or disabled veteran) applies for a position with Perry City, and meets the minimum job requirements for the position, he/she will be provided with a "veteran's bonus," defined as follows:
    a. If a non-numeric ranking mechanism is used, Perry City will give a veteran's bonus during the hiring process by extending a first interview.
    b. If a numeric ranking mechanism is used, and the applicant receives a passing score, Perry City will give a veteran's bonus during the hiring process by adding to the applicant's score as follows:
        i. Five percent of the total possible score, if the applicant is a veteran (or the spouse, widow, or widower of a veteran); or
        ii. Ten percent of the total possible score, if the applicant is a disabled veteran (or the spouse, widow, or widower of a disabled veteran).

3.02.040 Ethics And Conduct

The following regarding ethics and conduct:

1. The successful operation and reputation of Perry City is built upon the principles of fair dealing and ethical conduct of our employees. Our reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a conscientious regard for the highest standards of conduct and personal integrity.

2. The continued success of Perry City is dependent upon the trust of the members of the public we serve and we are dedicated to preserving that trust. Employees owe a duty to Perry City and the residents of the city to act in a way that will merit this continued trust and confidence.
3. Perry City will comply with all applicable laws and regulations and expects its employees to conduct all duties in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct.
4. In general, the use of good judgment, based on high ethical principles, will guide you with respect to lines of acceptable conduct. You are encouraged to openly discuss any situation that arises where it is difficult to determine the proper course of action, openly with your immediate supervisor and, if necessary, with the City Administrator.
5. Compliance with this policy of ethics and conduct is the responsibility of every Perry City employee. Disregarding or failing to comply with this standard of ethics and conduct could lead to disciplinary action, up to and including termination of employment.

3.02.050 Hiring Of Relatives

The following regarding the hiring of relatives:

1. The employment of relatives in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships.
2. Relatives of persons currently employed by Perry City may be hired only if they will not be working in the same department. Also, they cannot be hired by or report directly to a relative as stated in Utah law prohibiting the employment of relatives. See Utah Code Ann §§ 52-3-1 to -4. The City Council of Perry City may make exceptions to this policy as long as such exceptions are in accordance with Utah law.
3. In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment.
4. For the purposes of this policy, a "relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

3.02.060 Immigration Law Compliance.

The following regarding compliance with immigration law:

1. Perry City is committed to employing only citizens of the United States and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.
2. In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with Perry City within the past three years, or if their previous I-9 is no longer retained or valid. Employees with questions or seeking more information on immigration law issues are encouraged to contact the City Administrator. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

3.02.070 Conflicts Of Interest

The following apply for conflicts of interest:

1. Employees have an obligation to conduct job duties within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which Perry City wishes to operate. The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of conduct. Contact the City Administrator for more information or questions about conflicts of interest.
2. Transactions with outside firms must be conducted within a framework established and controlled by Perry City. Dealings with outside firms should not result in unusual gains for those firms. Unusual gains refer to bribes; product bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit the employer, the employee, or both. Promotional plans that could be interpreted to involve unusual gains require specific approval.
3. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative of the employee as a result of Perry City's dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.
4. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the City Administrator of Perry City as soon as possible the existence of any actual or potential conflict of interest, or the appearance of a conflict of interest, so that safeguards can be established to protect all parties.
5. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which Perry City does business, but also when an employee or relative receives any kickback, bribe, or a substantial gift. Employees are prohibited from soliciting or accepting any gift, yment whose interests may be affected by the employee’s performance or nonperformance of official duties. Perry City employees will not accept gifts or gratuities except under circumstances or within the limitations allowed by the Utah Public Offices’ and Employees’ Ethics Agratuity, favor, entertainment, loan or item of monetary value from any person seeking to obtain business with Perry City, or from any person within or outside Perry City emploct. See Utah Code Annotated §§ 67-16-1 to -14.

3.02.080 Outside Employment.

The following regarding outside employment:

1. Employees may hold outside jobs as long as they meet the performance standards of their job with Perry City. All employees will be judged by the same performance standards and will be subject to Perry City's scheduling demands, regardless of any existing outside work requirements.
2. If Perry City determines that an employee's outside work interferes with performance or the ability to meet the requirements of Perry City as they are modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain employed with Perry City.
3. Outside employment that constitutes a conflict of interest is prohibited. Employees may not receive any income or material gain from individuals outside Perry City for materials produced or services rendered while performing their jobs for Perry City.
4. Employees are required to provide written notification to the City Administrator or the Mayor using the Employee’s Notice of Secondary Employment, before starting any secondary or outside employment. The City Administrator must give written notice to the Mayor and City Council before any secondary or outside employment.

3.02.090 Confidentiality

The following regarding confidentiality:

1. Employees have an unquestionable right to expect all personal information about themselves, their medical conditions, their family and financial circumstances to be kept confidential. Every employee has an obligation to protect this confidence when knowledge of other employees’ personal information is necessary. Never discuss personal confidential information with others who are not authorized to receive it, either inside or outside the office.
2. Employees involved with information of significant public interest may not use this privileged information for personal gain, nor to benefit friends or acquaintances. If an employee has an outside interest which could be affected by any Perry City plan or activity, this situation must be reported to the City Administrator immediately. Each employee is charged with the responsibility of ensuring only information that should be made available to the general public is released as defined in the Government Records Access and Management Act. Violation of these provisions regarding privileged information or use for private gain shall be cause for disciplinary action up to and including termination and legal action, even if the employee does not actually benefit from the disclosed information.

3.02.100 Disability Accommodation

The following regarding accommodations for the disabled within this title:

1. Perry City is committed to complying fully with the Americans with Disabilities Act (ADA) and other laws ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.
2. Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the essential duties of the position.
3. Reasonable accommodation is available to all disabled employees, where their disability affects the performance of job functions and does not cause an undue burden to the City. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.
4. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority lists. Leave of all types will be available to all employees on an equal basis.
5. Perry City is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability. Perry City will follow any state or local law that provides individuals with disabilities greater protection than the ADA.
6. This policy is neither exhaustive nor exclusive. Perry City is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable federal, state, and local laws.

3.02.110 Job Posting And Employee Referrals

The following regarding job posting and employee referrals:

1. Perry City provides employees an opportunity to indicate their interest in open positions and advance within the organization according to their skills and experience. In general, notices of all regular, full-time job openings are posted, although Perry City reserves its discretionary right to not post a particular opening.
2. Job openings will be posted at the Perry City Offices and through the Box Elder News Journal (if accepting external applicants). Each job posting notice will include the dates of the posting period, job title, department, location, grade level or pay range, job summary, essential duties, and qualifications (required skills and abilities). Preference in hiring may be given to Perry City residents.
3. The head of each City department or division shall be the hiring authority for the employees in that department or division, with notification to the Mayor and City Council and recommendation regarding pay rate. In an emergency, to prevent undue delay or serious interference with the provision of vital City services, the Mayor may make an emergency appointment for a period not to exceed thirty calendar days.
4. To be eligible to apply for a job posted internally, employees must have performed competently for at least six calendar months in their current position and have permission from their current supervisor. Employees who have a written warning on file, or are on probation or suspension are not eligible to apply for posted jobs. Eligible employees can only apply for those posted jobs for which they possess the required skills, competencies, and qualifications.
5. To apply for an open position, employees should submit a job posting application to the head of the requesting department, listing his or her job-related skills and accomplishments. They should also describe how their current experience with Perry City and prior work experience and/or education qualifies them for the position.
6. Perry City recognizes the benefit of developmental experiences and encourages employees to talk with their supervisors about their career plans. Supervisors are encouraged to support employees' efforts to gain experience and advance within the City.
7. An applicant's supervisor may be contacted to verify performance, skills, and attendance. Any staffing limitations or other circumstances that might affect a prospective transfer may also be discussed.
8. Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the hiring manager. Other recruiting sources may also be used to fill open positions in the best interest of the City.
9. Perry City also encourages employees to identify friends or acquaintances who are interested in employment opportunities and to refer qualified outside applicants for posted jobs. Employees should obtain permission from the individual before making a referral, share their knowledge of Perry City, but may not make commitments or oral promises of employment.
10. An employee should submit the referral's resume and/or completed application form to the head of the requesting department for a posted job. If the person being referred is interviewed, the referring employee will be notified of the initial interview and the final selection decision.

3.03 Employment Status And Records

3.03.010 Employment Categories
3.03.020 Access To Personnel Files
3.03.030 Employment Reference Checks
3.03.040 Personnel Data Changes
3.03.050 Introductory Period
3.03.060 Employment Applications
3.03.070 Performance Evaluation
3.03.080 Employee Driver Qualification Standard

3.03.010 Employment Categories

The following regarding categories of employment:

1. It is the intent of Perry City to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time. Perry City will pay at least minimum wages and overtime to all employees except those who are specifically exempt from minimum wage and overtime under the Fair Labor Standards Act (FLSA). Perry City will also provide equal pay to all employees doing similar work which requires substantially equal skill, effort, and responsibility and are performed under similar working conditions in accordance with the FLSA and the Equal Pay Act.
2. Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. NONEXEMPT employees are entitled to overtime pay under the specific provisions of federal and state laws. EXEMPT employees are excluded from specific provisions of federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by Mayor and City Council.
3. In addition to the above categories, each employee will belong to one other employment category:
    a. Introductory Employees: Those employees whose performance is being evaluated to determine whether further employment in a specific position or with Perry City is appropriate. Perry City's introductory period is for 12 months and may be extended up to a maximum of 24 months if the employee's supervisor feels it necessary. Employees who satisfactorily complete the introductory period will be notified of their new employment classification. Probationary employees of Perry City may be terminated at-will, meaning that the City or the employee may terminate the employment relationship at any time for any or no reason.
    b. Regular Full-Time Employees: Those employees who are not in a seasonal or introductory status and who are regularly scheduled to work 35 hours or more per week according to Perry City's full-time schedule. Generally, they are eligible for Perry City's full benefit package, subject to the terms, conditions, and limitations of each benefit program and subject to the employee's financial participation in certain benefits.
    c. Regular Part-Time Employees: Those employees who are not assigned to a temporary or introductory status and who are regularly scheduled to work less than 35 hours per week. While regular part-time employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all of Perry City's other benefit programs.
    d. Seasonal and Temporary Employees: Those employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Temporary employees either on an as needed basis or a temporary on-going basis retain that status unless and until notified of a change. While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all of Perry City's other benefit programs.
4. When an employee changes from a Seasonal/Temporary or regular part-time employment to full-time employment the employee is subject to a new 12 month introductory period for that position.
5. When a new position is created, the department or division superintendent shall send the City Administrator a request for classification of the position with a description of the applicable duties and responsibilities to be assigned to the position. The City Administrator shall then create a formal job description for the position, after analysis and evaluation of the duties and responsibilities. The new position must be approved by the City Council.
6. When the assignment of an employee has changed substantially as to kind and/or level of work, the department head shall initiate a request for change in classification. Such request should be submitted in writing to the City Administrator, accompanied by a position description prepared by the department or division head and a written description of the reasons for the change in classification. Reclassification will be subject to budgetary limitations.
7. If the Mayor determines that the position has changed sufficiently, he will recommend reclassification to the City Council. If the City Administrator recommends that a reclassification is not justifiable, his decision may be appealed to the City Council. If the appeal is denied, no similar request may be submitted within six (6) months.

3.03.020 Access To Personnel Files

The following regarding access to personnel files:

1. Perry City maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records. All information in the personnel file will remain in the file and is not allowed to be removed for any reason.
2. Personnel files are the property of Perry City, and access to the information they contain is restricted. Generally, only supervisors and management personnel of Perry City who have a legitimate reason to review information in a file are allowed to do so.
3. Employees who wish to review their own file should contact the City Recorder. With reasonable advance notice, employees may review their own personnel files in Perry City's offices and in the presence of an individual appointed by Perry City to maintain the files and may make copies of certain documents when permitted by law.

3.03.030 Employment Reference Checks

The following regarding employment reference checks:

1. To ensure that individuals who join Perry City are well-qualified and have a strong potential to be productive and successful, it is the policy of Perry City to check the employment references and to complete a criminal background checks of all applicants.
2. Only authorized Perry City personnel will respond in writing only to those reference check inquiries that are submitted in writing and have the former employee's authorized signature giving permission to release the information. Responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held. No employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry.

3.03.040 Personnel Data Changes

It is the responsibility of each employee to promptly notify Perry City of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of any emergency, educational accomplishments, and/or other such status reports should be accurate and current at all times. If any personnel data has changed, notify the Payroll Clerk.

3.03.050 Introductory Period

The following regarding the introductory period:

1. The introductory period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. Perry City uses this period to evaluate employee capabilities, work habits, and overall performance. Either the employee or Perry City may end the employment relationship at any time during the introductory period, with or without cause or advance notice.
2. All new, rehired employees, and employees who may change status (i.e., change from seasonal/temporary or regular part-time to full-time status) work on an introductory basis of a minimum of 12 months up to a maximum of 24 months after their date of hire or change of status. For sworn police officers, the introductory period will be 90 days after graduation from P.O.S.T. Academy and completion of the 12-24 month introductory period. Any significant absence will automatically extend an introductory period by the length of the absence. If Perry City determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended at the supervisor's or department head's discretion for a specified period.
3. Upon satisfactory completion of the introductory period, the department or division head shall submit in writing an evaluation and recommendation for the employee to enter the "regular" employment classification.
4. During the introductory period, employees are generally eligible for Perry City's benefit package, subject to the terms, conditions, and limitations of each benefit program. They are also eligible for those benefits that are required by law, such as workers' compensation insurance and Social Security.

3.03.060 Employment Applications

Perry City relies on the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in Perry City's exclusion of the individual from further consideration for employment or, if the person has been hired, will constitute grounds for the immediate termination of employment.

3.03.070 Performance Evaluation

The following regarding performance evaluation:

1. Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Formal performance evaluations are conducted at the end of an employee's initial period in any new position. This period, known as the introductory period, allows the supervisor and the employee to discuss the job responsibilities, standards, and performance requirements of the new position. Additional formal performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals.
2. The performance of all employees is generally evaluated according to an ongoing 12-month cycle every April. However, some departments may elect to evaluate the performance of their employees on a quarterly basis.
3. These evaluations will be used to:

    a. improve employee effectiveness;
    b. assess training needs and plan training activities; and
    c. evaluate possible promotions, separations, salary advancements, and other personnel actions.

3.03.080 Employee Driver Qualification Standard

All employees or volunteers operating Perry City owned vehicles, or who may operate any vehicle while conducting business for or on behalf of Perry City must be authorized drivers. The authorization process requires an analysis of the employee's driving record to ensure compliance with the driver qualification standard as identified in this policy.

As part of the driver qualification process all drivers or potential drivers' MVR (Motor Vehicle Record) will be screened and monitored on an ongoing basis to ensure the standard is met and maintained. Drivers will be qualified as "Acceptable," or "Borderline". Drivers qualified as "Borderline" maybe authorized to drive on a probationary basis as determined by the Department Manager. Drivers who's record does not meet the driver qualification standard will not be allowed to operate any vehicle while engaged in Perry City business.

All drivers must possess a valid Driver's License. Required endorsements must also be maintained. The driver qualification evaluation will be based on the driver's MVR and may also take into account work related motor vehicle incidents, whether or not the incident has been recorded on the driver's MVR. All violations recorded on the MVR, whether they occurred on the job or not, are included in the driver qualification evaluation.

"Acceptable" or "Borderline" qualification will be determined using the following criteria. Any number of violations or accident in excess of the "Borderline" criteria constitutes a failure to meet the driver qualification standard resulting in revocation of driver authorization. (Note- DUI and DWI are not evaluated as a standard violation)

Acceptable

- Up to 2 violations recorded on the MVR, or
- Up to 1 at fault work related accident in the prior three years, or
- A combination of 1 violation on the MVR and 1 at fault work related accident in the last three years

Borderline

- 3 to 4 violations recorded on the MVR or,
- 2 at fault work related accidents in the last three years, or
- DUI or DWI with in the last 2-5 years, or
- Any violation for Careless, Reckless or Distracted driving

A single major violation recorded on the MVR, or resulting from a work related incident, may result in revocation of the drivers' qualification and driver authorization. Major violations include, but are not limited to:

- DUI or DWI in the previous 24 months
- Failure to stop/report an accident
- Making a false accident report
- Attempting to elude a law enforcement
- Others as determined by the Manager

3.04 Employee Benefit Programs

3.04.010 Employee Benefits
3.04.020 Perry City Health Plan
3.04.030 Perry City Dental Plan
3.04.040 Benefits Continuation (COBRA)
3.04.050 Life Insurance
3.04.060 401k And Other Retirement Plans
3.04.070 Vacation Benefits
3.04.080 Holidays
3.04.090 Sick Leave Benefits
3.04.100 Workers' Compensation Insurance
3.04.110 Pay In Lieu Of Benefits

3.04.010 Employee Benefits

The following regarding employees' benefits:

1. Eligible employees at Perry City are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation, state disability and unemployment insurance) cover all employees in the manner prescribed by law.
2. Benefits eligibility is dependent upon a variety of factors, including employee classification. Your supervisor or the Payroll Clerk can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in the employee handbook.
3. Employees who have completed their probationary period before September 1, 2007 will be grandfathered in on the previous eligibility requirements, unless the employee elects the current City Benefits. All employees hired after this date should contact the Payroll Clerk for current plan details and eligibility requirements.
4. The following benefit programs are currently available to full-time employees:
    a. 401(k) Savings Plan through Utah Retirement Systems
    b. Benefit Conversion at Termination {COBRA)
    c. Bereavement Leave
    d. Cafeteria Plan, including flexible spending for health care and dependent care expenses
    e. Dental Insurance
    f. Family Medical Leave
    g. Holidays
    h. Jury Duty Leave
    i. Life Insurance
    j. Medical Insurance
    k. Military Leave
    l. Paid Time Off (PTO)
    m. Supplemental Life Insurance
    n. Vision Care Insurance
    o. Home Owners Insurance
    p. Pre-paid Legal Insurance
5. Only Regular & Introductory Full-Time Perry City employees are eligibility for Perry City's full benefits package of, Life Insurance, Health Insurance, Dental Insurance, Vision Insurance, Flexible Spending Accounts, paid vacation, and holidays. All benefits are subject to change.

3.04.020 Perry City Health Plan

The following regarding Perry City's health plan:

1. Perry City's health plan and contributions are subject to insurance coverage costs and budget limitations and are subject to change depending on these factors. The information below explains the current plan details:
    a. Perry City will be using a health program approved by the Mayor and City Council at the beginning of each benefit year. For additional questions regarding the plan or doctors on the plan, see the payroll clerk.
    b. Perry City's health plan provides employees and their dependents access to medical care benefits. Eligible employees may participate in the health plan subject to all terms and conditions of the agreement between Perry City and the benefit provider.
    c. A change in employment classification that would result in loss of eligibility to participate in the health plan may qualify an employee for benefits continuation under the Consolidated Omnibus Budget Reconciliation Act (COBRA). Refer to the Benefits Continuation (COBRA) policy or contact the benefit provider for more information.
2. Details of the health plan are described in the Summary Plan Description (SPD). An SPD and information will be provided in advance of enrollment to eligible employees. Contact the Payroll Clerk for more information about health plan benefits and the Perry City's contributions.

3.04.030 Perry City Dental Plan

Perry City's dental plan and contributions are subject to insurance coverage costs and budget limitations and are subject to change depending on these factors. The information below explains the current dental plan details: Perry City will be using a dental program approved by the Mayor and City Council at the beginning of each benefit year. Please review detailed plan description booklets for more information. If you have additional questions regarding the plan or dentists on the plan see the payroll clerk.

3.04.040 Benefits Continuation (COBRA)

The following regarding continuation of benefits:

1. The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health coverage under Perry City's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.
2. Under COBRA, the employee or beneficiary pays the full cost of coverage at Perry City's group rates plus an administration fee of 2%. The benefit provider will provide each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under Perry City's health insurance plan. The notice contains important information about the employee's rights and obligations.

3.04.050 Life Insurance

The following regarding life insurance:

1. Life insurance offers you and your family important financial protection. Perry City provides a basic life insurance plan for eligible employees paid for by Perry City. Accidental Death and Dismemberment (AD&D) insurance provides protection in cases of serious injury or death resulting from an accident. AD&D insurance coverage is provided as part of the basic life insurance plan.
2. Employees in the following employment classifications are eligible to participate in the life insurance plan:
    a. Regular Full-Time employees
    b. Introductory Full-Time employees
3. Eligible employees may participate in the life insurance plan subject to all terms and conditions of the agreement between Perry City and the insurance carrier.
4. Details of the basic life insurance plan including benefit amounts are described in the Summary Plan Description provided to eligible employees. Contact the Payroll Clerk for more information about life insurance benefits.

3.04.060 401k And Other Retirement Plans

Only regular & Introductory Full-Time employees are eligible for Perry City's retirement plans. For plan details, please see contact the Payroll Clerk.

3.04.070 Vacation Benefits

The following regarding vacation benefits:

1. Vacation time off with pay is available to eligible employees to provide opportunities for rest, relaxation, and personal pursuits. Employees in the following employment classification(s) are eligible to earn and use vacation time as described in this policy:
    a. Regular Full-Time employees
    b. Introductory Full-Time employees
2. The amount of paid vacation time employees receive each year increases with the length of their employment as shown in the following schedule:

VACATION SCHEDULE

Full-Time Employees			
Years Employed	Hours Accrued Per Pay Period	Hours Accrued Per Year	Days Accrued Per Year
*0-1 year	2	52	6.5
1-10 years	4	104	13
10-15 years	6	156	19.5
15+ years	8	208	26

*Introductory Period

1. The length of eligible service is calculated on the basis of a "benefit year." This is the 12-month period that begins when the employee begins to earn vacation time and ends every June 30th. An employee's benefit year may be extended for any significant leave of absence except military leave of absence. Military leave has no effect on this calculation. (See individual leave of absence policies for more information.)
2. Once employees enter an eligible employment classification, they begin to earn paid vacation time according to the schedule. Vacation time can be used, on the 1stof the month following 30 days of employment, or upon entering an eligible employment classification. Employees can request use of earned vacation time including that accrued during the waiting period.
3. Paid vacation time can be used in minimum increments of one-hour per day. To take vacation, employees should request advance approval from their supervisors. Requests will be reviewed based on a number of factors, including city needs and staffing requirements.
4. Vacation time-off is paid at the employee's base pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as incentives, commissions, bonuses, or shift differentials.
5. As stated above, employees are encouraged to use available paid vacation time for rest, relaxation, and personal pursuits. In the event that available vacation is not used by the end of the benefit year, June 30th, employees may carry-over up to 150% of their accrued benefit hours. For example, if you have been with the City for two (2) years, you can carry over up to 156 hours. If you have been with the City for eleven (11) years, you can carry over up to 234 hours (see matrix on next page). Any accrued annual leave in excess of 150% of your current benefit accrual shall be forfeited on July 1st of any given year. Upon Separation of employment, employees will be paid for unused vacation time that has been earned through the last day of work.

VACATION CARRY OVER MATRIX

Full-Time Employees			
Years Employed	Hours Accrued Per Year	Days Accrued Per Year	Hours Allowed to Carry Over (150%)
0-1 year	52	6.5	52*
1-10 years	104	13	156
10-15 years	156	19.5	234
15+	208	26	312

3.04.080 Holidays

The following regarding holidays under this title:

1. Perry City will grant twelve (12) paid holidays to all Regular and Introductory Full-time employees. Ten (10) regular set holidays and two (2) floating holidays that will be predetermined by Administration at the beginning of the year. The set holidays are:

a. New Year's Day
b. Dr. Martin Luther King, Jr. Day
c. Washington and Lincoln Day
d. Memorial Day
e. Independence Day
f. Labor Day
g. Veteran's Day
h. Thanksgiving
i. Day after Thanksgiving
j. Christmas

2. Perry City will grant paid holiday time off to all eligible employees on the 1st of the month following 30 days of employment. Holiday pay will be calculated based on the employee's straight-time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day. Eligible employee classification(s):

    a. Regular Full-Time employees
    b. Introductory Full-Time employees

3. A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday.
4. If a recognized holiday falls during an eligible employee's paid absence (such as vacation or sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.
5. If eligible nonexempt employees work on a recognized holiday, they will receive pay for the holiday (as detailed above) and pay for the hours worked on the holiday at one and one-half times their straight-time rate. Exempt employees will receive pay for the holiday (as detailed above) and compensatory time at one and one-half times their straight-time rate for hours worked on the holiday. However, employees must have written authorization from their immediate supervisor prior to working on a holiday.
6. Paid time off for holidays will not be counted as hours worked for the purposes of determining overtime.

3.04.090 Sick Leave Benefits

The following regarding sick leave benefits:

1. Perry City provides paid sick leave benefits to all eligible employees for periods of temporary absence due to illnesses or injuries. Eligible employee classification(s):

    a. Regular Full-Time Employees
    b. Introductory Full-Time employees

2. Eligible employees will accrue sick leave benefits as follows:

SICK LEAVE

Eligible	Accrual Hours Per Pay Period	Hours Accrued Per Year	Days Accrued Per Year	Maximum Annual Accrual
Regular/Introductory Full-Time Employees	2	52	6.5	90 days (720 hours)

3. Sick leave benefits are calculated on the basis of a "benefit year," the 12-month period that begins when the employee starts to earn sick leave benefits.
4. Employees can request use of paid sick leave on the first of the month following 30 days of employment. Paid sick leave can be used in minimum increments of one hour. Eligible employees may use sick leave benefits for an absence due to their own illness, injury or to take care of a sick family member.
5. Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday, if possible. The direct supervisor must also be contacted on each additional day of absence. The department head may ask for a doctor's note following three consecutive days of sick leave and employee is required to provide such note.
6. Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence and will not include any special forms of compensation, such as incentives, commissions, bonuses, or shift differentials. As an additional condition of eligibility for sick leave benefits, an employee on an extended absence must apply for any other available compensation and benefits, such as workers' compensation. Sick leave benefits will be used to supplement any payments that an employee is eligible to receive from state disability insurance, workers' compensation or City-provided disability insurance programs if available and if offered by the city. The combination of any such disability payments and sick leave benefits cannot exceed the employee's normal weekly earnings.
7. Unused sick leave benefits will be allowed to accumulate until the employee has accrued a total of ninety (90) calendar day's worth of sick leave benefits. If the employee's benefits reach this maximum, further accrual of sick leave benefits will be suspended until the employee has reduced the balance below the limit. Unused sick leave may be converted into vacation leave at a rate of three hours of sick leave for each hour of vacation with a maximum conversion of 36 hours of sick leave to 12 hours of vacation leave.
8. Sick leave benefits are intended solely to provide income protection in the event of illness or injury, and may not be used for any other absence. Unused sick leave benefits will not be paid to employees while they are employed or upon termination of employment.
9. If an employee is separated and has unused, accrued sick leave, they will not be compensated for the unused sick leave.
10. Perry City realizes that employees with contagious, temporary illnesses such as influenza, colds, and other viruses need to continue with normal-life activities which include work. In deciding whether an employee with an apparent short-term, contagious illness may continue to work, the City considers several factors when deciding whether or not the employee is capable of work. The employee must be able to perform normal job duties and meet regular performance standards. In the judgment of the employer, the employee's continued presence must pose no risk to the health of the employee, other employees, and/or customers. If an employee disputes the company's determination that such a risk exists, the employee must submit a statement from his or her attending health care provider that the employee's presence in the workplace poses no significant risk to the employee, other employees or customers.
11. Supervisors are encouraged to remind employees that the company provides paid sick leave to cover absences due to contagious and temporary illnesses. All employees are urged to contact Human Resources regarding any questions about the possible contagiousnature of another employee's temporary illness.

3.04.100 Workers' Compensation Insurance

The following regarding workers' compensation insurance:

1. Perry City provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period or, if the employee is hospitalized, immediately.

2. Employees who sustain work-related injuries or illnesses should inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible.
3. Neither Perry City nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by Perry City.

3.04.110 Pay In Lieu Of Benefits

1. An employee of Perry City may elect to abstain from participating in the Perry City Health and Dental benefits and receive an increase in their hourly wage of $1.00.
2. The employee must elect to opt out of the Perry City health and dental benefits at the beginning of employment or at the time of open enrollment and may opt back in to receive Perry City health and dental benefits at the time of open enrollment or during a qualifying event. The employee who desires to opt out must provide a waiver defining them as being a qualified participant of another group health insurance plan, with proof by letter of certificate of credible coverage (CCC).
3. Perry City employees may only receive pay in lieu of benefits if there are sufficient employees participating in the Perry City health and dental benefits to keep the health and dental rates from increasing.
4. If it becomes necessary, for any reason and at any time, for an employee to elect/participate in the Perry City Health and Dental benefits the $1.00 increase to their hourly wage will be forfeited and their hourly wage will return to its base level.

3.05 Employee Compensation

3.05.010 Salary Schedule

3.05.010 Salary Schedule

The following regarding the salary schedule:

1. Perry City's Salary Schedule is detailed in appendix A of this handbook. The Salary Schedule for each position at Perry City is based on the lane the position is assigned to, the work experience of the employee, and employee performance. Each employee is eligible for performance-based raises that are made effective starting the pay period which includes July 1st.
2. Performance is generally evaluated according to an ongoing 12-month cycle each April. However the department within which the employee works may elect to evaluate performance on a more regular basis.

3.06 Timekeeping/Payroll

3.06.010 Timekeeping
3.06.020 Paydays
3.06.030 Administrative Pay Corrections
3.06.040 Pay Deductions And Setoffs
3.06.050 Circumstances In Which Perry City May Make Deductions From Pay From An Exempt Employee
3.06.060 Improper Deduction
3.06.070 Employment Termination
3.06.080 Policy

3.06.010 Timekeeping

The following regarding timekeeping:

1. Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require Perry City to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.
2. Nonexempt employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each unpaid meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved by the direct supervisor before it is performed.
3. Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.
4. It is the employee’s responsibility to sign their time records to certify the accuracy of all time recorded. The supervisor will review and then initial the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

3.06.020 Paydays

The following regarding paydays:

1. All employees are paid biweekly on every other Friday. Each paycheck will include earnings for all work performed through the end of the previous payroll period.
2. In the event that a regularly scheduled payday falls on a day off such as a weekend or holiday, employees will receive pay on the last day of work before the regularly scheduled payday.
3. If a regular payday falls during an employee's vacation, the employee's paycheck or statement of wages will be available upon his or her return from vacation.
4. Employees may have pay directly deposited into their bank accounts if they provide advance written authorization to Perry City. Employees will receive an itemized statement of wages when Perry City makes direct deposits.

3.06.030 Administrative Pay Corrections

The following regarding administrative pay corrections:

1. Perry City takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday.
2. In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the Payroll Department so that corrections can be made as quickly as possible.

3.06.040 Pay Deductions And Setoffs

The following regarding pay deductions and setoffs:

1. The law requires that Perry City make certain deductions from every employee's compensation. Among these are applicable federal, state, and local income taxes. Perry City also must deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base." Perry City matches the amount of Social Security taxes paid by each employee.
2. Perry City offers programs and benefits beyond those required by law. Eligible employees may voluntarily authorize deductions from their paychecks to cover the costs of participation in these programs.
3. Pay setoffs are pay deductions taken by Perry City, usually to help pay off a debt or obligation to Perry City or others.
4. If you have questions concerning why deductions were made from your paycheck or how they were calculated, your supervisor can assist in having your questions answered.

3.06.050 Circumstances In Which Perry City May Make Deductions From Pay From An Exempt Employee

Deductions from pay are permissible when an exempt employee: is absent from work for one or more full days for personal reasons other than sickness or disability; for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness; to offset amounts employees receive as jury or witness fees, or for military pay; or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions. Also, Perry City is not required to pay the full salary in the initial or terminal week of employment; for penalties imposed in good faith for infractions of safety rules of major significance, or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. In these circumstances, either partial day or full day deductions may be made.

3.06.060 Improper Deduction

The following regarding handling improper deductions

1. If you believe that an improper deduction has been made to your salary, you should immediately report this information to your department head, or to the Payroll Clerk.
2. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

3.06.070 Employment Termination

The following regarding employment termination:

1. Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated:

a. Resignation: Voluntary employment termination initiated by an employee.
b. Discharge: Involuntary employment termination initiated by the organization.
c. Layoff: Involuntary employment termination initiated by the organization for non-disciplinary reasons.
d. Retirement: Voluntary employment termination initiated by the employee meeting age, length of service, and any other criteria for retirement from the organization.

2. Perry City will generally schedule exit interviews at the time of employment termination. The exit interview will afford an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to Perry City, or return of Perry City-owned property. Suggestions, complaints, and questions can also be voiced.
3. Employees will receive their final pay in accordance with applicable state law. Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable at termination will be paid. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance.

3.06.080 Policy

It is our policy to comply with the salary basis requirements of the FLSA. Therefore, we prohibit all City supervisors or Department Heads from making any improper deductions from the salaries of exempt employees. We want employees to be aware of this policy and that Perry City does not allow deductions that violate the FLSA.

3.07 Work Conditions And Hours

3.07.010 Safety
3.07.020 Use Of Equipment
3.07.030 Use Of Phone And Mail Systems
3.07.040 Use Of Tobacco Products
3.07.050 Work Schedules
3.07.060 Rest And Meal Periods
3.07.070 Overtime And/or Compensation Time
3.07.080 On - Call Or Standby Duties
3.07.090 Emergency Closings
3.07.100 Travel Expenses
3.07.110 Visitors In The Workplace
3.07.120 Computer And E - Mail Usage
3.07.130 Workplace Monitoring.
3.07.140 Workplace Violence Prevention

3.07.010 Safety

The following regarding safety under this ordinance:

1. To assist in providing a safe and healthful work environment for employees, customers, and visitors, the City has established a workplace safety program. This program is a top priority for Perry City. The Perry City Risk Management Department has responsibility for implementing, administering, monitoring, and evaluating the safety program. Its success depends on the alertness and personal commitment of all employees.
2. Perry City provides information to employees about workplace safety and health issues through regular internal communication channels such as supervisor-employee meetings, bulletin board postings, memos, or other written communications.
3. Employees and supervisors receive periodic workplace safety training. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards.
4. Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards, cause hazardous or dangerous situations, or fail to report or, where appropriate, remedy such situations may be subject to disciplinary action, up to and including termination of employment.
5. In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees are required to immediately notify their supervisor. The supervisor is required to notify Perry City Risk Management Specialist within 24 hours. Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefits procedures.

3.07.020 Use Of Equipment

The following regarding use of equipment under this ordinance:

1. Equipment essential in accomplishing job duties is often expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines.
2. Please notify the supervisor if any equipment, machines, or tools appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment used on the job.
3. The improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in disciplinary action, up to and including termination of employment.

3.07.030 Use Of Phone And Mail Systems

The following regarding the use of phone and/or mail systems:

1. Personal use of the telephone for long-distance and toll calls is not permitted. Employees should practice discretion when making local personal calls and may be required to reimburse Perry City for any charges resulting from their personal use of the telephone.
2. The use of Perry City-paid postage for personal correspondence is not permitted.
3. To ensure effective telephone communications, employees should always use the approved greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so.

3.07.040 Use Of Tobacco Products

In keeping with Perry City's intent to provide a safe and healthful work environment, and to comply with the Utah Clean Air Act, tobacco use is prohibited throughout the workplace and smoking is prohibited within 50 feet of the building entrance and any ventilation ducts. Tobacco use is also prohibited in all City Vehicles.This policy applies equally to all employees and visitors.

3.07.050 Work Schedules

The following regarding work schedules:

1. Work schedules for employees vary throughout our organization. Supervisors will advise employees of their individual work schedules. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.
2. Flexible scheduling, or flextime, is available in some cases to allow employees to vary their starting and ending times each day within established limits. Flextime may be possible if a mutually workable schedule can be negotiated with the supervisor involved. However, such issues as staffing needs, the employee's performance, and the nature of the job will be considered before approval of flextime. Employees should consult their supervisor to request participation in the flextime program.

3.07.060 Rest And Meal Periods

The following regarding rest and meal periods:

1. Perry City follows the current state and federal laws for rest and meal periods. Supervisors will advise employees of the regular rest period length and schedule.
2. Except for Public Safety employees or as otherwise required by law, rest breaks of short duration, usually fifteen (15) minutes, are considered hours worked and should be compensated. Meal periods, typically thirty (30) to sixty (60) minutes, generally need not be compensated provided the employee is completely relieved from duty for the purpose of eating. The rest break is paid work time, while the meal period is unpaid time provided during the 30 minutes or more.
3. Each workday, full-time nonexempt employees are provided with two rest periods, part-time employees are provided with one rest period. Supervisors will advise employees of the regular rest period length and schedule. To the extent possible, rest periods will be provided in the middle of work periods. Since this time is counted and

paid as time worked, employees must not be absent from their workstations beyond the allotted rest period time.
All full-time employees are provided with one unpaid meal period each workday. Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time.

3.07.070 Overtime And/or Compensation Time

The following regarding overtime and/or compensation time:

1. When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. When possible, advance notification of these mandatory assignments will be provided. All overtime work must have signed authorization from both the department head and the City Administrator or Mayor prior to any overtime worked. Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.
2. Overtime compensation is paid or given as compensatory time to all nonexempt employees in accordance with federal and state wage and hour restrictions. Overtime pay is based on actual hours worked. Time off on sick leave, vacation leave, guaranteed show-up time in certain situations, or any leave of absence will not be considered hours worked for purposes of performing overtime calculations.
3. Compensatory time is paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for overtime hours worked at a rate of time-and-one-half of hours worked as required by the Fair Labor Standards Act. Perry City prefers that employees required to work overtime elect to take compensatory time. Upon Perry City's fiscal year end, June 30th, all but forty (40)hours of unused accrued compensatory time will be paid out to the employee at the required overtime rate.
4. Perry City follows the Fair Labor Standards Act for all overtime calculations and compensation, including exceptions for law enforcement and fire protection employees. For law enforcement employees, overtime hours are any hours worked over 171 hours during a 28-day period.Fire Protection employees are due overtime for any hours worked over 212 hours during a 28-day period.
5. Employees may be subject to disciplinary action, up to and including possible termination of employment for working overtime without receiving prior authorization from their supervisor.

3.07.080 On - Call Or Standby Duties

The following regarding on-call or standby duties:

1. Perry City may need employees to be on call or standby to help with emergency situations. While the employee is on call or standby, they can use their time freely, and are not performing a specific assigned task they just need to be available by phone or pager to respond to Perry City needs in a timely manner.
2. Perry City offers oncall or standby compensation. Police employees working on call will be paid two hours per day of on call duty at their regular rate of pay. If the employee is called to duty, they will receive their on-call pay and their regular rate of pay for all time that work was actually performed.
3. Non-police employees working on call will also receive compensation for their time on call. They will receive 4 hours of regular pay per 7-day period of on call duty. If the employee is called to duty while they are on call, they will receive their on-call pay and their regular rate of pay for all time that work was actually performed.
4. Overtime pay will not apply to on call wages if the employee did not actually perform work.

3.07.090 Emergency Closings

The following regarding emergency closings:

1. At times, emergencies such as severe weather, fires, power failures, or earthquakes, can disrupt Perry City operations. In extreme cases, these circumstances may require the closing of a work facility. This officially announced by the Mayor or the Mayor Pro Tem.
2. When operations are officially closed due to emergency conditions, the time off from scheduled work will be unpaid. However, with supervisory approval, employees may use available paid leave time, such as unused vacation benefits.
3. In cases where an emergency closing is not authorized, employees who fail to report for work will not be paid for the time off. Employees may request available paid leave time such as unused vacation benefits.
4. Employees in essential operations may be asked to work on a day when operations are officially closed. In these circumstances, employees who work will receive regular pay.

3.07.100 Travel Expenses

The following regarding travel expenses:

1. Perry City will reimburse employees for reasonable travel expenses incurred while on assignments away from the normal work location. These expenses will be reimbursed at the IRS standard rates. Your department head and the city administrator (or Mayor) must approve all travel in advance. Employees whose travel plans have been approved should make all travel arrangements through Perry City or a designated travel agency.
2. When approved, the actual costs of travel, meals, lodging, and other expenses directly related to accomplishing travel objectives will be reimbursed by Perry City. Employees are expected to limit expenses to reasonable amounts.
3. Expenses that generally will be reimbursed include the following:
    a. Airfare or train fare for travel in coach or economy class or the lowest available fare.
    b. Car rental fees, only for compact or mid-sized cars.
    c. Fares for shuttle or airport bus service, where available; costs of public transportation for other ground travel.
    d. Taxi fares, only when there is no less expensive alternative.
    e. Mileage costs for use of personal cars, only when less expensive transportation is not available.
    f. Mileage costs will be reimbursed at the current IRS rate driven.
    g. Cost of standard accommodations in low to mid-priced hotels, motels, or similar lodgings.
    h. Cost of meals, no more lavish than would be eaten at the employee's own expense.
    i. Tips not exceeding 15% of the total cost of a meal or 10% of a taxi fare.
    j. Charges for telephone calls, fax, and similar services required for Perry City purposes.
4. Employees who are involved in an accident while traveling for Perry City must promptly report the incident to their immediate supervisor. Vehicles owned, leased, or rented by Perry City may not be used for personal use without prior approval.
5. Cash advances to cover reasonable anticipated expenses may be made to employees, after travel has been approved. Employees should submit a written request to their supervisor when travel advances are needed.
6. When travel is completed, employees should submit completed travel expense reports within 30 days. Receipts for all individual expenses should accompany reports.
7. Employees should contact their supervisor for guidance and assistance on procedures related to travel arrangements, travel advances, expense reports, reimbursement for specific expenses, or any other travel issues.
8. Abuse of this travel expenses policy, including falsifying expense reports to reflect costs not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.

3.07.110 Visitors In The Workplace

The following regarding visitors in the workplace:

1. To provide for the safety and security of employees and the facilities at Perry City, only authorized visitors are allowed in the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.
2. All visitors should enter Perry City at the main entrance. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors.
3. If an unauthorized individual is observed on Perry City's premises, employees should immediately notify their department head or, if necessary, direct the individual to the main entrance.

3.07.120 Computer And E - Mail Usage

The following regarding computer and e-mail usage:

1. Computers, computer files, the e-mail system, and software furnished to employees are Perry City property intended for City use. Employees should not use a password, access a file, or retrieve any stored communication without authorization. To ensure compliance with this policy, computer and e-mail usage may be monitored.
2. Perry City strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Therefore, Perry City prohibits the use of computers and the email system in ways that are disruptive, offensive to others, or harmful to morale.
3. For example, the display or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.
4. E-mail may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-City matters.
5. Perry City purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, Perry City does not have the right to reproduce such software for use on more than one computer.
6. Employees may only use software on local area networks or on multiple machines according to the software license agreement. Perry City prohibits the illegal duplication of software and its related documentation.
7. Employees should notify their immediate supervisor, the administration or any member of management upon learning of violations of this policy. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

3.07.130 Workplace Monitoring.

The following regarding workplace monitoring:

1. Workplace monitoring may be conducted by Perry City to ensure quality control, employee safety, security, and customer satisfaction. All Perry City equipment, property and vehicles used for work may be monitored, and there should be no expectation of workplace privacy of City property.
2. Perry City reserves the right to monitor telephone conversations or record conversations of employees who regularly communicate with customers. Telephone monitoring is used to identify and correct performance problems through targeted training. Improved job performance enhances our customers' image of Perry City as well as their satisfaction with our service.
3. Computers furnished to employees are the property of Perry City. As such, computer usage and files may be monitored or accessed.
4. Employees can request access to information gathered through workplace monitoring that may impact employment decisions. Access will be granted unless there is a legitimate reason to protect confidentiality or an ongoing investigation.
5. Because Perry City is sensitive to the legitimate privacy rights of employees, every effort will be made to guarantee that workplace monitoring is done in an ethical and respectful manner.

3.07.140 Workplace Violence Prevention

The following regarding workplace violence prevention:

1. Perry City is committed to preventing workplace violence and to maintaining a safe work environment. Given the increasing violence in society in general, Perry City has adopted the following guidelines to deal with intimidation, harassment, or other threats of (or actual) violence that may occur during business hours or on its premises.
2. All employees, including supervisors and temporary employees, should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, "horseplay," or other conduct that may be dangerous to others. Firearms, weapons, and other dangerous or hazardous devices or substances are prohibited from the premises of Perry City without proper authorization unless a public safety officer.
3. Conduct that threatens, intimidates, or coerces another employee, a customer, or a member of the public at any time, including off-duty periods, will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based on an individual's sex, race, age, or any characteristic protected by federal, state, or local law.
4. All threats of (or actual) violence, both direct and indirect, should be reported as soon as possible to your immediate supervisor or any other member of management. This includes threats by employees, as well as threats by customers, vendors, solicitors, or other members of the public. When reporting a threat of violence, you should be as specific and detailed as possible.
5. All suspicious individuals or activities should also be reported as soon as possible to a supervisor. Do not place yourself in peril. If you see or hear a commotion or disturbance near your workstation, do not try to intercede or see what is happening.
6. Perry City will promptly and thoroughly investigate all reports of threats of (or actual) violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, Perry City may suspend employees, either with or without pay, pending investigation.
7. Anyone determined to be responsible for threats of (or actual) violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.
8. Perry City encourages employees to bring their disputes or differences with other employees to the attention of their supervisors or the Human Resources Department before the situation escalates into potential violence. Perry City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns.

3.08 Leaves Of Absence

3.08.010 Family Medical Leave
3.08.020 Personal Leave
3.08.030 Bereavement Leave
3.08.040 Training Leave
3.08.040 Military Leave
3.08.060 Time Off To Vote
3.08.070 Emergency Leave
3.08.080 Jury Duty
3.08.090 Witness Duty
3.08.110 Community Service
3.08.120 Administrative Leave

3.08.010 Family Medical Leave

The following regarding Family Medical Leave:

1. Family Medical Leave provides eligible employees leaves of absence without pay who wish to take time off from work duties to fulfill family obligations relating directly to childbirth, adoption, or placement of a foster child; or to care for a child, spouse, or parent with a serious health condition.
2. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.
3. Perry City follows all current requirements as outlined by the Family Medical Leave Act.
4. Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during a leave of absence pursuant to the Family Medical Leave Act, and will resume upon the employee's return to active employment.

3.08.020 Personal Leave

The following regarding personal leave for employees:

1. Perry City provides leaves of absence without pay to eligible employees who wish to take time off from work duties to fulfill personal obligations. Employees in the following employment classification(s) are eligible to request personal leave as described in this policy:
    a. Regular Full-Time employees
    b. Introductory Full-Time employees
2. As soon as eligible employees become aware of the need for a personal leave of absence, they should request a leave from their supervisor.
3. Personal leave may be granted for a period of up to 5 calendar days every 5 years. If this initial period of absence proves insufficient, consideration will be given to a written request for a single extension of no more than 30 calendar days. With the supervisor's approval, an employee may take any available sick leave or vacation leave as part of the approved period of leave.
4. Requests for personal leave will be evaluated based on a number of factors, including anticipated workload requirements and staffing considerations during the proposed period of absence.
5. Subject to the terms, conditions, and limitations of the applicable plans, Perry City will continue to provide health insurance benefits for the full period of the approved personal leave.
6. Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the unpaid personal leave and will resume upon the employee's return to active employment.
7. When a personal leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. However, Perry City cannot guarantee reinstatement in all cases.
8. If an employee fails to reportto work promptly at the expiration of the approved leave period, Perry City will assume the empl oyee has resigned.

3.08.030 Bereavement Leave

The following regarding bereavement leave:

1. Employees who wish to take time off due to the death of an immediate family member may take up to three (3) days leave, and should notify their supervisor immediately. Immediate Family is defined as: husband, wife, son, daughter, father, mother, brother, sister, and parents of the spouse. Two (2) days leave will be allowed for grandparents or grandchildren.
2. Up to three (3) days of paid bereavement leave will be provided to eligible employees in the following classification(s):
    a. Regular Full-Time employees
    b. Introductory Full-Time employees
    c. Regular Part-Time employees
    d. Part-time
    e. Temporary
3. Bereavement pay is calculated based on the base pay rate at the time of absence, and the number of hours customarily worked each day and will not include any special forms of compensation, such as incentives, commissions, bonuses, or shift differentials.
4. Bereavement leave will normally be granted unless there are unusual needs or staffing requirements. Employees may, with their supervisors' approval, use any available paid leave for additional time off as necessary.
5. Perry City defines "immediate family" as the employee's spouse, parent, child, sibling; the employee's spouse's parent, child, or sibling; the employee's child's spouse; grandparents or grandchildren.

3.08.040 Training Leave

The following regarding training leave:

1. Perry City provides educational leaves of absence without pay to eligible employees who wish to take time off from work duties to pursue course work that is applicable to their job duties with Perry City. Employees who are required by Perry City to attend training classes may receive leave with pay at the discretion of the Department head and the City Administrator or Mayor. Employees in the following employment classification(s) are eligible to request educational leave as described in this policy:
    a. Regular Full-Time employees
    b. Introductory Full-Time employees

2. Employees become eligible on the first of the month following 60 days of employment to request educational leave, as needed. Requests will be evaluated based on a number of factors, including anticipated workload requirements and staffing considerations during the proposed period of absence.
3. Subject to the terms, conditions, and limitations of the applicable plans, health insurance benefits will be provided by Perry City until the end of the month in which the approved educational leave begins. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue. When the employee returns from educational leave, benefits will again be provided by Perry City according to the applicable plans.
4. Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the unpaid training leave and will resume upon the employee's return to active employment.
5. When an educational leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. However, Perry City cannot guarantee reinstatement in all cases.
6. If an employee fails to report to work at the end of the approved leave period, Perry City will assume that the employee has resigned.

3.08.040 Military Leave

The following regarding military leave:

1. A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable.
2. Exempt employees will receive partial pay for two-week training assignments and shorter absences. Upon presentation of satisfactory military pay verification data, employees will be paid the difference between their normal base compensation and the pay (excluding expense pay) received while on military duty.
3. The portion of any military leaves of absence in excess of two weeks will be unpaid. However, employees may use any available paid time off for the absence.
4. Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible.
5. Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during any military the leave (paid or unpaid) of more than three (3) working days duration, and will resume upon the employee's return to active employment.
6. Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.
7. Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service.
8. Contact Perry's Human Resources Director for more information or questions about military leave.

3.08.060 Time Off To Vote

The following regarding time off to vote:

1. Perry City encourages employees to fulfill their civic responsibilities by participating in elections. Generally, employees are able to find time to vote either before or after their regular work schedule. If employees are unable to vote in an election during their nonworking hours, Perry City will grant up to 4 hours of unpaid time off to vote.
2. Employees should request time off to vote from their supervisor at least two working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift; whichever provides the least disruption to the normal work schedule.

3.08.070 Emergency Leave

Department heads may allow a permanent or introductory employee reasonable time off not to exceed three (3) working days with pay in case of an emergency or death in the immediate family. Time will be charged to sick leave. The City Council shall have the authority to grant longer leaves in unusual circumstances in which an emergency exists. During emergency leave periods in excess of thirty calendar days, vacation leave, sick leave, or time toward yearly evaluation shall not accrue.

3.08.080 Jury Duty

The following regarding jury duty:

1. Perry City encourages employees to fulfill their civic responsibilities by serving jury duty when required. Employees in an eligible classification may request up to 5 business days of paid jury duty leave over any 1-year period.
2. Jury duty pay will be calculated on the employee's base pay rate times the number of hours the employee would otherwise have worked on the day of absence. Employee classifications that qualify for paid jury duty leave are:
    a. Regular Full-Time employees
    b. Introductory Full-Time employees
3. If employees are required to serve jury duty beyond the period of paid jury duty leave, they may use any available paid time off (for example, vacation benefits) or may request an unpaid jury duty leave of absence.
4. Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Of course, employees are expected to report for work whenever the court schedule permits.
5. Either Perry City or the employee may request an excuse from jury duty if, in Perry City's judgment, the employee's absence would create serious operational difficulties.
6. Perry City will continue to provide health insurance benefits for the full term of the jury duty absence.
7. Benefit accruals such as vacation, sick leave, or holiday benefits will be suspended during unpaid jury duty leave and will resume upon the employee's return to active employment.
8. Paid leave will not be granted when the employee is serving as his own witness in financial and related suits which he has initiated.

3.08.090 Witness Duty

The following regarding witness duty:

1. Perry City encourages employees to appear in court for witness duty when subpoenaed to do so.
2. If employees have been subpoenaed or otherwise requested to testify as witnesses by Perry City, they will receive pay for the entire period of witness duty. All Perry City employees will be compensated their regular workday wages. If an employee is required to go to witness duty during their regular work day, the employee should notify his or her department head of the witness duty and refuse to accept the witness duty check provided. If an employee is required to go to witness duty during time off work, they can accept the witness duty check as pay for the first hour of witness duty, and all other time on witness duty will be compensated as regular hours worked.
3. Employees will be granted unpaid time off, to appear in court as a witness when requested by a party other than Perry City. Employees are free to use any available paid leave benefit (such as vacation leave) to receive compensation for the period of this absence.
4. The subpoena should be shown to the employee's supervisor immediately after it is received so that operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

3.08.110 Community Service

Perry City encourages employees to give back to the community. Perry City allows paid time off to all employees volunteering their time to a non-profit organization. This time off must be approved in advance by the Department Head and Mayor or City Administrator.

3.08.120 Administrative Leave

Disciplinary action may include paid or unpaid administrative leave, depending on the circumstances, as follows:

1. Unless other action is taken by Perry City, a police officer employed by the City shall be placed on administrative leave if charged with one or more A or B misdemeanors or felonies, and the Chief of Police may designate said leave as unpaid administrative leave pursuant to Utah Code Section 10-3-912.
2. Any other employee of the City may be placed on administrative leave if charged with one or more A or B misdemeanors or felonies, and the Mayor or City Administrator may designate said leave as unpaid administrative leave, depending on the circumstances.
3. Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during unpaid administrative leave, and will resume upon the employee's return to active employment.

3.09 Employee Conduct And Disciplinary Action

3.09.010 Employee Conduct And Work Rules
3.09.020 Drug And Alcohol Use
3.09.030 Sexual And Other Unlawful Harassment Policy
3.09.040 Attendance And Punctuality
3.09.050 Personal Appearance
3.09.060 Return Of Property
3.09.070 Security Inspections
3.09.080 Solicitation
3.09.090 Drug Testing
3.09.100 Life-Threatening Illnesses In The Workplace
3.09.120 Recycling
3.09.130 Administrative Leave

3.09.010 Employee Conduct And Work Rules

The following regarding employee conduct and work rules:

1. To ensure orderly operations and provide the best possible work environment, Perry City expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.
2. It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment:

    a. Theft or inappropriate removal or possession of property
    b. Falsification of timekeeping records
    c. Working under the influence of alcohol or illegal drugs
    d. Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating employer-owned vehicles or equipment
    e. Fighting or threatening violence in the workplace
    f. Boisterous or disruptive activity in the workplace
    g. Abrupt or rude behavior to co-workers or citizens
    h. Negligence or improper conduct leading to damage of employer-owned or customer-owned property
    i. Insubordination or other disrespectful conduct
    j. Violation of safety or health rules
    k. Smoking in prohibited areas
    l. Sexual or other unlawful or unwelcome harassment
    m. Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace
    n. Excessive absenteeism or any absence without notice
    o. Unauthorized absence from work station during the workday
    p. Unauthorized use of telephones, mail system, or other employer-owned equipment
    q. Unauthorized disclosure of business "secrets" or confidential information
    r. Violation of personnel policies or other policies and procedures
    s. Unsatisfactory performance or conduct
    t. Carelessness in work duties
    u. Failure to follow instruction
    v. Improper use of time at work for personal business

3.09.020 Drug And Alcohol Use

The following regarding drug and alcohol use:

1. It is Perry City's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.
2. While on Perry City premises and while conducting business-related activities off Perry City premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.
3. Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.
4. Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify Perry City of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.
5. Drug and alcohol tests may be conducted as a routine part of the pre-employment physical examination for applicants and co-op students. Applicants must satisfactorily pass the drug screen prior to reporting to work, as a condition of employment. Offers of employment may be made contingent on satisfactorily meeting these requirements. If the drug screening procedures indicate the presence of illegal drugs or controlled substances, the applicant will not be considered further for employment. An applicant who fails a pre-employment drug test may not re-apply for employment for a period of one hundred and twenty (120) days.
6. In addition, Perry City reserves the right, consistent with applicable law, to conduct tests based on reasonable suspicion or following the occurrence of any accident or damage to property. Random testing may also be conducted at any time. An employee may be suspended pending the outcome of any required drug test. Perry City will use Brigham City Community Hospital to handle all drug testing unless another location is determined by the City Administrator or City Council.
7. Employees with questions on this policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor or the Senior Management without fear of reprisal.

3.09.030 Sexual And Other Unlawful Harassment Policy

The following regarding sexual and other unlawful harassment:

1. Perry City is committed to providing a work environment that is free of discrimination and unlawful harassment. Perry City complies with federal and state equal employment opportunity laws and strives to keep the workplace free from all forms of harassment, including, but not limited to, harassment based on:

    a. Sex
    b. Religion
    c. National origin
    d. Age

e. Disability
f. Race

2. Some examples of conduct that might be considered harassment include ethnic slurs, and racist remarks. In addition, sexual harassment includes any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature where tolerance of such actions is made a condition of employment, interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.
3. It is illegal and against Perry City's policy for any worker, male or female, to harass another worker or create a hostile working environment by committing or encouraging:

    a. Physical assaults on another employee, including rape, sexual battery, molestation, or attempts to commit these assaults;
    b. Intentional physical conduct that is sexual in nature, including touching, pinching, patting, or brushing up against another employee's body;
    c. Unwanted sexual advances, propositions, or sexual comments, including sexual gestures, jokes, or comments made in the presence of any employee who has indicated that such conduct is unwelcome; sexual in nature or pornographic;
    d. Posting or displaying pictures, posters, calendars, graffiti, objects, or other materials that are sexual in nature or pornographic.

4. The creation of an intimidating, hostile, or offensive working environment includes such actions as persistent sexual comments or the display of obscene or sexually oriented photographs or drawings. However, conduct or actions that arise out of a personal or social relationship and are not intended to have a discriminatory employment effect might not be viewed as harassment. The employer will determine whether such conduct constitutes sexual harassment.
5. Employees subjected to sexual harassment should immediately report the harassment to their supervisor or any member of management. Employees can raise concerns and make reports without reprisal.
6. Supervisors and managers who receive a sexual harassment complaint should immediately follow the required steps for investigating the allegations and protect the employee from retaliation.
7. Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

3.09.040 Attendance And Punctuality

The following regarding attendance and punctuality:

1. To maintain a safe and productive work environment, Perry City expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on Perry City. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence.
2. Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

3.09.050 Personal Appearance

The following regarding personal appearance:

1. Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the image Perry City presents to customers and visitors.
2. While working, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work. Consult your supervisor or department head if you have questions as to what constitutes appropriate attire.

3.09.060 Return Of Property

The following regarding return of property:

1. Employees are responsible for items issued to them by Perry City or in their possession or control, such as the following:

    a. Credit cards
    b. Identification badges
    c. Keys
    d. Manuals
    e. Pagers
    f. Cell phones
    g. Weapons (for police officers)
    h. Security passes
    i. Written materials

2. Employees must return all Perry City property immediately upon request or upon termination of employment. This includes any original works, ideas and improvements created while employed by Perry City. Where permitted by applicable laws, Perry City may withhold from the employee's check or final paycheck the cost of any items that are not returned when required. Perry City may also take all action deemed appropriate to recover or protect its property.

3.09.070 Security Inspections

The following regarding security inspections:

1. Perry City wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives, or other improper materials. To this end, Perry City prohibits the possession, transfer, sale, or use of such materials on its premises. Perry City requires the cooperation of all employees in administering this policy.
2. Desks, lockers, and other storage devices may be provided for the convenience of employees but remains the sole property of Perry City. Accordingly, any agent or representative of Perry City can inspect them, as well as any articles found within them, at any time, either with or without prior notice.

3.09.080 Solicitation

The following regarding solicitation:

1. In an effort to ensure a productive and harmonious work environment, persons not employed by Perry City may not solicit or distribute literature in the workplace at any time for any purpose.
2. Perry City recognizes that employees may have interests in events and organizations outside the workplace. However, employees may not solicit or distribute literature concerning these activities during working time. (Working time does not include lunch periods, work breaks, or any other periods in which employees are not on duty.)
3. In addition, the posting of written solicitations on Perry City bulletin boards is prohibited. Bulletin boards are reserved for official organization communications on such items as:

    a. Internal memoranda
    b. Job openings

c. Organization announcements
d. Payday notice
e. Workers' compensation insurance information
f. State disability insurance/unemployment insurance information

3.09.090 Drug Testing

The following regarding drug testing:

1. Perry City is committed to providing a safe, efficient, and productive work environment for all employees. Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. To help ensure a safe and healthful working environment, if a supervisor has reasonable suspicion to believe that an employee is using or is under the influence of drugs or alcohol on the job, the employee may be asked to provide body substance samples (such as urine and/or blood) to determine the illicit or illegal use of drugs and alcohol. Refusal to submit to drug testing may result in disciplinary action, up to and including termination of employment.
2. Copies of the drug testing policy will be provided to all employees. Employees will be asked to sign an acknowledgement form indicating that they have received a copy of the drug testing policy. Questions concerning this policy or its administration should be directed to the Senior Management.

3.09.100 Life-Threatening Illnesses In The Workplace

The following regarding life-threatening illnesses in the workplace:

1. Employees with life-threatening illnesses, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. Perry City supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, Perry City will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.
2. Managers and other employees have a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to disciplinary action, up to and including termination of employment.
3. Employees with questions or concerns about life-threatening illnesses are encouraged to contact Perry's Human Resources Director, or persons acting in this capacity for information and referral to appropriate services and resources.

3.09.120 Recycling

The following regarding recycling in Perry City:

1. Perry City supports environmental awareness by encouraging recycling and waste management in its practices and operating procedures. This support includes a commitment to the purchase, use, and disposal of products and materials in a manner that will best utilize natural resources and minimize any negative impact on the earth's environment.
2. Special recycling receptacles have been set up to promote the separation and collection of the following recyclable materials at Perry City:
    a. Computer paper
    b. White high grade or bond paper
    c. Mixed or colored paper
3. The simple act of placing a piece of paper into a recycling container is the first step in reducing demand on the earth's limited resources. Success of this program depends on active participation by all of us. Employees are encouraged to make a commitment to recycle and be a part of this solution.
4. By recycling, Perry City is helping to solve trash disposal and control problems facing all of us today.

3.09.130 Administrative Leave

Disciplinary action may include paid or unpaid administrative leave, depending on the circumstances, as per PMC Section 3.08.120.

3.10 Employee Grievances And Appeals

3.10.010 General Grievance Policy
3.10.020 Confidentiality
3.10.030 Filing

3.10.010 General Grievance Policy

The following regarding the general grievance policy:

1. Employees who perceive that they have a grievance against Perry City should exhaust the administrative procedure set forth in the body of this policy before addressing their grievance through any other forum. An employee may file a grievance about any perceived work related injustice or oppression resulting from an act occurrence, omission, condition, or unfair labor practice. Issues addressable throughout the grievance process include, but are not limited to:
    a. Employee-supervisor relationships.
    b. Duty assignments not affecting job classification.
    c. Shift and job location assignments.
    d. Working conditions.
    e. Practices affecting granting of leave.
2. Grievances should be resolved at the lowest administrative level possible. Employees and supervisors shall attempt to resolve grievances informally by discussing the grievance issues before any formal written grievance is filed. Each employee pursuing a formal grievance must prepare and submit a separate written grievance/appeal. Written grievances shall contain, at a minimum, the following information:
    a. Name of the employee.
    b. Date the occurrence or action underlying the grievance occurred.
    c. Nature of the grievance.
    d. Historical information related to the grievance.
    e. Requested resolution.
    f. Signature of the employee filing the grievance and date filed.
3. Employees will be allowed a reasonable amount of time during work to prepare written grievances. Employee grievances must be filed within ten (10) days of the occurrence or event giving rise to the grievance, or within ten (10) days of when the employee acquires knowledge of the occurrence or event giving rise to the grievance.
4. At each level of the grievance process, after an administrator has received an employee grievance, the administrator shall have ten (10) working days to respond in writing to the grievance.
5. If an administrator is unable to answer the grievance within the specified time period due to extenuating circumstances, the administrator may take an additional ten (10) working days to answer the grievance if they notify the employee in writing of the exigent circumstances and that the extension is being exercised. If the grievance remains unresolved or the decision is considered unacceptable, the employee may appeal the decision to the next level of appeal.
6. Absent exigent circumstances, if the supervisor fails to respond within the allotted time, the employee may proceed to the next level of appeal.
7. Only the issues presented in the original grievance may be considered throughout the appellate process. A grievance and any necessary appeals shall be processed through the following chain of command, if applicable:
    a. Immediate Supervisor.
    b. Department Head.
    c. City Administrator/Manager.
    d. Mayor. (Final Step for Temporary Employees)
    e. City Council. (Final Step for Regular & Introductory Full-Time and Part-Time employees)
8. The decision of the City Council constitutes the final decision of Perry City for Regular and introductory Full-time & Part-time employees and cannot be appealed, except by filing with the district court as otherwise allowed by law.
9. The decision of the Mayor constitutes the final decision of Perry City for Temporary Full-time & Part-time employees and cannot be appealed, except by filing with the district court as otherwise allowed by law.

*The provisions of Utah Code Annotated 10-3-1106, as amended, are incorporated herein by reference.

3.10.020 Confidentiality

Written Grievance Forms shall be private data under the government Records Access Management Act of the State of Utah. The Mayor or City Council may declare the grievance documents to be confidential and/or order the entire record, or any part of it, sealed.

3.10.030 Filing

The following regarding filing:

1. No document relating to a grievance shall be placed in the employee's personnel file.
2. If any disciplinary action against an employee is rescinded as a result of the grievance process, the Mayor, or designee, shall remove the record of the disciplinary action from the employee's personnel file.
3. If any disciplinary action against an employee is modified as a result of the grievance process, the unmodified record of the disciplinary action shall be removed from the employee's personnel file and the modified record of the disciplinary action shall be placed in the employee's personnel file.

3.11 Termination Of Employment

3.11.010 Types Of Termination
3.11.020 Retirement
3.11.030 Voluntary Resignation
3.11.040 Resignation Of An Involuntary Termination: Agreement
3.11.050 Involuntary Termination
3.11.060 Reductions In Force/layoffs
3.11.070 Required Notice Prior To Termination
3.11.080 Termination Procedures
3.11.090 Administrative Leave

3.11.010 Types Of Termination

Any involuntary termination or termination of any employee who is allowed to resign, in lieu of an involuntary termination, should be reviewed with legal counsel before termination is pursued or a resignation is accepted to ensure the employee's due process and property rights are not violated.

3.11.020 Retirement

Voluntary termination at the end of an employee's career.

3.11.030 Voluntary Resignation

The following regarding voluntary resignation:

1. Resignation is a voluntary act initiated by the employee to terminate employment with Perry City. Although advance notice is not required, Perry City requests at least two (2) weeks' written resignation notice from all employees. Failure to provide a 2-week notice of termination may result in forfeiture of any unused accrued vacation payment.
2. Prior to an employee's departure, an exit interview will be scheduled to discuss the reasons for resignation and the effect of the resignation on benefits.

3.11.040 Resignation Of An Involuntary Termination: Agreement

The Mayor, or designee, may conclude that an employee should be involuntarily terminated for no reason (for probationary employees and exempt Department Heads) or for cause. If Involuntary Termination proceedings have begun, but have not been completed and an employee suggests that they would like to voluntarily resign, the Mayor may agree to a Resignation In Lieu Of An Involuntary Termination Agreement.

3.11.050 Involuntary Termination

The Mayor, or designee, may conclude that an employee should be involuntarily terminated for no reason (for probationary employees and exempt Department Heads) or for cause.

3.11.060 Reductions In Force/layoffs

Whenever it is necessary to reduce the number of employees in Perry City because of lack of work or lack of funds, Perry City may attempt to minimize layoffs by readjustment of personnel through reassignment of duties in other work areas.

3.11.070 Required Notice Prior To Termination

The following regarding required notices prior to termination:

1. All employees, including at-will employees, must notify Perry City at least two (2) weeks before retiring or voluntarily resigning to be eligible, to receive pay for unused, accrued vacation leave (if applicable), and to be eligible for rehire.
2. Perry City does not have a requirement to give any prior notice to an employee before terminating their employment with Perry City.
3. Unused, accrued vacation leave (if applicable) will always be paid for terminations of employment involving Reductions in Force/Layoffs, Medical Reasons, and Deaths.

3.11.080 Termination Procedures

The following regarding termination procedures:

1. A Notice of Voluntary Resignation Form, signed by the employee and the Mayor, or designee, may be utilized in Voluntary Resignations.
2. Involuntary Terminations/Separations for Cause require Perry City to provide their terminating employees with written notification of due process. At-Will Involuntary Terminations (for probationary employees and exempt Department Heads) do not require Perry City to provide their terminating employees with written notification of due process.
3. A Resignation in Lieu of an Involuntary Termination Agreement, signed by the employee and the Mayor, or designee, may be utilized in negotiated terminations. A Resignation In Lieu of an Involuntary Termination Agreement does not require Perry City to provide their terminating employees with written notification of due process.
4. The following steps should be taken for Voluntary Retirements:
    a. Employees who desire retirement should notify Perry City three (3) months in advance.
    b. Perry City should communicate the status of each employee's retirement benefits. Upon request for retirement benefits, Perry City should notify the administrator of the retirement program and the appropriate state and federal regulatory agencies.
    c. Perry City should carefully explain to the employee what the options are (such as Cobra and Retirement Plan Options).
    d. Perry City should give the employee ample time to review the retirement plan.
    e. Perry City should have the employee sign a release, or at least a declaration statement, to the effect that they are electing retirement of their own free will.
5. All terminating employees should complete an Exit Interview Form with the Mayor, or designee. The Exit Interview Form should be signed by the employee and the Mayor, or designee.

3.11.090 Administrative Leave

Disciplinary action may include paid or unpaid administrative leave, depending on the circumstances, as per PMC Section 3.08.120.

4 General Revenue

4.01 Assessments
4.03 Sales And Use Tax
4.04 Municipal Energy Sales And Use Tax
4.05 Municipal Transient Room Tax
4.07 Index Of Annual Budget And Tax Rate Approvals (Reserved)
4.09 Comprehensive Fee Schedule

4.01 Assessments

4.01.010 Assessments

4.01.010 Assessments

All property within the corporate limits of the City which is or which may hereafter be made taxable for county or state purposes by the laws of the state, shall be assessed and taxed for municipal purposes. The assessment of all property taxable as aforesaid, and the collection of all general taxes levied for municipal purposes in the City shall be made in the manner now or which may hereafter be provided by the laws of the state for the assessment of property, for the collection of taxes for county and state purposes, and the redemption from tax sales.

4.03 Sales And Use Tax

4.03.010 Title
4.03.020 Purpose
4.03.030 Sales And Use Tax
4.03.040 Enactment Of Sales Tax Revenue Transfer For Transit Purposes
4.03.050 Violation And Penalty

4.03.010 Title

This Chapter shall be known as the Sales and Use Tax Ordinance of the City of Perry.

4.03.020 Purpose

The following regarding the purpose of this Ordinance:

1. The 48th Session of the Utah Legislature of Utah has authorized the counties and municipalities of the state to enact sales and use tax ordinances imposing a one percent tax.
2. It is the purpose of this chapter to conform to the sales and use tax of the municipality to the requirements of the Sales and Use Tax Act, Chapter 12 of Title 59, Utah Code Annotated, 1953, as currently amended.

4.03.030 Sales And Use Tax

The following regarding sales and use taxes:

1. From and after the effective date of the ordinance codified in this chapter, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of one percent. The following is also included:
    a. An excise tax is imposed on the storage, use or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of said ordinance at the rate of one percent of the sales price of the property.
    b. For the purpose of this chapter all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determined the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the City shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
2. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated, 1953, as amended, and in force and effect on the effective date of the ordinance codified in this chapter, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are adopted and made a part of this chapter as though fully set forth herein.
    a. Wherever, and to the extent that in Chapter 12 of Title 59, Utah Code Annotated, 1953, the state 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 the state, 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 incident to the administration or operation of this chapter.
    b. If an annual license has been issued to a retailer under Section 59-12-106 of the Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.
    c. There shall be excluded from the purchase price paid or changed by which the tax is measured:
    d. The amount of any sales or use tax imposed by the state of Utah upon a retailer of consumer;
    e. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the state under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act.

4.03.040 Enactment Of Sales Tax Revenue Transfer For Transit Purposes

In addition to the other sales and use taxes authorized by law, there is hereby established, approved, and levied a sales and use tax of 0.25% upon retail sales (and/or other applicable sales), as set forth in Utah Code Ann. Title 59, Chapter 12 (and subject to any exemptions identified therein), with said sales and use tax revenue to be transferred to the Utah Transit Authority as set forth in law and in the Interlocal Cooperation Agreement, which was approved by Resolution 08-02, on or about January 10, 2008.

4.03.050 Violation And Penalty

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount less than three hundred dollars ($300.00) or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

4.04 Municipal Energy Sales And Use Tax

4.04.010 Definitions
4.04.020 Municipal Energy Sales And Use Tax
4.04.030 Exemptions From The Municipal Energy Sales And Use Tax
4.04.040 Existing Franchise Not Affected - Limitations
4.04.050 Tax Collection Options
4.04.060 Incorporation By Reference
4.04.070 License To Collect And Reporting Requirements

4.04.010 Definitions

1. “Consumer” means a person who acquires taxable energy for any use that is subject to the municipal energy sales and use tax.
2. “Contractual franchise fee” means a fee:
    a. Provided for in a franchise agreement; and
    b. That is consideration for the franchise agreement; or
    c. A fee similar to subsection (2)(a) or (2)(b); or
    d. Any combination of subsection (2)(a) or (2)(b).
3. “Delivered value” means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
    a. The value of the energy itself; and
    b. Any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in useable form to each class of customer in the municipality;
    c. Delivered value does not include the amount of a tax paid under Part 1 or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.
4. “Energy supplier” means a person supplying taxable energy, except for persons supplying a deminimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.
5. “Franchise agreement” means a franchise or an ordinance, contract, or agreement granting a franchise.
6. “Franchise tax” means:
    a. A franchise tax;
    b. A tax similar to a franchise tax; or
    c. Any combination of subsections (a) or (b)
7. “Person” means and includes any individual firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicated, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
8. “Perry City” or the “City” means the municipal corporate limits of Perry City, Utah.
9. “Sale” means any transfer or title, exchange, or barter, conditional or otherwise, in any manner, or taxable energy for a consideration. It includes:
    a. Installment a. and credit sales;
    b. Any closed transaction constituting a sale; and,
    c. Any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.
10. “Storage” means any keeping or retention of taxable energy in Perry City for any purpose except sale in the regular course of business.
11. “Use” means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy. Use does not include the sale, display, demonstration, or trial or taxable energy in the regular course of business and held for resale.
12. “Taxable energy” means gas and electricity.

4.04.020 Municipal Energy Sales And Use Tax

There is hereby levied and imposed, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Perry City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the municipal energy sales and use tax.

1. Calculation. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
2. No preclusion. The tax shall be in addition to any sales or use tax on taxable energy imposed by the City authorized by Title 50, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

4.04.030 Exemptions From The Municipal Energy Sales And Use Tax

No exemptions are granted from the municipal energy sales and use tax, except as expressly provided in Utah Code Annotated §10-1-305(2)(b); notwithstanding any exemption granted in accordance with Utah Code Annotated §59-1-104. The following are exempt from the municipal energy sales and use tax, pursuant to Utah Code Annotated §10-1-305(2)(b):

1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated.
2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution.
3. Sales and use of taxable energy purchased or stored for resale.
4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 50, Chapter 13 of the Utah Code Annotated.
5. Taxable energy brought into the state by a nonresident for the nonresident’s own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase.
6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and, the sale of taxable energy for use outside the boundaries of the City.
7. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
8. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and,
9. The City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.

4.04.040 Existing Franchise Not Affected - Limitations

This chapter shall not alter any existing franchise agreements between the City and any other energy suppliers. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

1. The energy supplier pays the contractual franchise fee to Perry City pursuant to a recent franchise agreement;
2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
3. The energy supplier has accepted the franchise.

4.04.050 Tax Collection Options

Upon direction from the city council, the city administrator is authorized to implement one of the following methods of administration and collection of the Municipal Energy Sales and Use Tax:

1. State collection option. The City may contract with the Utah State Tax Commission to perform all functions necessary for the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this chapter and the state laws and regulations relating to the administration and collection of the municipal energy sales and use tax by the Utah State Tax Commission. The mayor is hereby authorized to enter into supplementary agreements with the Utah State Tax Commission necessary to effectuate the administration and collection of the Municipal Energy Sales and Use Tax set forth in this chapter.
2. Local collection option. The city administrator may coordinate with any energy supplier to pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to the City as agreed in writing between the City and energy supplier. The mayor is hereby authorized to enter into supplementary agreements with the energy supplier necessary to effectuate the administration and collection of the Municipal Energy Sales and Use Tax set forth in this chapter. An energy supplier paying the Municipal Energy Sales and Use Tax directly to the City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Utah Code Annotated §10-1-307(4).

4.04.060 Incorporation By Reference

1. Except as herein provided, and except insofar as they are inconsistent with the provisions of Utah Code Annotated §10-1-305 , as well as this chapter, all of the provisions of Part 1, Chapter 12, Title 50 of the Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this chapter, insofar as they relate to sales and use taxes, excepting Utah Code Annotated §§59-12-101 and 95-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.
2. Wherever, and to the extent that in Part 1, Chapter 12, Title 50, Utah Code Annotated 1953, as amended, the State of Utah is named or referred to as the “taxing agency,” the name of Perry City shall be substituted, insofar as is necessary for the purposes of that part, as well as Part 3 Chapter 1, Title 10, Utah Code Annotated 1953, as amended. Nothing in this subparagraph shall be deemed to require substitution of the name Perry City for the word “state” when that word is used as part of the title of the Utah State Tax Commission, or of the Constitution of Utah, nor shall the name of Perry City be substituted for that of the state in any section when the result of such substitution would require action to be taken by or against Perry City or any agency thereof, rather than by or against the Utah State Tax commission in performing the functions incident to the administration or operation of this chapter. Any amendments made to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to Perry City for the purposes of carrying out this chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

4.04.070 License To Collect And Reporting Requirements

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this chapter is required, provided the energy supplier collecting the tax has duly issued license under Part 1, Chapter 12, Title 59 of the Utah Code Annotated.

4.05 Municipal Transient Room Tax

4.05.010 Title
4.05.020 Purpose
4.05.030 Transient Room Tax Imposed
4.05.040 Penalties And Interest

4.05.010 Title

This Chapter shall be known as the "Perry City Municipal Transient Room Tax Ordinance."

4.05.020 Purpose

The Utah Legislature authorizes municipalities to adopt an ordinance that imposes a one (1%) percent transient room tax. It is the purpose of this chapter to conform this tax to the requirements of the transient room tax in accordance with Part 3A of Chapter 12 of Title 59, Utah Code Annotated, 1953, as amended, or its successor statute. In accordance with Utah Code Annotated §59-12-352(4), 1953, as amended, the transient room tax imposed by this chapter may be used for general fund purposes.

4.05.030 Transient Room Tax Imposed

The following regarding imposing the transient room tax:

1. There is hereby levied upon the business of every person, company, corporation, or other like and similar persons, groups or organizations, doing business in the City as motor courts, motels, hotels, inns or the like, and similar public accommodations, an annual license tax equal to one percent (1%) of the gross revenue derived from the rent for each and every occupancy of a suite, room or rooms, occupied for a period of less than thirty (30) days.
2. For purposes of this section, gross receipts shall be computed upon the base room rental rate. There shall be excluded from the gross revenue, by which this tax is measured:
    a. The amount of any sales or use tax imposed by the state of Utah or by any other governmental agency upon a retailer or consumer;
    b. The amount of any transient room tax or resort communities tax levied under authority of Section 3A of Chapter 12 of Title 59, Utah Code Annotated, 1953, as amended, or its successor statute;
    c. Receipts from the sale or service charge for any food, beverage or room-service charges in connection with the occupancy of the suite, room or rooms, not included in the base room rate; and
    d. Charges made for supplying telephone service, gas or electrical energy service, not included in the base room rate.
3. The City may collect on the same basis and schedule as established for the transient room tax being collected by the Utah State Tax Commission. Every person or business taxed hereunder shall report and remit to the "collecting officer" (that person or entity designated by the City Administrator as responsible for collection of taxes) the amount of tax due for the period covered by the report. Unless otherwise designated, the "collecting officer" shall be the City Treasurer.
4. The City may contract with the Utah State Tax Commission or other agencies to perform all functions incident to the administration and operation of this chapter and is further authorized to participate in such enforcement measures, including but not limited to levies and other penalties, as may be established by the Utah State Tax Commission.
5. The City Administrator is hereby authorized to implement this chapter and to fulfill the necessary notice requirements set forth in Utah Code Annotated §59-12-355, 1953, as amended, including any additional subsequent requirements set by statute or by regulation of the Utah State Tax Commission.

4.05.040 Penalties And Interest

In accordance with Utah Code Annotated §59-12-354(2)(c) and (4), 1953, as amended, there is hereby also imposed penalties and interest in amounts that are less than or equal to the penalties and interest rates authorized for the Utah State Tax Commission set forth in Utah Code Annotated §§59-1-401 and 59-1-402. As an additional penalty at the discretion of the municipality, any person, corporation, or entity violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount not less than $1,000 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

4.07 Index Of Annual Budget And Tax Rate Approvals (Reserved)

4.07.010 09-I (Final Budget Amendment For Fiscal Year 08-09), Approved 06/11/09.
4.07.020 09-J (Final Budget FY 09-10), Approved 06/11/09.
4.07.030 09-Q, Initialed Called 09-21 (Final Tax Rates And Budget FY 09-10), Approved 08/13/09.
4.07.040 10-I (Final Amended Budget FY 09-10), Approved 06/10/10.
4.07.050 10-J (Final Budget FY 10-11), Approved 06/10/10.
4.07.060 10-16 (Flat Tax Rate Adjustment), Approved 08/12/10.

4.07.010 09-I (Final Budget Amendment For Fiscal Year 08-09), Approved 06/11/09.
4.07.020 09-J (Final Budget FY 09-10), Approved 06/11/09.
4.07.030 09-Q, Initialed Called 09-21 (Final Tax Rates And Budget FY 09-10), Approved 08/13/09.
4.07.040 10-I (Final Amended Budget FY 09-10), Approved 06/10/10.
4.07.050 10-J (Final Budget FY 10-11), Approved 06/10/10.

4.09 Comprehensive Fee Schedule

4.09.010 Administration Fees
4.09.020 Building Fees And Impact Fees
4.09.030 Monthly Utility Fees
4.09.040 Annual Business License Fees
4.09.050 Land Use Application Fees
4.09.060 Excavation Permit Fees
4.09.070 Park And Building Use Fees
4.09.080 Parking Citations And Other Civil Penalties
4.09.090 Police Reports And Animal Control Fees

4.09.010 Administration Fees

Municipal Code:

Printed copy (all three main volumes, A to C)	$75.00
Print copy (per volume)	$25.00
Print copy: Public Works Standards Book (Title 76 of Vol. A)	$15.00
Digital copy (per CD or DVD, all three volumes)	$8.00

Copies: Including Documents, Maps, Etc.:

Black & White 8.5” X 11 or 11” X 14” per page	$0.25
Color Copies 8.5” X 11 or 11” X 14” per page	$0.75
Black & White 11” X 17”	$0.50
Color 11” X 17”	$1.50
Larger Sizes available by request	

Return Check Fee:

Return Check Fee	$30.00

Accounts Receivable Re-billing Fee:

Accounts Receivable Re-billing Fee	$2.00

Administration Re-billing Fee (For Utility Billings):

Administration Re-billing Fee (For Utility Billings)	$2.00

Certified Copy:

Certified Copy	$5.00

Notarize A Document:

Non-residents (per document)	$5.00
Residents (one document per resident per day)	No Charge

Copies Of Digital Data (CD or DVD):

Copies of digital data (CD or DVD)	$8.00+ staff time for research (after first 15 minutes)

Facsimiles:

First Page, Local Number	$1.00
Each Additional Page, Local Number	$0.50
First Page, Long Distance	$2.00
Each Additional Page, Long Distance	$1.00

Research, Compilation, Editing, Etc.:

First 15 minutes	No Charge
Additional Time Per Hour	$15.00

Audit:

First Copy	No Charge
Each Additional Copy	$10.00

Budget:

First Copy	No Charge
Each Additional Copy	$10.00

4.09.020 Building Fees And Impact Fees

Culinary Water Fees:

Meter Size	ERU Conversion	2015	2016	2017	2018	2019	2020-2025
0.75	1	$2,643	$2,665	$2,688	$2,711	$1,734	$2,760
1.00	1.67	$4,414	$4,451	$4,489	$4,527	$4,566	$4,609
1.50	3.33	$8,801	$8,874	$8,951	$9,028	$9,104	$9,191
2.00	5.33	$14,087	$14,204	$14,327	$14,450	$14,572	$14,711
3.00	10.67	$28,201	$28,436	$28,681	$28,926	$29,172	$29,449
4.00	16.67	$44,059	$44,426	$44,809	$45,192	$45,576	$46,008
6.00	33.33	$88,091	$88,824	$89,591	$90,358	$91,124	$91,989
8.00	53.33	$140,951	$142,124	$143,351	$144,578	$145,804	$147,188
Water Connection Fee: 3/4" Meter							$350.00
Water Connection Fee: 1" Meter							$440.00
Water Connection Fee: Meters large than 1" = Cost of Meter plus							$150.00+

Sanitary Sewer Fees:

Single Family Residential	$5,250.00
Multi-Family Per Dwelling Unit	$5,250.00
All Commercial Per ERU (Equivalent Residential Unit)	$5,250.00
Sewer Connection Fee	$50.00

Storm Water Fees:

Per ERU (Equivalent Residential Unit)	$4,251.87
Medium Density Residential, incl. 1/4 acre (0.42 Multiplier)	$1783.82
Mixed Use Residential (0.46 Multiplier)	$1967.59
Low Density Residential, incl. 1/3 acre (0.74 Multiplier)	$3148.15
Rural Residential, incl. 1/2 acre w/ animal rights (1.11 Multiplier)	$4722.22
Residential, incl. 1/2 acre without animal rights (1.25 Multiplier)	$5312.50
Agricultural, incl. 1 acre and larger (1.25 Multiplier)	$5312.50
Commercial, Manuf./Industrial, Civic, Institutional (Per ERU)	4,251.87

Park Impact Fees:

Single Family Residential	$2,000.00
Multi-Family Residential Per Dwelling Unit	$1,981.37

Public Safety Impact Fees:

Single Family Residential	$243.22
Nonresidential per Sq. Ft.	$0.12

Temporary Power Inspection Fee:

Temporary Power Inspection Fee	$55.55

Minimum Building Fee:

Minimum Building Fee (includes 1% State Fee)	$55.55

Plan Check Fees:

Residential (50% of Permit Fee)	50%
Commercial (65% of Permit Fee)	65%

State Fee:

State Fee (1% of Permit Fee)	1%

Deposit For Off-Site Improvements:

Deposit For Off-Site Improvements (Concrete work, etc.)	$500.00

Storm Water Connection Permit:

Storm Water Connection Permit	$30.00

Storm Water Construction Activity Permit:

Storm Water Construction Activity Permit	$30.00

Excavation Permit/Road Cut Fee:

Excavation Permit/Road Cut Fee (See PMC Chapter 4.09.060)	Varies

Amended by Ord. 15-A on 2/19/2015
Amended by Ord. 15-B on 2/19/2015

4.09.030 Monthly Utility Fees

Solid Waste (Garbage):

1st garbage can	$10.50
Each extra garbage can	$10.00
Garbage can replacement	$10.00

Culinary Water:

Deposit for account activation ($100 water and $100 sewer)	$200.00
Waived for residents of three years or more	
Single Family Residence	$15.00
Up to 10,000 gallons of water	
Up to 15,000 gallons of water if secondary water is not available	
Multi-Family Residence, Per Dwelling Unit	$15.00
Up to 10,000 gallons of water	
Up to 15,000 gallons of water if secondary water is not available	
First 100,000 gallons of water	$0.95
Water usage by contractor during construction of new residence	$50.00
Water usage by contractor during other construction	
First 100,000 gallons of water	$4.00/1000g
After first 100,000 gallons of water	$3.00/1000g
Damaged Meter Ring/Cover replacement	$60.00
Reconnection charge, if water is disconnected for non-payment	$50.00

Storm Water:

Storm Water (Single Family & Multi-Family Residential)	$4.00

Sanitary Sewer:

Single Family Residential	$41.50
Multi-Family Residential, per ERU	$41.50
Commercial, per ERU	$41.50

4.09.040 Annual Business License Fees

Home Business:

Home Business	$30.00
Conditional Use Permit also required for visiting clientele (See PMC Section 4.09.050)	

Professional Services/Contractor:

Professional Services / Contractor	$34.00

Wholesale/Retail Business:

Wholesale / Retail Business	$30.00

Big Box Stores:

Big Box Stores	$5,000.00

Construction:

Construction	$125.00

Automotive:

Automotive	$34.00

Gas Station/Convenience Store:

Gas Station/Convenience Store	$125.00

Food Sales/Fruit Stands:

Food Sales/Fruit Stands	$125.00

Large Scale Construction:

Large Scale Construction	$2,359.00

Live Performance:

Live Performance	$125.00

Movie Theater:

Movie Theater	$125.00

Public Lodging:

Public Lodging	$34.00

Rental:

Rental (Plus $10.00 Per Unit)	$41.00+

Storage Units:

Storage Units	$125.00

Truck Stop:

Truck Stop	$2,608.00

Restaurant:

Restaurant	$125.00

Animal Kennel:

Animal Kennel	$50.00

Amusement Machines:

Amusement Machines	$30.00 each

Vending Machines:

Vending Machines	$5.00 each

Temporary:

Temporary	$34.00

Class A Beer License:

Class A Beer License	$225.00

Class B Beer License:

Class B Beer License (if allowed by Title 5, bus. license ordinance)	$475.00

Public Exhibition:

Public Exhibition	$30.00 per day

Solicitors:

Solicitors (ID required for all participants)	$38.00/person

Late Fees:

Late Fees	+50% penalty

A 50% penalty (late fee) shall be added to all business license renewals received by the City after February 16th, penalties shall be assessed per Perry Municipal Code 5.01.060(4). There shall be no proration of fees for a new business license for a partial year.

4.09.050 Land Use Application Fees

Municipal Code:

Printed copy of General Plan & Land Use Ordinances (Vol. B)	$20.00
Digital copy (CD or DVD, Volume B and/or other volumes)	$8.00/disk

Zoning Map Amendment:

Zoning Map Amendment	$400.00

Annexation:

Annexation	$800.00

Easement Review:

Easement Review	$100.00

Subdivision and Site Plan (Design Review) Fees, Including Amendments:
Amendment Fees may be reduced by the Council, based upon Circumstances.

Concept Only Review (without City Engineer review), if desired	$50.00
Concept through Preliminary Approval (in addition to any Concept Only Rev.):	
Residential Subdivision	$100 plus $50 per lot
Commercial Subdivision	$500 plus $50 per lot
Site Plan/Other Non-Subdivision	$100 plus $200 per acre (or portion thereof)
Additional Fees through Final Approval:	
Residential Subdivision	$300 plus $125 per lot
Commercial Subdivision	$500 plus $125 per lot
Site Plan/Other Non-Subdivision	$300 plus $500 per acre (or portion thereof)
Additional Fees through Construction:	
Residential or Commercial Subdivision	$1500 plus $250 per lot

Site Plan/Other Non-Subdivision	$1500 plus $1000/acre (or portion thereof)
Additional Parks and Open Space Purchase Fees (for Subdivision):	2% appraisal
The Regular 2% Cash Purchase Fee (or the Optional 2% Land Donation Fee), for all	
Subdivisions, except for "Metes and Bounds" (and other 1 to 3 lot) Residential	
Subdivisions, as per PMC Section 12.03.150, to be paid before the plat is recorded	
"Metes and Bounds" Residential Subdivision (1 to 3 lots)	$400.00/lot

Vacate Fees:

Vacate a Street, Alley, Right-of-way, etc.	$300.00
Vacate a Subdivision (plus $100 per lot)	$200.00+

Limited Review Fees:

Sign Permit (plus building permit fee)	$50.00+
Residential Site Plan not in a Subdiv. (plus bldg. permit fee, etc.)	$200.00+

Conditional Use Permits:

Home Businesses Permits (with visiting clientele)	$100.00
(One time $70 CUP fee, plus $30 annual business license fee, as per PMC Section 4.09.040)	
Excavation Permit	$250.00
(plus any applicable excavation fees, as per PMC Chapter 4.09.060)	
Other (non-excavation) Permits	$250.00
(plus any applicable business license fee, as per PMC Chapter 4.09.040)	

Other Special Use Permit Fees:

Certificate of Existence for a Non-Conforming Use/Structure	$50.00
Other Non-Conforming Use/Structure Application	$150.00
Zoning/Boundary Policy Application	$150.00
Lot Line Adjustment	$400.00
Flag Lot or Other Special Exception or Special Use Application	$150.00

Land Use Appeals:

Land Use Appeals (All types)	$50.00

4.09.060 Excavation Permit Fees

Penetration of Asphalt:

One Thousand Dollars $1000.00 or $.40 per sq. ft., whichever is greater.
Five Hundred Dollars $500.00 may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards and within 15 days.

Penetration of Gravel Surfaces:

Five Hundred Dollars $500.00 or $.10 per sq. ft., whichever is greater.
Two Hundred Fifty Dollars $250.00 may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards.

Disturbance or Penetration of Curb and Gutter, Sidewalk, or Driveway Approaches:

One Thousand Dollars $1000.00 or $.60 per sq. ft., whichever is greater.
Nine Hundred Dollars $900.00 may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards.

Boring, Jacking Or Tunneling:

$50.00. No Refund.

Minimum Charge For Excavation (includes Boring, Jacking Or Tunneling):

Hard Surface	$60.00
Shoulder or Gravel Road	$40.00

Other	$20.00

Installation Of New Sidewalk, Curb And Gutter, And/or Driveway Approaches:

Curb & Gutter per lineal foot	$0.40
Sidewalk, Driveway Approaches per sq. ft.	$0.10
Minimum Charge	$30.00

"In Kind" Replacement Of Existing Sidewalk, Curb And Gutter, And/or Driveway Approaches (for Single Family Lots):

Minimum Charge	$30.00

Additional Fee For Cutting New Asphalt:

1 yr. old or newer	$150.00
1 yr. old to 2 yrs. old	$100.00
2 yrs. old to 3 yrs. old	$50.00

Additional Fee For Storm Sewer, Drainage And Water Pipelines:

Regular excavation fees, plus per lineal foot of pipeline	$0.40
Minimum Charge	$30.00

Fees For Multiple Excavations:

Multiple excavations shall be considered as a single excavation (for fee purposes) and shall be in accordance with the schedule(s) above if: (1) the distance between multiple excavations does not exceed one standard block (660 feet); and (2) the multiple excavations are accomplished within the same day. Otherwise, they shall be considered as separate excavations (for fee purposes).

Miscellaneous Excavation Or Fill — Private Development:

Minimum fees for the agency review and the permit and inspection of all on-site or off-site development related work shall be in accordance with the following schedule:

Import or Export: 1,000 cubic yards or more	$30.00 plus
Per cubic yard in excess of 1,000 cubic yards	$0.02
Trench excavation or Fill: Exceeding 4' in depth or height	$30.00 plus
Per linear foot of trench	$0.10

*Plus any applicable excavation fees, as per PMC Section 4.09.050.

4.09.070 Park And Building Use Fees

Deposit:

Deposit (for all events, unless waived; refundable if clean and no damage)	$50.00

Residents:

Residents (for up to 5 hours + $5.00 for each additional hour)	$25.00+*

* Plus a $50.00 deposit.

Non-Residents:

Non-Residents (for up to 5 hours + $7.00 for each additional hour)	$35.00*

* Plus a $50.00 deposit.

Non-Profit Organization, Including Large Events:

Non-Profit Organization, Including Large Events (for up to 5 hours + $7.00 for each additional hour; with deposit waived; preference to residents)	$35.00**

** No deposit.

Season Rates:

Season Rates (for residents only)	$1.00/hour*

* Plus a $50.00 deposit.

Community Party:

Community Party (block party) up to 16 weeks on a weekly basis	No Charge**

** No deposit.

The event (or series of events) must be sponsored by a current Perry City elected official.All residents are welcome. All events are on a Monday, Tuesday, Wednesday, or Thursday.

Only one set of "no cost" community parties may be scheduled at each park each year. Deposit waived.

Mayor/Council/Employee Event Rate:

Mayor/Council/Employee Event Rate	No Charge**

** No deposit.

No cost for one event per year (up to 5 hours reserved) per current Perry City elected official or employee, and then at the regular residential rate thereafter. A "Community Party" (sponsored by a current Perry City elected official) counts as this one event per year.

City-wide Event Rate:

City-wide Event Rate	No Charge**

** No deposit.

No cost to schedule the parks or buildings for City-wide, City-sponsored events, such as the Fourth of July celebration. All officially noticed City meetings shall have priority use of City buildings.

Responsibility For "Cleanup":

All individuals and groups are responsible to clean up after their events and activities. Refundable deposits may be kept by the City to pay for damage and/or cleanup. Perry City reserves the prerogative to not allow a certain individual or group to reserve any park or building after excessive damage and/or necessary cleanup.

4.09.080 Parking Citations And Other Civil Penalties

Storm Water Drainage:

Notice of Violation Issued, 1st Day, 24-hour remediation	No Charge
2nd Day	$100.00
3rd Day	$200.00
Each Subsequent Day	$200.00

Overtime Parking (Posted Or Metered) Violation:

If paid within 14 calendar days	$10.00
If paid after 14 calendar days, but within 30 calendar days	$40.00
If paid after 30 calendar days	$70.00

Disabled Parking Violation:

If paid within 14 calendar days	$100.00
If paid after 14 calendar days, but within 30 calendar days	$130.00
If paid after 30 calendar days	$160.00

Expired Or Improper Registration Violation:
Reduced $20.00 upon proof of registration.

If paid within 14 calendar days	$40 (*$20)
If paid after 14 calendar days, but within 30 calendar days	$70 (*$50)
If paid after 30 calendar days	$100 (*$80)

Restricted Parking Violations:

If paid within 14 calendar days	$30.00
If paid after 14 calendar days, but within 30 calendar days	$60.00
If paid after 30 calendar days	$90.00

All Other Parking Violations:

If paid within 14 calendar days	$20.00
If paid after 14 calendar days, but within 30 calendar days	$50.00

If paid after 30 calendar days	$80.00

4.09.090 Police Reports And Animal Control Fees

Municipal Code:

Printed copy of Police Code (Vol. C) and Animal Con. (Title 9)	$25.00
Digital copy (CD or DVD, Volume C and/or other volumes)	$8.00/disk

Administration, Including Copies Of Reports:

Missionary Clearance Letter	$1.00
Fingerprint, Residential	Not Available
Fingerprint, Non-Residential	Not Available
Incident Report (no pictures)	$20.00
Incident Report (with pictures)	$30.00

Animal Control Fines:

Restraint-First Offense	$70.00
Restraint-Second Offense	$100.00
Restraint-Third Offense	$200.00
Restraint-Fourth Offense	$1000.00
Expired Dog License	$65.00
Licensed Dog Not Wearing License (after one warning)	$40.00

Animal Impound Fees charged by animal shelter will be passed on to the animal owner.

Animal Kennel: license required for each dog, plus ann. Bus. Lic. fee (PMC Section 4.09.040); and only allowed in certain zones (PMC Chapter 15.07.100 – Land Use Chart, page 1).

Annual Animal Licenses:

Dog, Unneutered or Unspayed	$20.00
Dog, Neutered or Spayed	$8.00
Duplicate or Replacement License	$3.00
Additional Dog License Late Fee After January 31st	$10.00

As per PMC Section 9.05.080, there is no proration of fees for a new license for a partial year. Fees are waived for puppies being trained for guide schools or police service dogs.

5 Business Licenses And Regulations

5.01 Business Licensing
5.03 Alcohol Beverages
5.05 Residential Solicitation
5.07 Apartment House, Duplexes And Mobile Home Parks
5.09 Fees
5.11 Sexually Oriented Businesses

5.01 Business Licensing

5.01.010 Unlawful To Operate A Business Without A License.
5.01.020 Definitions
5.01.030 Adoption Of Study And Determination
5.01.040 Uniform Business License Regulations
5.01.050 Business License Application
5.01.060 Business License Fees
5.01.070 Exceptions To The Business License Fee
5.01.080 Licensing Authority, Review Authorities, And Other Authorities
5.01.090 Procedure For Business License Approval
5.01.100 Inspection And Enforcement Authority
5.01.110 License Denial And Revocation
5.01.120 Notice Of Issuance Or Denial
5.01.130 Appeal Authority
5.01.140 Penalties
5.01.150 Severability

5.01.010 Unlawful To Operate A Business Without A License.

In accordance with Utah Code Annotated §10-1-203(2), 1953, as amended, or its successor statute, the City hereby prescribes that all businesses operating in the City shall be licensed for the purpose of regulation and revenue and shall also be subject to any applicable regulations established by ordinance. It shall be unlawful for any person to engage in any business or similar operation within the City, whether on a temporary or permanent basis, without first procuring the license required by this chapter. All licenses issued under the provisions of this title are non-transferable and expire as set forth in this title.

5.01.020 Definitions

In addition to the definition set forth in Utah Code Annotated §10-1-203, 1953, as amended, for the purposes of this title, the following additional definitions apply:

1. Apartment: Apartment means a habitable residential unit that was duly approved by the municipality that is rented by its owner for residential occupation. For the purposes of this title, this definition does not apply to an apartment consisting of two units or less where the property owner occupies one of the units or the same premise as the tenant(s), notwithstanding that the owner complies with the other applicable relevant portions of the land use ordinances.
2. Appeal Authority: Appeal authority means the land use Appeal Authority (an official or board), acting as a business licensing Appeal Authority, and charged with hearing and acting upon either:
    a. an appeal of a final action or decision of the municipal licensing authority (which is a final action or decision by the Community Development Director); or
    b. an appeal of a final action or decision of a “review authority” (which is a final action or decision by the City Council or Special Uses and Appeals Board).
3. Ceremonial Authority: Ceremonial authority means the Mayor’s role in signing each temporary, standard, or special business license, certifying that each process is complete and that it complies with the City’s ordinances.
4. City or Municipality: City or municipality means the municipal boundaries constituting the City limits of Perry City, Utah.
5. Home Occupation: Home occupation means any income-producing use conducted within the home and carried on by persons residing in the home, which use is clearly incidental and secondary to the use of the dwelling and does not change the residential character. The home occupation typically allows the home to be used for maintaining a business telephone and receiving mail. In addition to the licensing provisions of this title for a home occupation, the applicant shall also comply with the applicable requirements of the land use ordinances.
6. Inspecting and Enforcement Authority: Any federal, state, county, or local authority that may inspect, investigate, or enforce upon a business compliance with any governing law. The inspection and enforcement authority has the ability to issue citations or seek other remedy for a violation of law under its respective jurisdiction. Any law enforcement officer of any jurisdiction shall be considered an ex-officio inspection and enforcement authority under this title.
7. Licensing Authority: Licensing authority means the City authority designated to administer this title, issue a business license, or review and/or revoke the license of a business operating in the City. The “licensing authority” shall include (1) a “licensing officer” designated by and operating under the direction of the Community Development Director, and (2) the Community Development Director who, in consultation with the City Attorney, may overrule any action or decision of the “licensing officer.” The“ licensing officer” shall be a City Planner, Assistant City Planner, or a member of the Community Development Department Staff unless otherwise designated). The licensing authority shall take final action on all business licenses, other than those for which a “review authority” is designated (in which case, the licensing authority takes initial action and recommends, and the review authority reviews and takes final action.
8. Municipal Services: Municipal services is defined by Utah Code Annotated §10-1-203(5)(b)(i).
9. Regulating Authority: Regulating authority means any federal authority, state authority, local authority, or professional organization that must first license an individual or business prior to receiving a business license. The regulating authority includes such entities as the Utah Division of Occupational and Professional Licensing, the local health department, the Utah State Bar, the fire Marshall or related designee, the local planning commission, any land use authority, and similar authorities.
10. Person: Person means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.
11. Review Authority: Review authority means the City authority designated to render final review and action on certain new, temporary, or special business licenses, after a recommendation from (and initial action by) the licensing authority.
12. Special License: Special license means any business license issued for a home occupation with visiting clientele, excavation operation, any other business requiring a conditional use permit, a sexually oriented business, a business engaging in the sale of alcohol or beer, a business engaging in the handling or use of hazardous material or explosives (and/or engaging in ultra-hazardous activities), a business leasing or renting residential apartment building(s) or house(s), or any other type of business designated in the municipal code as a “special business.”
13. Temporary License: Temporary license means any business license issued for a period of forty five (45) calendar days or less. “First class temporary license” means any temporary license for which twenty (20) or more people are likely to be present at any given time "Second class temporary license” means any temporary license for which less than twenty (20) people are likely to be present at any given time. Each residential solicitor is required to:
    a. Obtain a second-class temporary license; and
    b. Meet the requirements of Chapter 5.05.

5.01.030 Adoption Of Study And Determination

1. Study adopted. The Business License Fee Analysis prepared by Lewis, Young, Robertson & Burningham dated December 2008 (hereafter referred to as the “Study”), is hereby adopted and incorporated herein by this reference.
2. Determination. In accordance with Utah Code Annotated §10-1-203(5), the city hereby determines what constitutes basic, disproportionate, and enhanced levels of municipal service as set forth in the Study based upon the amounts reasonably related to the costs for municipal services as identified in the Study.

5.01.040 Uniform Business License Regulations

The following regarding uniform business license regulations:

1. Applicability: The following types of businesses are required to obtain a license before engaging in such business within the City:
    a. Any business, with license fees to be based upon the classification of the business.
    b. Any temporary business.
    c. Any home occupation.
    d. A residential solicitor.
    e. A business leasing or renting residential apartment building(s) or house(s).
2. Classification: All businesses shall be classified by the licensing authority, and any license fees shall be uniform in respect to the class upon which they are imposed.
3. Applicability of other Laws: The issuance of a business license to a business does not warrant that the business has conforms of all applicable laws, it is the continuing duty of the business owner to ensure that the business is operating within the law. Businesses in the City shall comply with the other applicable laws and ordinances that govern the business, including:
    a. The applicable federal, state, and local law.
    b. Applicable regulations enforced by any regulating authority.
    c. Land use ordinances.
    d. Applicable building and fire codes.
4. Posting License Required: It shall be the duty of any person conducting a licensed business in the City to display the business license issues by the City. Such license shall be posted in a prominent place on the premises used for such business at all times.
5. Unlawful Uses of a License: It is unlawful to do any of the following with a business license certificate:
    a. Counterfeit a license certificate.
    b. Deface or mutilate a license certificate that is required to be posted
    c. Steal or otherwise remove a license certificate.
    d. To sell or otherwise transfer any license certificate to another.
    e. To use a license beyond the scope for the business for which it was issued.
6. License Period: All licenses will be issued on a calendar year basis and shall expire as of December 31 of the issuing year. Licenses, except for solicitors, temporary licenses, and newly established businesses, shall be due and payable on or before January 1 of the current calendar year in which the license has been applied for. Late fees shall be assessed after January 1. Solicitors and temporary licensees must obtain a license upon conducting their first job or business transaction within the City for the current year. New businesses must obtain a license before conducting such business.
7. Branch Establishments: A separate license must be obtained for each branch establishment or separate location of a business engaged within the City, as if such branch establishment or location were a separate business. Each license authorizes the licensee to engage only in the business licensed at the location and in the manner designated in such license.
8. Separate Businesses on Same Premises: Where two or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and must pay the required license fee for such business.

5.01.050 Business License Application

The following regarding business license applications:

1. Application Form and Filing: An application for a business license shall be made in the form and manner provided by the licensing authority and shall be filed with the City's licensing authority.
2. Application Contents: The application shall include the following:
    a. Provide the name and location of the business.
    b. State the name of the applicant.
    c. State the type of entity under which the business is organized.
    d. If an entity registered, incorporated or organized with the Utah Department of Commerce, specify the name and address of the registered agent with Utah Department of Commerce who is authorized to receive service of process and any communication regarding the applicant's license.
    e. Provide the state sales tax reporting number and federal tax identification number, as applicable.
    f. Provide the state contractor's license number, state real estate broker's license number, or other professional license number issued by the state or a regulating authority, if applicable.
    g. Provide information relating to the purpose and general operation of the business, including:
        i. Its primary operation and function.
        ii. The number of employees.
        iii. Building square footage, site frontage, and dimensions of its building and grounds, as needed.
        iv. Whether is engages in the sale of alcohol or beer.
        v. Whether it is a home occupation.
        vi. Whether is engages in the handling or use of hazardous material or explosives (and/or engaging in ultra-hazardous activities).
        vii. Emergency contact numbers and related information.
    h. Any additional information required by the licensing authority on the application to assist in the regulation of a business or as may be needed for the purpose of issuing the license.
3. Business to Provide Updated Information: The applicant or his designee is responsible to provide to the licensing authority, in writing, updated information relating to any change in the information in the application within ten (10) days of the change.

5.01.060 Business License Fees

The following regarding business license fees:

1. Any business license fees imposed and levied shall be on a annual basis by the classifications of businesses specified the Business License Fee Schedule, in the amounts described therein, and shall administered as follows:
2. Fees may be established by Resolution: The Business License Fee Schedule may be adopted by resolution based upon the basic level of services, disproportionate costs, and enhanced costs of regulating each class of business.
3. Applicant to Pay License Fee: Any applicant must include the fee with any application upon filing of an application. The fee shall be in an amount equal to the fee designated on the Business License Fee Schedule for the classification of the business as assigned by the licensing authority. Annual renewal fees shall be made in the same manner. No license shall issue until all fees are paid. The applicant of a new business starting after January 1 shall be issued a business license for the unexpired

portion of the calendar year and may request the license fees be prorated according to the remainder of the calendar year if such a request for prorated fees is made contemporaneous with filing the application and license fee.

4. Late Fees: The following late fees apply to any person who engages in business prior to submitting a completed application and payment of all fees or fails to renew a license after such expires:
    a. Within thirty (30) days of the fee due date, the late fee shall be the license fee plus twenty five (25%) percent of the total specified fee for said license.
    b. After thirty (30) days of the fee due date, the license or renewal fee shall be double the total specified fee for said license. This fee and late fee shall continue to accrue for each year the business operates without a license, except where such accrual is waived for good cause.
    c. Any license fee due and unpaid under this Title, and all penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.
    d. Any license fee, and all late fees and penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.
    e. The payment of late fees does not relieve any person from fully complying with all other requirements of law, nor from any other prescribed penalties.
5. Refund Policy: Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever, once the license has been issued. If a license is denied or the application is withdrawn by applicant before approval, the applicant shall be entitled to a refund of the amount paid in excess of $75.00 which shall be retained to offset application processing costs.
6. Grandfather Clause: If no study has been conducted for the purpose of basis of setting a disproportionate and/or enhanced fee schedule, then the fee schedule in place prior to the adoption of this ordinance shall remain effective until such study is adopted by the City Council.

5.01.070 Exceptions To The Business License Fee

No business license fee shall be imposed under this Chapter upon the following persons or businesses:

1. Any person engaged in business for solely religious, charitable, eleemosynary, or other types of strictly non-profit purposes who is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any business license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah; nor shall any business license fee be imposed on any non-profit corporation duly incorporated according to the provisions of the Utah Non-Profit Corporation and Cooperative Association Act.
2. Any business or person exempted by state law.
3. Any contractor holding a valid license issued or exempt in the local jurisdiction in which the licensee has its principal place of business, and regulated by the state in accordance with Part 3, Chapter 55, Title 58 of the Utah Code Annotated.
4. Any alarm company holding a valid business license issued by the local jurisdiction in which the licensee has its principal place of business.
5. Any tow truck motor carrier holding a valid business license to perform tow truck service issued by the local jurisdiction in which the licensee has its principal place of business unless the tow truck business is also physically located in the City.
6. Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such sales are held infrequently.

5.01.080 Licensing Authority, Review Authorities, And Other Authorities

The City Council hereby designates the following (business) licensing authority and (business licensing) review authorities:

1. Licensing Authority: As defined in Section 5.01.020(7) herein, the licensing authority consists of a licensing officer and the Community Development Director. The licensing authority is required to administer the provisions of this title, and shall:
    a. Receive initial license applications and fees files with the City and forward to the mayor for action with fees being forwarded to the appropriate financial officer.
    b. Classify the business within the appropriate fee schedule based upon the information supplied in the application, and as such information may be supplemented by the inspection and enforcement authority.
    c. Request that the applicant provide additional information when questions arise or to verify the accuracy of information offered in an application or relating to an existing business license.
    d. Coordinate initial inspections, investigations and enforcement with the inspection and enforcement authority.
    e. Bill and collect renewal license information and fees and forward all fees to the designated financial officer.
    f. Maintain municipal records and information regarding business licenses.
    g. Forward any information or matters involving action on a business license to the appropriate authority.
    h. Issue business license certificates. Also included:
        i. Following license approval a certificate shall be prepared and signed by the mayor and/or licensing officer of business licenses.
        ii. The certificate shall:
            (1) Be issues under the seal of the City.
            (2) Specify by name the person, firm, or corporation to whom it is issued.
            (3) Designate the location where the business shall be conducted.
            (4) Specify the classification of the business and license number.
        iii. Signed licenses shall be mailed to the address indicated on the application within a reasonable time after approval.
    i. Communicate matters involving business licenses and related concerns to the "review authorities" (New Business License Review Authority and Special Business License Review Authority), as applicable.
    j. Forward enforcement matters to an inspection and/or enforcement authority.
    k. Notify the applicant, licensee, or other interested party of the status or any action relating to an application or license.
2. Business License Review Authorities: As defined in Section 5.01.020(11) herein, the review authority for a business license is the City authority designated to render final review and action on certain new, temporary, or special business licenses, after a recommendation from (and initial action by) the licensing authority.
    a. New Business License Review Authority (City Council): Each new application for a "standard business license" filed with the licensing officer shall be such submitted to the City Council for final review and action (approval or denial) within a reasonable time. Annual license renewals for "standard business licenses" do not require the City Council's approval. The City Council also provides final review and action for "first class temporary licenses." "Second class temporary licenses" do not require the City Council's approval.
    b. Special Business License Review Authority (Special Uses and Appeals Board): Each new application or annual renewal for a "special business license" filed with the licensing officer shall be such submitted to the Special Uses and Appeals Board for final review and action (approval or denial) within a reasonable time.
    c. Appeal Authority: As defined in Section 5.01.020(2), "Appeal Authority" means the land use Appeal Authority (an official or board), acting as a business licensing Appeal Authority, and charged with hearing and acting upon either: (a) an appeal of a final action or decision of the licensing authority; or (b) an appeal of a final action or decision of a "review authority," as per the chart set forth in Section 5.01.090 herein. See also Section 5.01.130 herein, as well as Section 23 in the Data Base of Land Use Ordinances.
    d. Ceremonial Authority: As defined in Section 5.01.020(3), "Ceremonial Authority" means the Mayor's role in signing each temporary, standard, or special business

license, certifying that each process is complete and that it complies with the City's ordinances.

5.01.090 Procedure For Business License Approval

Type of Business License Application* (Administrative Action)	Initial Business License Authority	Final Business License Authority	Appeal Authority
1.Second Class Temp. Bus. Licenses; Standard Business License Renewals	———	Licensing Authority (C.D.Dep./ Staff)	Special Uses/Appeals Bd.
2. New Standard Business Licenses; First Class Temporary Bus. Licenses	Licensing Authority (C.D. Dep./ Staff)	Review Authority City Council	Special Uses/Appeals Bd.
3. New Special Business Licenses for Conditional Use Permits	Licensing Authority (C.D. Dep./ Staff)	Review Authority Planning Commission	Special Uses/Appeals Bd.
4. New Special Business Licenses for other than CUP's; All Special Business License Renewals	Licensing Authority (C.D. Dep./ Staff)	Review Authority Special Uses/Appeals Bd.	Administrative Law Judge
5. Business License Reviews, Suspensions, or Revocations (outside of regular first timeor annual renewal process)	Same as First Time or Annual Renewal Process	Same as First Time or Annual Renewal Process	Same as First Time or Annual Renewal Process

* Or for an amendment, modification, enlargement, or revocation of said type of application, unless otherwise indicated. The Mayor shall sign each temporary, standard, or special business license, certifying that each process is complete.

5.01.100 Inspection And Enforcement Authority

The Community Development Director may designate one or more inspection and enforcement authorities to administer the provisions of the municipal code for any proposed or existing businesses within the jurisdiction of the municipality. Any officer designed as inspection and enforcement authority shall be responsible to:

1. Conduct Code Inspections: Inspections may be conducted by the inspection authority as follows:
    a. Prior to the issuance of a new business license at a given location, or a business with a change to its application, the applicant shall permit inspection of the business premise by any regulating authority and by the inspection and enforcement authority to ensure compliance with the law and the municipal code.
    b. Ongoing inspection of any business or business premises may be conducted by any regulating authority or by the inspection and enforcement authority any time during business hours, or as otherwise arranged, in ensure ongoing compliance with the municipal code and other applicable law.
2. Conduct Investigations: Investigations may be conducted relating to any proposed business to verify the accuracy of the information relating to its application, or responding to issues and complaint relating to any existing business operation.
3. Coordination: Coordinate investigations and enforcement with the licensing authority.
4. Violations and remedies: Any regulating authority or inspecting and enforcement may:
    a. Issue a notice of violation to the business in the City for a violation of law.
    b. Issue a certificate of non-compliance and require a corrective action plan for any business in the City for a violation of the law.
    c. Issue a citation to the business or any person at the business who has allegedly violated the law.
    d. Seek administrative, injunctive, or other relief allowed by law.
5. Recommend to the licensing review authority that a business license be suspended or revoked.
6. Cause for suspension or revocation. It is cause for business license suspension or revocation for any business to:
    a. Violate local building, fire, and health codes.
    b. Violate occupational and safety laws and regulations.
    c. Violate applicable provisions of federal law, state law, or the municipal code.
7. Suspension or Revocation: Forward matters involving business license suspension or revocation to the appropriate review authority.

5.01.110 License Denial And Revocation

The City's licensing authority and review authorities have cause to deny, suspend, or revoke a business license if the applicant:

1. Obtained a license by fraud or deceit.
2. Otherwise provided false or incomplete information on its license application to mislead any City official, the licensing authority, a regulating authority, or the inspecting and enforcement authority.
3. Failed to update its information on its application as provided in this Title, or failure to fully pay required fees.
4. Failed to pay any duly imposed property taxes, other taxes, or fees imposed by the City.
5. Failed to meet the requirements for issuance of a license set forth in the municipal code.
6. Has violated federal, state, county, or local law governing operation of the business for which the applicant is applying for the license.

5.01.120 Notice Of Issuance Or Denial

The licensing authority shall notify the applicant of:

1. The Issuance of the License: Notification is fulfilled by mailing the license certificate to the address indicated upon the business license application of the business.
2. The denial, suspension, or revocation of a license and the reason for such action.

5.01.130 Appeal Authority

Any person may appeal a decision made under this chapter to the administrative hearing officer or appeal authority by filing a written appeal within ten (10) days of the decision. As defined in Section 5.01.020(2), the designated Appeal Authority shall hear and decide the appeal of any final action or decision of any licensing authority or review authority, including any matter involving the denial, revocation, suspension, disputed classification, or other unresolved issue relating to a business license, as per Sections 5.01.080 and 5.01.090 herein. An appeal shall:

1. Not be heard by an Appeal Authority until after the Community Development Director or review authority has taken a final decision or action.
2. Be filed by a written notice of appeal filed with the licensing authority within ten (10) days of the notice of a classification, denial, suspension, or revocation, or any

other decision or action by a licensing authority or review authority.

3. Have no appeal fee, but all applicable license fees should have already been paid by the deadline as a pre-requisite to the appeal (but the fees are potentially refundable, as decided by the appeal authority).
4. Be heard by the Appeal Authority within a reasonable time after the filing of the notice of appeal.
5. Require that the designated Appeal Authority shall follow the same applicable rules and regulations used as a land use Appeal Authority, as such appropriately apply, as set forth in the Perry Municipal Code, Chapter 15.05, Rules of the Perry City Land Use Authorities and Appeal Authorities).
6. Require that decisions of an Appeal Authority become effective immediately (assuming the Appeal Authority issues an oral decision at a public meeting); otherwise, decisions of an Appeal Authority become effective as soon as they are made available in writing or to the public.
7. Require that no lawsuit may be filed in District Court by any business or applicant for any denial, suspension, or revocation of a business license, or any other decision or action by a licensing authority, review authority, or Appeal Authority, until the administrative appeal remedies of this section are exhausted. An appeal to District Court may only be made within 30 calendar days of the final decision or action of the appropriate appeal Authority (or as otherwise allowed by law), which is the final decision or action of the City. If the thirtieth day is a Saturday, Sunday, or holiday, then an appeal can be made on the next day the Court Clerk's office is open.
8. Consist of the Special Uses and Appeals Board or the Administrative Law Judge.
9. Hear and decide all appeals under this chapter.
10. Act in a quasi-judicial manner and serve as the final arbiter of issues involving the interpretation or application of applicable law.
11. Exercise other powers and duties prescribed by law or assignment.
12. General Provisions. No person may challenge in district court any decision of the municipality or its enforcement officer(s) until that person has complied with the appeal procedure of this chapter and has exhausted all administrative remedies. No adversely affected party shall present a theory of relief in district court that was not first presented to the appeal authority. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the appeal authority as a condition of the adversely affected party's duty to exhaust administrative remedies.

5.01.140 Penalties

In addition to the other penalties provided by law for a violation of this title, the following penalties apply:

1. Civil penalties: Engaging in business activities in violation of this title there is imposed a warning for first offenses, $100 fine for second offenses, $500 fine for third offenses, and $1,000 for each subsequent offense.
2. Criminal Penalties: Engaging in business activities in violation of this title is a class B misdemeanor, and each day a violation continues constitutes a separate offense.

5.01.150 Severability

In the event that any provision of this chapter is declared invalid for any reason by a court of competent jurisdiction, then the remaining provisions shall remain in full effect.

5.03 Alcohol Beverages

5.03.010 Definitions
5.03.020 Identification Of License Classifications
5.03.030 Authorized License Classifications And License Fees
5.03.040 Licensing Requirements
5.03.050 Inspection And Enforcement
5.03.060 Restrictions
5.03.070 Suspension And Revocation
5.03.080 Appeals
5.03.090 Penalties

5.03.010 Definitions

The following definitions apply in this chapter:

1. The definitions set forth in Utah Code Annotated §32A-1-105, 1953, as amended, or its successor statute, are adopted and incorporated herein by this reference.
2. “Alcohol or alcoholic beverage” means both “beer” and “liquor” collective when referenced in this chapter, unless otherwise distinguished.
3. “Alcoholic Beverage Control Act” means Title 32A of the Utah Code Annotated, or its successor statute.
4. “Enforcement officer” means any law enforcement officer or the person designated by the City Administrator to enforce this chapter.
5. “Local authority” means the Perry City and its enforcement officers.
6. “Licensing authority” means the local official designated by the local authority to issue business licenses, or the city recorder in absence of such official.

5.03.020 Identification Of License Classifications

In accordance with Utah Code Annotated §32A-10-101, licenses to sell an alcoholic beverage issued hereunder shall be of the following six (6) classes and shall carry the following privileges:

1. Class “A” retail licenses issued hereunder shall entitle the licensee to sell on the premises licensed in original containers for consumption off the premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of the local authority.
2. Class “B” retail licenses (for restaurants) shall entitle the licensee to sell a patron alcohol, a maximum of two (2) alcoholic beverages per customer, to be served on the premises for consumption by the patron on the premises in conjunction with the sale of food in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority, as per Utah Code Section 32A-1-105(54), cited as follows:
   Restaurant" means a business establishment:
   a. where a variety of foods are prepared and complete meals are served to the general public;
   b. located on a premises having adequate culinary fixtures for food preparation and dining accommodations; and
   c. that is engaged primarily in serving meals to the general public.
3. Class “C” retail license shall entitle the licensee to sell draft beer for consumption on or off the premises and to sell beer in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority.
4. Class “D” retail license shall entitle the licensee to sell alcohol for consumption on or off the premises in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority.
5. Class “E” retail or wholesale license shall entitle the licensee to sell an alcoholic beverage in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority.
6. Class “F” a temporary license of any class issued for a period of time not to exceed one (1) year.

5.03.030 Authorized License Classifications And License Fees

The local authority shall only issue a license to sell alcohol for the license classifications authorized in this section. In accordance with Utah Code Annotated §32A-11-102(2)(b), in addition to business license fees imposed by the local authority, including any accrued late fees, an annual application/license fee for the sale of alcohol is hereby imposed as set forth in this section. In the event that the local authority is required to issue a license for the sale of alcohol to an applicant by a governing authority or jurisdictional court, the annual application/license fee shall be paid as follows. The annual application/license fee for all other classes of licenses is also as follows:

1. Class “A” License: $225.00 for the initial application and each annual license renewal.
2. Class “B” License: $475.00 for the initial application and each license annual renewal.
3. Class “C” License: No Class “C” licenses are authorized by the local authority.
4. Class “D” License: No Class “D” licenses are authorized by the local authority.
5. Class “E” License: No Class “E” licenses are authorized by the local authority.
6. Class “F” Temporary License: No Class “F” or similar temporary-type licenses are authorized by the local authority.

5.03.040 Licensing Requirements

1. License required. It is unlawful for any person to engage in the business of selling an alcoholic beverage within the city without first obtaining the licenses required by this chapter.
2. Administration. The city recorder shall administer this chapter under the direction of the city administrator.
3. Application and fee. Any person seeking a license to sell an alcoholic beverage shall submit a written application to the city recorder as provided for in this chapter which shall be accompanied by the appropriate application/license fee required. All but $100.00 of the application/ license fee is refundable in the event that the application is denied (the $100.00 nonrefundable amount is to cover the time and expense to process the application). However, the applicant is given thirty (30) days after notice from the city of a deficiency to cure a denied or defective application without the requirement of repayment of the application/ license fee.
4. Information required. All applications for a license to sell an alcoholic beverage shall be made in writing upon the form provided by the city recorder. The application shall state:
   a. The name of the person desiring a license to sell an alcoholic beverage.
   b. The name of the business.
   c. The location where business is to be conducted.
   d. The names of all partners holding more than a twenty percent (20%) interest in the business.
   e. The class of license sought.
   f. Other information specified on the application as determined by the city administrator, or any other information required by ordinance or statute.
5. Review and approval. An application that complies with this chapter shall be issued by the city recorder after review and approval by the licensing authority. An application that does not meet the requirements of this chapter shall be denied by the licensing authority.

6. License owner. A license for the sale of alcohol is issued in the name of the business operator or owner rather than the name of the business. In the event of a change of the business operator or ownership, a new application and license is required along with a $25.00 processing fee (this fee is to cover the time and expense to process the application, and avoids the unnecessary expense of an additional annual business license fee).
7. Nontransferable. Licenses issued under this chapter are not transferable.
8. Renewal. A license issued under this chapter shall be renewed annual in conjunction the renewal schedule for business licenses.
9. Display. The holder of a license issued under this chapter shall display in a conspicuous location the licensee issued by the licensing authority along with any license issued by governing state agency for the sale of any alcoholic beverage.
10. Time limit on operation. If a holder of a license issued under this chapter fails to open or to conduct business within the jurisdiction of the local authority for a period of one (1) year after issuance of the license, then said license is void and a new application and fee must be submitted and approved by the licensing authority.

5.03.050 Inspection And Enforcement

The licensing official or enforcement official may conduct an inspection regarding any license issued under this chapter to assure compliance with applicable law. The holder of a license issued under this chapter, by accepting said license, irrevocably consents to allow the inspection and search of the licensed premises by any the licensing officer and/or the enforcement officer for any alcoholic beverage or for any other goods illegally possessed or kept, or for any evidence of any alleged alcohol related crime under investigation by law enforcement. The licensee further consents to the seizure of alcohol that exceeds that classification limits set upon the license holder or alcohol related property in violation of this chapter.

5.03.060 Restrictions

The following restrictions in this section apply to all license classes and persons.

1. State law. It is unlawful to sell alcohol in violation of the Utah Alcoholic Beverage Control Act, or its successor.
2. Municipal code. It is unlawful for a applicant or licensee to violate the municipal code or any terms of the license issued under this chapter.
3. Limits on hours. It is unlawful for a person or any class of licensee to sell or otherwise furnish a patron or other person with an alcoholic beverage during the hours from one o'clock (1:00) A.M. to six o'clock (6:00) A.M.
4. Exceed license. It is unlawful to sell an alcoholic beverage except in the manner for which he has been so licensed pursuant to the provisions of this chapter.
5. Licensed premises. It is unlawful for any licensee to sell an alcoholic beverage anywhere within the city, except upon or within the premises licensed for such sale.
6. Advertising and promotions limitations. It is unlawful to advertise the sale of an alcoholic beverage, except in full compliance with the Alcoholic Beverage Control Act and regulations duly made thereunder by the state. It is unlawful for any licensee to give away or offer a free lunch, free food, or similar promotion in connection with the sale of an alcoholic beverage.
7. Intoxicated person. It is unlawful to sell an alcoholic beverage to a person who appears to be intoxicated by drugs or alcohol, or who is under the influence of any intoxicating beverage.
8. Under age. It is unlawful to sell an alcoholic beverage to any person under the age of 21, or allow a person under the age of 21 years to sell the same.
9. Unlawful product. It is unlawful for any licensee to purchase or acquire or allow to be kept upon the licensed premises any alcoholic beverage not lawfully acquired from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act, or as part of a duly approved micro-brewery. It is unlawful for any licensee keep a any liquor product on the licensed premises that exceed the scope of the license class or violates the Alcoholic Beverage Control Act.
10. Gambling. It is unlawful for any licensee to have, possess, store or display upon the licensed premises any gambling or gaming device or any lottery tickets, or to allow any such device or tickets to be brought upon the premises for any purpose.
11. Access. It is unlawful for any serving area, door, or entryway to be locked or barricaded in any way so as to interfere with the free entrance to the licensed premises by any enforcement officer at any time while the premises is occupied or open to the public. However, licensee may maintain upon the premises a locked storeroom for the keeping of goods and supplies used in the business.
12. Lookouts and warning devices. It is unlawful for any person commonly known as a "lookout" to be stationed or maintained to give warning of an approach of any enforcement officer. It is unlawful to maintain or operate any device which is used or capable of being used to give warning to persons of the approach of an enforcement officer.
13. Respondeat superior. The licensee shall be responsible under this chapter for all of the activities of his employees and hereunder, the licensee unconditionally guarantees to the city that neither he nor his employees will violate the terms of this chapter, and for breach of such guarantee, the license may be revoked. It is unlawful for the owner or any licensee to:
    a. Fail to maintain full control of the conduct of the business upon the licensed premises.
    b. Fail to inform employees of the requirements of law relating to the sale of alcohol in the state of Utah.
    c. Fail to maintain control of employees.
14. Adverse action. It is unlawful for any person to sell an alcoholic beverage after the revocation or suspension of any license issued to said person.
15. Set-backs. It is unlawful to operate a business where an alcoholic beverage is sold at retail for off-premise consumption within the set-back distance of a "community location" as defined in Utah Code Annotated §32A-1-105(14), according to the specified set-back distances for each class of license set forth in Title 32A of the Utah Code Annotated, unless the establishment pre-existed this chapter or is granted a variance to this part by the city council.
16. Restricted activities. It is unlawful to sell an alcoholic beverage at:
    a. At a dance or dance hall.
    b. At a public activity or on public property.
    c. At a sexually-oriented business.
    d. At a theater or cinema.
17. Nuisances. It is unlawful to keep or maintain a nuisance that results from the sale of an alcoholic beverage.

5.03.070 Suspension And Revocation

Any enforcement officer may suspend or revoke a license issued under this chapter as follows:

1. Suspension. If a licensee has been issued a warning or citation for a violation of this chapter and a second violation occurs within a one (1) year period, then the enforcement officer may suspend a license for up to thirty (30) day. In lieu of a suspension, the enforcement officer may issue a civil penalty not to exceed $1,000.00 for a violation of this chapter, unless a different fee is identified in the Fee Schedules (Chapter 4.09).
2. Revocation. An enforcement officer may revoke a license issued under this chapter if a license has another violation of this chapter where a suspension has been made within a one (1) year period prior to the violation. Any revocation made under this chapter shall continue for a period of one (1) year after which an applicant may resubmit an application under this chapter.
3. Education requirement. An enforcement officer may issue a suspension to any licensee for a violation of Utah Code Annotated §32A-1-401, or follow the procedure in this section as set forth for any adjudicative proceeding or otherwise. In lieu of suspension and based upon the facts and circumstances, the enforcement officer may impose a fine of up to $250 against any off-premise beer retailer for a violation of this part, unless a different fee is identified in the Fee Schedules (Chapter 4.09).
4. Operational requirements. It is cause for immediate revocation or suspension for a licensee who violates the operational requirements of Utah Code Annotated §§32A-4-106 and 32A-4-307, depending upon the severity of the violation(s).

5.03.080 Appeals

All appeals shall be filed pursuant to the provisions of PMC Section 05.01.130.

5.03.090 Penalties

In addition to other remedies allowed by law or applicable civil penalties provided by ordinance or statue, each violation of this chapter is a class B misdemeanor.

5.05 Residential Solicitation

5.05.010 Purpose
5.05.020 No Other City License Or Approval Required
5.05.030 Definitions
5.05.040 Exemptions From Chapter
5.05.050 Solicitation Prohibited
5.05.060 Registration Of Solicitors
5.05.070 Application Form
5.05.080 Written Disclosures
5.05.090 When Registration Begins
5.05.100 Issuance Of Certificates
5.05.110 Form Of Certificate And Identification Badge
5.05.120 Maintenance Of Registry
5.05.130 Non-Transferability Of Certificates
5.05.140 Denial, Suspension, Or Revocation Of A Certificate Of Registration
5.05.150 Appeal
5.05.160 Deceptive Soliciting Practices Prohibited
5.05.170 "No Soliciting" Notice
5.05.180 Duties Of Solicitors
5.05.190 Time Of Day Restrictions
5.05.200 Buyer's Right To Cancel
5.05.210 Penalties

5.05.010 Purpose

The following regarding the purpose of this Chapter:

1. General Statement of Purpose: Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.
2. General Statement of Policy: There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the City adopts this chapter to promote the City's substantial interests in:
    a. Respecting citizen's decisions regarding privacy in their residences;
    b. Protecting persons from criminal conduct;
    c. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
    d. Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.
3. The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

5.05.020 No Other City License Or Approval Required

The following exemptions are:

1. Registered and Exempt Solicitors: Registered solicitors and persons exempt from registration by law need not apply for, nor obtain, any other license, permit, or registration from the City to engage in door-to-door solicitation in addition to the requirements of this chapter.
2. General Business License does not Authorize Solicitation: Any business licensed by the City under another City ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, is required to have its solicitors obtain a certificate, unless otherwise exempt.
3. No General Business License if not in City: Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.
4. Licensing Required by Another Governmental Authority: Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government laws regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

5.05.030 Definitions

For the purposes of this chapter, the following definitions shall apply:

1. Advocating: Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.
2. Appeals Officer or "Appeal Authority: The local appeal authority or hearing officer designated or responsible for hearing and deciding any appeal relating regarding the denial or suspension of a certificate and issuing a decision as required by this chapter. Unless otherwise designated, the Appeal Authority shall be the Administrative Law Judge (identified in the City's Land Use Ordinances, particularly in Section 15.05.020(F) thereof).
3. Appellant: The person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.
4. Applicant: An individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.
5. Application Form: A standardized form provided by the City to an applicant to be completed and submitted as part of registration.
6. BCI or BCI report: An original or copy, dated no older than 180 days prior to the date of the application, of either:
    a. A Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; or
    b. Verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the applicant.
7. Business: A commercial enterprise licensed by the City as a person or entity under this title, having a fixed or temporary physical location within the City.
8. Certificate: A temporary, annual, or renewal certificate permitting door-to-door solicitation in the City applied for or issued pursuant to the terms of this chapter.
9. Charitable Activities: Advocating by persons or entities that either are, or support, a charitable organization.

10. Charitable Organization: Charitable organization includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity that is:
    a. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
    b. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or
    c. Established for any charitable purpose; and
    d. Tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.
    e. Charitable organization, within the meaning of the "Charitable Solicitation Act" set forth in Utah Code Annotated §13-22-2(1)(a) and (b), including a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the City or the state of Utah.
11. Competent Individual: A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.
12. Completed Application: A fully completed application form, a B.C.I, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of the applicable fees.
13. Criminally Convicted: Criminally convicted means the final entry of a 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 or registered solicitor 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.
14. Disqualifying Status: Anything specifically defined in this chapter as requiring the denial or suspension of a certificate, and any of the following:
    a. The applicant or registered solicitor has been criminally convicted of:
        i. Felony homicide; Physically abusing, sexually abusing, or exploiting a minor; The sale or distribution of controlled substances, or Sexual assault of any kind.
    b. Criminal charges currently pending against the applicant or registered solicitor 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 or registered solicitor has been criminally convicted of a felony within the last ten (10) years.
    d. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years.
    e. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (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 or registered solicitor within the last five (5) years indicating that:
        i. The Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or
        ii. That a debt of the Applicant or Registered Solicitor was nondischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
    g. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
    h. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction.
    i. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
15. Door-to-door Solicitation: The practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.
16. Entity: Entity includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.
17. Fees: The cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification badge.
18. Final Civil Judgment: A civil judgment that would be recognized under state law as a judgment to which collateral estoppels would apply.
19. General Business License: A business license required to operate a business in the City under any other chapter of this title.
20. Goods: One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.
21. Home Solicitation Sale: Home solicitation sale means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of:
    a. The means of payment or consideration used for the purchase;
    b. The time of delivery of the goods or services; orc. The previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.
22. Licensing Officer or Licensing Authority: The City official or authority responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate. Unless otherwise designated, this shall be an individual designated by the Community Development Director, who is subject to the direction of the Community Development Director.
23. No solicitation sign: A reasonably visible and legible sign that states: "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.
24. Political Position: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.
25. Registered Solicitor: Any person who has been issued a current certificate by the City.
26. Registration: The process used by the City licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.
27. Religious Belief: Any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.
28. Residence: Any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street, or public rights of way.
29. Responsible Person or Entity: That person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:
    a. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
    b. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

c. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

30. Sale of Goods or Services: The conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.
31. Services: Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.
32. Soliciting, Solicit, or Solicitation: Any of the following activities:

    a. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
    b. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
    c. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
    d. Seeking to obtain orders or prospective customers for goods or services.
    e. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale; or
    f. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

33. Solicitor or Solicitors: A person(s) engaged in door-to-door solicitation.
34. Submitted in Writing: The information for an appeal of a denial or suspension of a certificate submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.
35. Substantiated Report: An oral, written, or electronic report:

    a. Submitted to and documented by the City by a:

        i. A competent individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
        ii. City law enforcement or licensing officer; or
        iii. Any other regularly established law enforcement agency at any level of government.

    b. That provides any of the following information regarding a registered solicitor:

        i. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
        ii. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
        iii. Documented, eye-witness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this chapter; or
        iv. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

36. Waiver: The written form provided to applicant by the City wherein applicant agrees that the City may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this chapter, and which contains applicant's notarized signature.

5.05.040 Exemptions From Chapter

The following regarding exemptions:

1. Except as provided herein, the following are exempt from registration under this Chapter:

    a. Invitee: Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence.
    b. Licensee: Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence.
    c. Delivery service: Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual.
    d. Non-profit: Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase.
    e. Charity: Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

2. Limitations: Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 5.05.170, 5.05.180 and 5.05.190 while advocating or soliciting.

5.05.050 Solicitation Prohibited

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, being in or upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.

5.05.060 Registration Of Solicitors

Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the City, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate (which is a particular type of second-class temporary license).

5.05.070 Application Form

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and payment of the appropriate fee:

1. Review of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.
2. Contact Information: The following information shall be provided by applicant:

    a. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
    b. Applicant's telephone number, home address and mailing address, if different;
    c. If different from the Applicant, the name, address, and telephone number of the responsible person or entity; and
    d. The address by which all notices to the applicant required under this chapter are to be sent.

3. Proof of Identity: An in-person verification by the licensing officer of the Applicant's true identity by use of any of the following which bear a photograph of said

Applicant:

a. A valid driver's license issued by any state.
b. A valid passport issued by the United States.
c. A valid identification card issued by any state.
d. A valid identification issued by a branch of the United States military.

4. Return Original: Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.
5. Proof of Registration with Department of Commerce: The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.
6. Special Events Sales Tax Number: The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.
7. Marketing Information: The following documentation shall be provided by applicant:

   a. The goods or services offered by the Applicant, including any commonly known,registered or trademarked names.
   b. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

8. BCI Background Check: The applicant shall provide:

   a. An original or a copy of a BCI background check as defined in this chapter.
   b. A signed copy of a waiver whereby applicant agrees to allow the City to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter as set forth in Utah Code Annotated §53-10-108(1)(b).
   c. Responses to questions regarding disqualifying status. The applicant shall be required to affirm or deny each of the following statements on the application form:

      i. Has the applicant been criminally convicted of:

         (1) Felony homicide.
         (2) Physically abusing, sexually abusing, or exploiting a minor.
         (3) The sale or distribution of controlled substances.
         (4) Sexual assault of any kind.

      ii. Are any criminal charges currently pending against the Applicant for:

         (1) Felony homicide.
         (2) Physically abusing, sexually abusing, or exploiting a minor.
         (3) The sale or distribution of controlled substances.
         (4) Sexual assault of any kind.

      iii. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years.
      iv. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years.
      v. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:

         (1) Moral turpitude.
         (2) Violent or aggravated conduct involving persons or property.

      vi. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that:

         (1) Applicant had either engaged in fraud, or intentional misrepresentation.
         (2) 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).

      vii. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
      viii. Does the applicant have an outstanding arrest warrant from any jurisdiction.
      ix. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

9. Fee: The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.
10. Execution of Application: The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.

5.05.080 Written Disclosures

The application form shall be accompanied by written disclosures notifying the applicant of the following:

1. Authorization: Applicant's submission of the application authorizes the City to verify information submitted with the completed application including:

   a. Applicant's address.
   b. Applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any.
   c. Validity of the applicant's proof of identity.

2. Research: The City may research any publicly available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
3. Identity: Establishing a valid proof of identity is required before registration is made.
4. Fee: Payment of the applicable fee amount must be submitted by applicant with any completed application.
5. BCI Report: Applicant must submit a BCI background check with a completed application. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection.
6. Public Record: The City will maintain copies of the applicant's application form, proof of identity, and certificate and/or identification badge. These copies will become public records available for inspection on demand at the City office whether or not a certificate is denied, granted, or renewed.
7. Supporting Documentation: Applicant shall provide any additional supporting documentation relating to the criteria pertaining to disqualifying status.
8. Temporary Certificate: A request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

5.05.090 When Registration Begins

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI

background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

5.05.100 Issuance Of Certificates

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

1. Temporary Certificate:
    a. A temporary certificate shall issue allowing the Applicant to immediately begin door-to-door solicitation upon all the following conditions being met:
        i. Applicant's submission of a completed application.
        ii. Applicant's submission of the required fee.
        iii. Applicant establishes proof of identity;.
        iv. The applicant's representations on the application form do not affirmatively show a disqualifying status.
        v. BCI does not affirmatively show a disqualifying status.
        vi. Applicant has not previously been denied a certificate by the City, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
    b. Expiration: A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.
2. Annual Certificate: Within twenty-five (25) calendar days of the issuance of a temporary certificate the City licensing officer shall:
    a. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to those disclosed with the application form.
    b. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
        i. Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
        ii. Will not be issued an annual certificate for reasons cited in Section 5.05.140 of this chapter.
3. Renewal Certificate: An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in Section 5.05.140, or a disqualifying status is present.

5.05.110 Form Of Certificate And Identification Badge

The following regarding the form of certificate and identification badge:

1. Certificate Form: Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the City.
2. Identification Badge: If the City issues an identification badge, with a certificate, the identification badge shall be worn prominently on his or her person while soliciting in the City. The identification badge shall bear the name of the City and shall contain:
    a. The name of the registered solicitor.
    b. Address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided.
    c. A recent photograph of the registered solicitor.
    d. The date on which the certificate expires.

5.05.120 Maintenance Of Registry

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the City. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the City's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

5.05.130 Non-Transferability Of Certificates

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different goods, services, responsible person or entity shall submit a written change request to the licensing officer prior to the commencement of such a change. An amended certificate based on the changed information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the amended certificate is issued to the registered solicitor, the registered solicitor may be required to pay any amendment fees, update any the identification badge, and provide any additional updated information to the registered solicitors' original application.

5.05.140 Denial, Suspension, Or Revocation Of A Certificate Of Registration

The following regarding denial, suspension, or revocation of a certificate of registration:

1. Denial: Upon review, the licensing officer is prohibited from issuing a certificate to an applicant as provided in this section.
    a. Denial of Temporary Certificate: Any of the following is a basis for denial of a temporary certificate:
        i. The application form is incomplete.
        ii. Applicant fails to:
            (1) Establish proof of identity;
            (2) Provide a BCI report; or
            (3) Applicant does not pay the required fees.
        iii. The completed application or BCI report indicates that the applicant has a disqualifying status.
        iv. The applicant has previously been denied a certificate by the City, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
    b. Denial of Annual Certificate: Any of the following is a basis for denial of issuance of an annual certificate:
        i. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect.

ii. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
iii. Applicant fails to make payment of the required fees.
iv. Since the submission of the application, the City has received a substantiated report regarding the past or present conduct of the applicant for a violation of this chapter.
v. Since the submission of the application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

(1) The applicant had either engaged in fraud, or intentional misrepresentation; or
(2) 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).

c. Denial of Annual Certificate Renewal: Any of the following is a basis for denial of an annual certificate renewal:

i. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect.
ii. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
iii. Failure to make payment of any required fee.
iv. Since the submission of the application or granting of a certificate, the City has received a substantiated report regarding the past or present conduct of the solicitor in violation of this chapter.
v. The City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

(1) Applicant had either engaged in fraud, or intentional misrepresentation, or;
(2) 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).

2. Suspension or Revocation: The City shall either suspend or revoke a certificate when any of the basis warranting the denial of a certificate occurs.
3. Notice of Denial or Suspension: Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the City shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in section 5.05.030, in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

5.05.150 Appeal

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the Appeal Authority (also known as the "Appeals Officer"). The following is also included:

1. Standing: Any appeal must be submitted by the applicant, the responsible person or entity, or authorized legal counsel.
2. Procedure: The following procedures and requirements shall apply to all appeals:

a. The appeal must be submitted in writing to the City Recorder or designee within ten (10) business days of the decision from which the appeal is taken.
b. The appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
c. Upon request of the applicant or registered solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

3. Standard of Review: The Appeals Officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If requested, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.
4. Decision: The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 5.05.150, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

a. The denial or suspension of the certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor' certificate.
b. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.
c. The decision of the Appeals Officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed during the appeal process.

5. Exhaust Administrative Remedies Required: The applicant is required to exhaust all administrative remedies relating to an application before filing suit or initiating a proceeding in any court.

a. After the ruling of the Appeals Officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the City.
b. Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction after exhausting all administrative remedies.

5.05.160 Deceptive Soliciting Practices Prohibited

The following activities are prohibited:

1. Fraud: No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.
2. Improper Display of Identification: A solicitor fails to properly display any identification badge required by this chapter to the consumer during face-to-face solicitation.
3. False Name: No solicitor uses a fictitious name, an alias, or any name other than his or her true and correct name.
4. No Endorsement: No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the City of the solicitor's goods or services or of the individual solicitor.

5.05.170 "No Soliciting" Notice

Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" or similar sign which shall be posted on or near the main entrance

door or on or near the property line adjacent to the sidewalk leading to the residence. Such sign shall not exceed the size parameters specified in the land use ordinance relating to signs. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice. The provisions of this section shall apply also to solicitors who are exempt from registration.

5.05.180 Duties Of Solicitors

Solicitors shall have the following duties prescribed by law, notwithstanding the issuance of a certificate:

1. Check for Notice: Every person soliciting or advocating shall check each residence for any "No Soliciting" or similar sign or placard notifying a solicitor not to solicit on the premises. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property.
2. Attempted Solicitation After Notice Of Desist. No solicitor shall knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.
3. False Purpose: No solicitor shall through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.
4. Leave Premises upon Request: Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.
5. No Physical Contact: No solicitor shall intentionally or recklessly make any physical contact with, or touch another person without the person's consent.
6. Consent before Entering Premises: No solicitor shall follow a person into a residence without their explicit consent.
7. Pressure Tactics: No solicitor shall continue to repeat soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.
8. Profanity and Disorderly Conduct: No solicitor shall use obscene or profane language in a place or under circumstances which could cause a breach of the peace or good order of the City in accordance with Utah Code Annotated §10-8-50, 1953, as amended, or engage in any other disorderly conduct as prohibited by law.

5.05.190 Time Of Day Restrictions

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m Mountain Time, unless the solicitor has express prior permission from the resident to do so.

5.05.200 Buyer's Right To Cancel

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within three (3) days after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by Utah Code Annotated §70C-5-103, 1953, as amended, in addition to any other related state or federal law.

5.05.210 Penalties

Any person who violates any term or provision of this chapter shall be guilty of a class B misdemeanor and shall be punished by a fine of not to exceed $1,000.00 and/or a jail sentence of not to exceed six (6) months.

5.07 Apartment House, Duplexes And Mobile Home Parks

5.07.010 Definitions
5.07.020 License Requirement
5.07.030 License: Inspection Required Prior To Issuance
5.07.040 License: Application
5.07.050 License: Contents
5.07.060 License: Fee
5.07.070 License: Revocation
5.07.080 Violation: Misdemeanor

5.07.010 Definitions

For the purposes of this title:

1. Apartment House: An apartment house shall consist of three or more rented units upon a plot of property.
2. Duplex: A building arranged or designed to be occupied by two families, the structure having only two dwelling units.
3. Mobile Home, Mobile Home Park, and Mobile Home Space as used in this Chapter are defined in Section 5.01.020., Definitions.

5.07.020 License Requirement

It is unlawful for any person or party to engage in or carry on the business of operating an apartment house, duplex or mobile home park, as defined, without first procuring a business license for the same.

5.07.030 License: Inspection Required Prior To Issuance

Each apartment house, duplex and mobile home within the City shall be inspected by the City building inspector or his agents to ascertain the condition of safety and sanitation thereof prior to the issuance of such license. Any such apartment house, duplex, mobile home park shall be inspected annually prior to the issuance of each annual business license therefore.

5.07.040 License: Application

Each apartment house, duplex, and mobile home park owner shall submit an application in writing on forms furnished by the City for an apartment house, duplex or mobile home park business license. The application forms shall grant to the City the right to make an inspection of the apartment house, duplex or mobile home park premises prior to the issuance of the initial and each subsequent annual apartment house, duplex and mobile home park license. Upon receipt of an approved inspection of the apartment house, duplex or mobile home park premises by the City building inspector or his agents, said application shall be submitted to the City Council for its approval; upon approval by the City Council said license shall be issued to applicant under the signatures of the Mayor and City Recorder.

5.07.050 License: Contents

Every license shall specify by name, the person, and firm or party to whom it is issued, and shall designate the number of apartment units or mobile home park spaces and the place at which the apartment house, duplex or mobile home park business shall be carried on.

5.07.060 License: Fee

The annual license fees for apartment houses, duplexes and mobile home parks shall be set from time to time by resolution of the City Council. All license fees shall be due and payable annually on or before February 16th of each calendar year. The license fees for newly constructed apartment houses will be due and payable forty-five (45) days after the certificate of occupancy is issued by the City. If a license fee is paid after the times specified above, a fifty (50%) percent penalty will be added.

5.07.070 License: Revocation

The City Council reserves the right to revoke any apartment house, duplex or mobile home park license as issued hereunder for just cause, after proper notice to and right to hearing by the holder thereof, according to law.

5.07.080 Violation: Misdemeanor

Any person who shall engage in the operation of an apartment house, duplex or mobile home park as defined in this title, without first obtaining a license as provided in this chapter shall be deemed guilty of a misdemeanor.

5.09 Fees

5.09.010 Assessment Generally
5.09.020 Fees
5.09.030 Time Of Payment And Term Of License

5.09.010 Assessment Generally

The license fee levied and assessed upon any business, profession, or calling engaging in business with the City, shall be assessed as hereinafter set forth. The City may modify the amounts chargeable as license fees from time to time by resolution, and upon enacting said resolution the ordinance codified in this chapter shall be considered modified, as set forth therein.

5.09.020 Fees

License fees for businesses shall be as identified in Perry Municipal Code Section 5.01.040 (Uniform Business License Regulations) and Chapter 4.09 (Fee Schedules).

5.09.030 Time Of Payment And Term Of License

All licenses as referred to in this title shall be payable in advance for the current calendar year, or part thereof, without pro-ration for any partial year. All licenses are due and payable on or before the first day of January of the current calendar year for which the license has been applied for, for year-around continuing business or the forty-fifth day after commencing business for new or seasonable businesses, professions or activities. A fifty (50%) percent penalty of the regular license fee shall be added for any license fee paid after February 1st.

5.11 Sexually Oriented Businesses

5.11.010 Purpose Of Chapter
5.11.020 Purpose Of Provisions
5.11.030 Application Of Provisions
5.11.040 Definitions
5.11.050 License Required
5.11.060 Exemption From License Requirements
5.11.070 Business Categories: Number Of Licenses
5.11.080 Employee Licenses
5.11.090 License Application: Disclosure Required
5.11.100 License Fees
5.11.110 License Bond
5.11.120 Premises Location And Name
5.11.130 Issuance Conditions
5.11.140 Term Of License
5.11.150 Notice Of Change Of Information
5.11.160 Transfer Limitations
5.11.170 Display
5.11.180 Statement In Advertisements
5.11.190 Effect Of License Revocation
5.11.200 Appeal Procedures
5.11.210 Out-Call Services: Operation Requirements
5.11.220 Semi Nude Dancing Agencies
5.11.230 Signs
5.11.240 Obscenity And Lewdness: Statutory Provisions
5.11.250 Legitimate Artistic Modeling
5.11.260 Location And Zoning Restrictions
5.11.270 Location Of Businesses: Restrictions
5.11.280 Seminude Entertainment Business: Location Restriction
5.11.290 Seminude Entertainment Business: Design Of Premises
5.11.300 Adult Business: Design Of Premises
5.11.310 Regulations And Unlawful Activities
5.11.320 Alcohol Prohibited
5.11.330 Violation: Injunction When
5.11.340 Violation: License Suspension Or Revocation
5.11.350 Performers: Prohibited Activities
5.11.360 Patrons: Prohibited Activities
5.11.370 Violation: Penalty And Responsibility
5.11.380 Nudity: Defenses To Prosecution

5.11.010 Purpose Of Chapter

The purpose and objective of this Chapter is to establish reasonable and uniform regulations to prevent the concentration of Sexually Oriented Businesses or their location in areas deleterious to the City, regulate the signage of such businesses, control the adverse effects of such signage, and prevent inappropriate exposure of such businesses to the community. This chapter is to be construed as a regulation of time, place, and manner of the operation of these businesses, consistent with the United States and Utah Constitutions.

5.11.020 Purpose Of Provisions

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the time, place, and manner of operation of Sexually Oriented Businesses and their employees in the City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions.

5.11.030 Application Of Provisions

This chapter imposes regulatory standards and license requirements on certain business activities that are characterized as Sexually Oriented Businesses, and employees of those businesses characterized as Sexually Oriented Business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances, including but not limited to, those codified in the Perry City Municipal Code and Business License Requirement of the Municipal Code.

5.11.040 Definitions

For the purpose of this chapter, the following words shall have the following meanings:

1. Adult Bookstore or Adult Video Store: means a commercial establishment which:
    a. Excludes minors from more than five (5%) percent of the retail floor or shelf space of the premises; or
    b. As one of its principal business purposes, offers for sale or rental, for any form of consideration, any one or more of the following:
        i. Books, magazines, periodicals, or other printed matter.
        ii. Photographs, films, motion pictures, video cassettes or video representations.
        iii. Something where the central theme of which depicts or describes “specified sexual activities,” or “specified anatomical areas”.
        iv. Instruments, devices, or paraphernalia which are designated for use in connection with “specified sexual activities,” except for legitimate medically recognized contraceptives.
2. Adult Business: means an adult motion picture theater, adult bookstore, or adult video store.
3. Adult Motion Picture Theater: means a commercial establishment which:
    a. Excludes minors from the showing of two (2) consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition).
    b. As one of its principal business purposes, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions

which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

4. Adult Theater: means a theater, concert hall, auditorium, or similar commercial establishment which:
    a. Holds itself out as such a business.
    b. Excludes minors from the showing of two (2) consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition).
    c. As one of its principal business purposes, features persons who appear in live performances in a state of semi-nudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
5. Employ: means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.
6. Escort: means any person who, for pecuniary compensation, dates, socializes, visits, consorts with, or accompanies or offers to date, consort with, socialize, visit or accompany another or others to or about social affairs, entertainment, or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters. Escort shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar acts characterized by appearances in a public place, contracted for by a party other than the duration not longer than one (1) hour.
7. Escort Service: means an individual or entity, who for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.
8. Escort Service Runner: means any third person, not an escort, who for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort, or patron by contacting or meeting with escort services, escorts, or patrons at any location within the city, whether or not such third person is employed by such escort service, escort, patron, or by another business, or is an independent contractor or self-employed.
9. Nudity or Nude: means a state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of seminude.
10. Operator: means the manager or other natural person principally in charge of a Sexually Oriented Business.
11. Out-Call: Out-Call services means services of a type performed by a BOB employee outside of the premises of the licensed BOB, including but not limited to escorts, models, dancers, and other similar employees.
12. Patron: means any person who contracts with or employs any escort services or escort or the customer of any business licenses pursuant to this Chapter.
13. Pecuniary Compensation: means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.
14. Person: means any person, unincorporated association, corporation, partnership, or other legal entity.
15. Principal Business Purpose: means that a business offers those business activities and/or materials mentioned in the definitions of Sexually Oriented Businesses as a constant and intentional objective of their business, but also seek to promote it as such.
16. Seminude: means a state of dress in which opaque clothing covers no more than the areola of the female breast: and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than four (4") inches wide in the front and five (5") inches wide in the back, which shall not taper to less than one (1") inch wide at the narrowest point.
17. Seminude Dancing Agency: means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters.
18. Seminude Entertainment Business: means any business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi nudity. A business shall also be presumed to be a seminude entertainment business if the business holds itself out as such a business.
19. Sexually Oriented Business: means seminude entertainment businesses, sexually oriented out-call services, adult businesses, and semi nude dancing agencies as defined by this Chapter.
20. Sexually Oriented Business Employees: means those employees who work on the premises of a Sexually Oriented Business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models, and other similar employees, whether or not hired as employees, agents, or as independent contractors. Employees shall not include individuals whose work is unrelated to, the sexually oriented portion of the business, such as janitors, bookkeepers, and similar employees. Sexually Oriented Business employees shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making out-call meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs, and other similar employees, shall be considered Sexually Oriented Business employees.
21. Specified Anatomical Areas: means the human male or female pubic areas or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than full opaque covering.
22. Specified Sexually Activities: means
    a. Acts of:
        i. Masturbation
        ii. Human sexual intercourse
        iii. Sexual copulation between a person and a beast
        iv. Fellatio
        v. Cunnilingus
        vi. Bestiality
        vii. Pederasty
        viii. Buggery
        ix. Any anal copulation between a human male and another human male, human female, or beast.
    b. Manipulating, caressing, or fondling, by person, of:
        i. The genitals of a human
        ii. The pubic area of a human
        iii. The breast or breasts of a human female.
    c. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so closed.

5.11.050 License Required

It is unlawful for any person to operate a Sexually Oriented Business, as specified herein, without first obtaining a general business license and a Sexually Oriented Business license. The Sexually Oriented Business license shall specify the type of business for which it is obtained.

5.11.060 Exemption From License Requirements

The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, or psychologist lawfully licensed under other provisions of the Perry City Code. Nor shall it apply to any educator licensed by the State for activities in the classroom.

5.11.070 Business Categories: Number Of Licenses

The following regarding licenses:

1. It is unlawful for any business premises to operate or be licensed for more than one category of Sexually Oriented Business, except that a business may have a license for both out-call services and a semi nude dancing agency on the same premises.
2. The categories of Sexually Oriented Businesses are:

    a. Out-call services
    b. Adult businesses
    c. Seminude entertainment business
    d. Seminude dancing agency

5.11.080 Employee Licenses

It is unlawful for any Sexually Oriented Business to employ or for any individual to be employed in the capacity of a Sexually Oriented Business employee, unless that employee first obtains a Sexually Oriented Business employee license.

5.11.090 License Application: Disclosure Required

Before any applicant may be licensed to operate a Sexually Oriented Business or as a Sexually Oriented Business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the City license authority, the following:

1. The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name.
2. If the applicant is a corporation, partnership, or business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten (10%) percent of the stock of any applicant. Any holding company, or any entity holding more than ten (10%) percent of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter;
3. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity.
4. For all applicants or individuals, the application must also state:

    a. Any other names or aliases used by the individual
    b. The age, date, and place of birth
    c. Height
    d. Weight
    e. Color of hair
    f. Color of eyes
    g. Present business address and telephone number
    h. Present residence and telephone number
    i. Driver's license or identification number and Social Security Number

5. Acceptable written proof that any individual is at least eighteen (18) years of age.
6. Attached to the form, as provided above, two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency.
7. For any individual applicant required to obtain a Sexually Oriented Business employee license as an escort or a semi nude entertainer, a certificate from the Bear River Health Department or a licensed M.D. stating that the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases.
8. A statement of the business, occupation, or employment history of the applicant for there (3) years immediately preceding the date of the filing of the application.
9. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other County, City, state, or territory, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or has had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state 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.
10. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests of the applicant, individual, or other entity subject to disclosure under this Chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a Sexually Oriented Business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license.
11. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located.
12. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:

    a. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and preventing them from engaging in illegal activity.
    b. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities.
    c. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees of services or acts prohibited by this Chapter or other statutes or ordinances.
    d. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

13. It is also unlawful to knowingly submit false or materially misleading information on or with a Sexually Oriented Business license application or to fail to disclose or omit

information of the purpose of obtaining a Sexually Oriented Business or employee license.

5.11.100 License Fees

Each applicant for a Sexually Oriented Business or employee license shall be required to pay license fees as asset forth in Perry City Fee Schedule Resolution. An application is not complete until all appropriate fees have been paid.

5.11.110 License Bond

Each applicant for a Sexually Oriented Business license shall post, with the City's Zoning Administrator, a cash or corporate surety bond payable to Perry City in the amount of $2,000.00. Any fines assessed against the business, officers, or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to $2,000.00, within fifteen (15) days, of the date of notice of any draw against it.

5.11.120 Premises Location And Name

The following regarding licensing and premises location and name:

1. It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
2. It is unlawful for any Sexually Oriented Business to do business in the City under any name other than the business name specifies in the application.

5.11.130 Issuance Conditions

The Zoning Administrator shall approve the issuance of a license to the application within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following:

1. The applicant is under eighteen (18) years of age.
2. The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed on the applicant in relation to a Sexually Oriented Business.
3. The applicant has falsely answered a material question or request for information as authorized by this Chapter.
4. The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation.
5. The premises to be used for the business have been disapproved by the Box Elder County Health Department, the Brigham City Fire Department, the Perry City Police Department, the building official of Perry City, or the Zoning Administrator of Perry City as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the Zoning Administrator of Perry City an extension of time of no more than fifteen (15) days for their review. The total time for the City to approve or deny a license shall not exceed forty-five (45) days from the receipt of a completed application and payment of all fees. Businesses located outside of the boundaries of the City, but requiring a license under this Chapter, may be denied a license pursuant to this Chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location. The following also applies:
    a. Upon receipt of an application, all departments required to review the application shall determine within seven (7) days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items that are incomplete.
    b. The time for processing applications specified in this Section shall begin to run from the receipt of a complete application.
    c. The City, pursuant to the revocation procedures, may revoke any license issued pursuant to (3) above provided for herein, if the completed review determines that the license should have been denied.
6. The required license fees have not been paid.
7. All applicable sales and use taxes have not been paid.
8. An applicant for the proposed business is in violation of, or not in compliance with, this Chapter or similar provisions found in statutes or ordinances from any jurisdiction.
9. An applicant has been convicted or pled nolo contendere to a crime:
    a. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography, lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
        i. Less than two (2) years have elapsed from the date of conviction. If the conviction is of a misdemeanor offences, or less than five (5) years if the convictions are of two or more misdemeanors within the five (5) years; or
        ii. Less than five (5) years have elapsed from the date of conviction if the offense is of a felony.
    b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section
10. The applicant has not complied with the Perry City Municipal Code, Chapter 15.17 (Design Review) of the Perry City Zoning Ordinance.

5.11.140 Term Of License

Sexually Oriented Business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through December 31st of each succeeding year. The license fees required by Perry City Fee Schedule Resolution shall not be prorated for any portion of a year but shall be paid in full for whatever portion of the year the license is applied for.

5.11.150 Notice Of Change Of Information

Any change in the information required to be submitted under this Chapter for either a Sexually Oriented Business license or Sexually Oriented Business employee license shall be given, in writing, to the Zoning Administrator and the Police Department within fourteen (14) days after such change.

5.11.160 Transfer Limitations

Sexually Oriented Business licenses, granted under this Chapter, shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership, or other non-corporate entity to transfer any part in excess of ten (10%) percent thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void, and the business shall not operate until a

separate new license has been properly issued by the City as provided in this Chapter.

5.11.170 Display

It is unlawful for any Sexually Oriented Business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude pursuant to Section 15.29.030.6, such license shall be visibly displayed within the same room in which the employee is appearing. When requested by policy, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

5.11.180 Statement In Advertisements

It is unlawful for any advertisement by the Sexually Oriented Business or employee to fail to state that the business or employee is licensed by the City and shall include the City license number.

5.11.190 Effect Of License Revocation

When a license issued pursuant to this Chapter is revoked, the revocation shall continue for one (1) year from its effective date and the licensee shall not be issued a Sexually Oriented Business or employee license for one (1) year from the date of such revocation.

5.11.200 Appeal Procedures

The denial, suspension, or revocation of any license issued pursuant to this Chapter may be appealed as set forth by Perry City Policy.

5.11.210 Out-Call Services: Operation Requirements

It is unlawful for any business or employee providing out-call services contracted for in the City to fail to comply with the following requirements:

1. All businesses licensed to provide out-call services pursuant to this Chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period not less than one year from the date of provision of services hereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid.
2. All out-call businesses licensed pursuant to this Chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours out-call employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For out-call businesses, the premises of which are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the out-call employee shall be provided at the open office or any other location by the service; not shall patrons meet out-call employees at the business premises.
3. Out-call services shall not advertise in such a manner that would lead a reasonable prudent person to conclude that specified sexual activities would be performed by the out-call employee.
4. All employees of out-call services who provide out-call services within the City shall be licensed in accordance with this Chapter, regardless of the primary location of the business.

5.11.220 Semi Nude Dancing Agencies

The following regarding Semi Nude Dancing Agencies:

1. It is unlawful for any individual or entity to furnish, book, or otherwise engage the services of a professional dancer, model, or performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi nude entertainment business or adult theater licensed pursuant to this Chapter, unless such agency is licensed pursuant to this Chapter.
2. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi nudity, or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Chapter, unless such person is licensed pursuant to this Chapter.

5.11.230 Signs

If the requirements contained in this section conflict with any other sign requirement in the Perry Municipal Code, the more restrictive requirements for signs shall prevail. Signs for Sexually Oriented Businesses located in M/I 1 (Manufacturing/ Industrial One) shall be limited as follows:

1. No more than one exterior sign shall be allowed.
2. No sign shall be allowed to exceed eighteen (18) square feet.
3. No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.
4. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only.
5. Only flat wall signs and/or awning signs shall be permitted.
6. Painted wall advertising shall not be allowed.
7. Other than the signs specifically allowed by this Chapter, the Sexually Oriented Business shall not attach, construct, or allow to be attached or constructed any temporary sign, banner, light, or other device designed to draw attention to the business location.

5.11.240 Obscenity And Lewdness: Statutory Provisions

The following provisions regarding obscenity and lewdness:

1. Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable federal or State statutes prohibiting obscenity.
2. Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of Section 76-9-702 U.C. and 702.5 U.C. "Lewdness." Provided, however, that for the purpose of Sexually Oriented Businesses the definition of "private parts" shall be construed to mean "nudity" as defined in this Chapter.

5.11.250 Legitimate Artistic Modeling

The following regarding legitimate artistic modeling:

1. The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar State protections. The City does intend to prohibit the operation of a Sexually Oriented Business, or prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of Chapter 13.01, a licensed out-call employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and sign at least twenty-four (24) hours before the nude appearance. All of the other applicable provision of this Chapter shall still apply to such nude appearances.
2. In the event of a contract for nude modeling or appearance signed ore than forty-eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Chapter. During such unlicensed nude appearances, it is unlawful to:

    a. Appear nude or seminude in the presence of persons under the age of eighteen (18).
    b. Allow, offer, or agree to any touching of the contracting party or other person by the individual appearing nude.
    c. Allow, offer, or agree to commit prostitution, solicitation of a minor, or committing activities harmful to a minor.
    d. Allow, offer, commit, or agree to any sex act as validly defined by City ordinances or State.
    e. Allow, offer, agree, or permit the party or other person to masturbate in the presence of the individual contracted to appear nude.
    f. Allow, offer, or agree for the individual appearing nude to be within five (5') feet of any other person while performing or while nude or seminude.

5.11.260 Location And Zoning Restrictions

It is unlawful for any Sexually Oriented Business to do business at any location within the City not zoned for such a business. Sexually Oriented Businesses licensed as adult businesses or seminude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use.

5.11.270 Location Of Businesses: Restrictions

The following regarding the location of businesses and restrictions:

1. Sexually Oriented Businesses shall only be permitted in areas zoned M/I 1 (Manufacturing/ Industrial One) under this title, subject to the following additional restrictions:

    a. No Sexually Oriented Business shall be located:

        i. Within 1,000 feet of any public or private school or educational institution, child day care facility, troubled youth residential facility, public or private park or plaza, library, or religious institution.
        ii. Within 600 feet of any residential use or any agricultural or residential zoning boundary.
        iii. Within 600 feet of any other Sexually Oriented Businesses, except out-call services.
        iv. Within 350 feet of any gateway corridor. Gateway corridors include Highway 89, 1100 South Highway 91, 1200 West, and I-15. The distance shall be measured from the right-of-way boundary of improved street or the future right-of-way boundary of unimproved streets.

2. Distance requirements between structures and uses specified in this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the property boundaries of the school, public park, religious or cultural activity, residential use, or other Sexually Oriented Businesses, or from the right-of-way line of a gateway to the structure of the Sexually Oriented Business.
3. Distance requirements from zoning districts for this Section shall be measured in a straight line, without regard to intervening structures of zoning districts, from the closest zoning boundary of a residential or agricultural district to the Sexually Oriented Business structure.

5.11.280 Seminude Entertainment Business: Location Restriction

It is unlawful for any business licensed for seminude entertainment to be located within three hundred and thirty (330') feet of a business licensed for the sale or consumption of alcohol.

5.11.290 Seminude Entertainment Business: Design Of Premises

The following regarding premise design for semi nude entertainment businesses:

1. It is unlawful for business premises licensed for seminude entertainment to:

    a. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be place in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater where such items are part of a performance and to which the patron has no access.
    b. Allow any door on any room used for the business to be lockable from the inside, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors.
    c. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three (3') feet high and six (6") inches wide. The patron or patrons shall remain on one (1) side of the barrier and the employee or employees shall remain on the other side of the barrier.

2. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three (3') feet, which separation shall be delineated by a physical barrier at least three (3') feet high.

5.11.300 Adult Business: Design Of Premises

The following regarding the design of adult business premises:

1. In addition to the general requirements of disclosure for a Sexually Oriented Business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the proposed location of the licensed business. The design and construction, prior to granting a license or opening for business, shall conform to the following:

    a. 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.
    b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one (1) person being allowed in the restroom per stall, and only one (1) person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.
    c. For businesses which exclude minors from the entire premises, all windows, doors, and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses that exclude minors from less than all of the premises shall be designed and constructed so minors may not see into the area from which they are excluded.

2. It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station described in (1) of this Section remain unobstructed by any doors, wall, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and to insure 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.

3. The premises shall at all times be equipped and illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1') foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

5.11.310 Regulations And Unlawful Activities

It is unlawful for any Sexually Oriented Business or Sexually Oriented Business employee to:

1. Allow persons under the age of eighteen (18) years on the licensed remises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas.
2. Allow, offer, or agree to conduct any out-call business with persons under the age of eighteen (18) years.
3. Allow, offer, or agree to allow any alcohol to be stored, used, or consumed on or in the licensed premises.
4. Allow the outside door to the premises to be locked while any customer is in the premises.
5. Allow, offer, or agree to gamble on the licensed premises.
6. Allow, offer, or agree to any Sexually Oriented Business employee touching or being touched by any patron or customer, except that out-call employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited.
7. Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the licensed premises.
8. Allow Sexually Oriented Business employees to possess, use, sell, or distribute controlled substances while engaged in the activities of the business.
9. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor on the licensed premises or, in the event of an out-call employee or business, the out-call employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor.
10. Allow, offer, commit, or agree to any specified sexual activity as validly defined by City ordinances or State statute in the presence of any customer or patron.
11. Allow, offer, or agree to any Sexually Oriented Business employee appearing before any customer or patron in a state of nudity.
12. Allow, offer, or agree to allow a patron or customer to masturbate in the presence of the Sexually Oriented Business employee or on the premises of a Sexually Oriented Business.
13. Allow, offer, or agree to commit an act of lewdness as defined in Section 79.9.702 U.C. and 702.5 U.C.

5.11.320 Alcohol Prohibited

The following regarding alcohol prohibition for this Chapter:

1. It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises.
2. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any Sexually Oriented Business.

5.11.330 Violation: Injunction When

An entity or individual who operates or causes a Sexually Oriented Business to be operated without a valid license, or who employs or is employed as an employee of a Sexually Oriented Business, or who operates such a business or functions as such an employee in violation of the provisions of this Chapter is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.

5.11.340 Violation: License Suspension Or Revocation

The following regarding licensing suspension or revocation:

1. Perry City may issue a notice suspending or revoking a Sexually Oriented Business or employee license granted under this Chapter if a licensee or an employee of the licensee has:
    a. Violated or is not in compliance with this Chapter.
    b. Refused to allow any inspection of the premises of the Sexually Oriented Business specifically authorized by this Chapter or by any other statute or ordinance.
    c. Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished).
    d. Given materially false or misleading information in obtaining the license.
    e. Knowingly operated the Sexually Oriented Business or worked under the employee license during the period when the business licensee's or employee licensee's license was suspended.
    f. A licensee has committed an offense that would be grounds for denial of a license for which the time period required has not elapsed.
    g. On two (2) or more occasions within a twelve (12) month period, a person or persons committed in or on, or solicited for in or on the licensed premises, or an out-call employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license of which a conviction has been obtained and the person or persons were employees, whether or not licensed, of the Sexually Oriented Business at the time the offenses were committed.
    h. A licensee is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the Sexually Oriented Business.

5.11.350 Performers: Prohibited Activities

It is unlawful for any professional dancer, model, or performer, while performing in any business licensed pursuant to this Chapter, to:

1. Touch in any manner any other person, except as otherwise provided in this Chapter.
2. Throw any object or clothing off the stage area.
3. Accept any money, drink, or any other object directly from any person.
4. Allow another person to touch such performer, except as otherwise provided in this Chapter, or to place any money or object on the performer or within the costume or person of the performer.
5. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

5.11.360 Patrons: Prohibited Activities

It is unlawful for any person or any patron of any business to touch in any manner any performer, except as otherwise provided in this Chapter; or to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money, or object while such performer is performing; except that money may be placed on the stage, which shall not be picked up by the performer except by hand.

5.11.370 Violation: Penalty And Responsibility

The following regarding penalties and responsibilities within this Chapter:

1. In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the City Zoning Administrator, require the licensee to pay a civil penalty in the amount of $500.00. Such fines shall be deducted from the cost bond posted pursuant to this Chapter unless paid within ten

(10) days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this Chapter, the violation of any provision of this Chapter shall be a Class 'C' misdemeanor. Each day of a violation shall be considered a separate offense.

2. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the Sexually Oriented Business licensee and/or operator if such act or omission occurs either with the authorization, knowledge, or approval of the licensee's and/or operator's negligent failure to supervise the conduct of the employee and the Sexually Oriented Business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
3. A Sexually Oriented Business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended, or renewed.

5.11.380 Nudity: Defenses To Prosecution

It is a defense to prosecution or violation under 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 that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

6 Criminal Code

6.01 Criminal Code
6.03 Public Indecency
6.05 Juvenile Night Curfew
6.07 Juvenile Day Curfew

6.01 Criminal Code

6.01.010 Definitions
6.01.020 Adoption By Reference Of The Utah Criminal Code
6.01.030 Mayor May Act To Remove Disruptive Person
6.01.040 Illegal Advertisement And Tampering
6.01.050 Discharge Of Weapon Or Device Prohibited: Fireworks Prohibited In Certain Circumstances

6.01.010 Definitions

For purposes of this Title, the following definitions apply:

1. Adult: Any person twenty one (21) years of age or older.
2. City: “City” refers to Perry City.
3. Adult: Adult means any person twenty one (21) years of age or older.
4. City: This term refers to Perry City.
5. Emergency: An emergency means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious bodily injury or loss of life. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
6. Establishment: Any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement, entertainment or recreation.
7. Law Enforcement Officer: Any agency providing law enforcement services to the City.
8. Minor: Persons under the age of eighteen (18) who are not married, or as otherwise defined by Utah Code Annotated § 15-2-1, as amended, are minors.
9. Officer: A police officer, sheriff, deputy sheriff, or any other law enforcement officer.
10. Police Department: The Perry City Police Department, or any other law enforcement agency such as the county sheriff or highway patrol.
11. Public Place: Any place to which the public or a substantial group of the public has access and includes, but not limited to, streets, highways, hospitals, office buildings, transportation facilities, shopping centers, malls, business, eating establishment, place of amusement, parks, public playgrounds, public buildings and appurtenant open spaces and parking lots, open vacant lots.
12. Remain: To linger, stay, or fail to leave a public place when requested to do so by a police officer or the person in control of the public place.

6.01.020 Adoption By Reference Of The Utah Criminal Code

The provisions of Title 76, Utah Code Annotated, 1953, as amended, are adopted and incorporated by reference as ordinances of Perry City, except as provided in this section.

1. 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 ordinances of Perry City.
2. Those provisions of Title 76 and Title 41, 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 Perry City are not adopted.
3. The Perry City Council shall determine the justice court to have jurisdiction, by contract, by Interlocal Agreement, or otherwise, over Perry City.
4. Perry City shall be substituted for other governmental entities named in said provisions as may be applicable.

6.01.030 Mayor May Act To Remove Disruptive Person

The Mayor may remove or order the removal of any person who disrupts a meeting or procession, and such person may be charged as set forth in Utah Code Annotated §76-9-103.

6.01.040 Illegal Advertisement And Tampering

Unless otherwise stated by law, the violation for any of the following is a class C misdemeanor:

1. Posting without permission prohibited. It is unlawful for any person to print, paint, write, mark, or otherwise post an advertisement, notice, card, or similar upon any wall, fence, tree, post, building, bridge, sidewalk, street, or other property, or cause the same to be done without the permission of the owner or agent for the same. If the property is owned by the City the Mayor may grant permission on behalf of the City.
2. Signs over streets and walkways. It is unlawful for any person to erect or construct any sign or similar advertising over, through, under, across, or otherwise interfering with any street, sidewalk, park, or similar public walkway without first making application and obtaining permission from the Mayor. No sign approved under this part shall be erect at a height less than eight (8’) feet from the street, sidewalk, or walkway surface.
3. Tampering with official notice or proclamation. It is unlawful for any person to tamper with an official notice or proclamation as set forth in Utah Code Annotated §76-8-417.

6.01.050 Discharge Of Weapon Or Device Prohibited: Fireworks Prohibited In Certain Circumstances

As authorized by Utah Code Annotated §10-8-47, it is hereby declared unlawful and a class B misdemeanor for any person to:

1. Discharge any firearm, weapon, or similar device that expels a dangerous projectile in the city limits, except in self-defense or at a location where the discharge of a weapon or devise is permitted by the City, etc., as provided in PMC Chapter 8.09.
2. Sell, possess, distribute, or use fireworks, explosives, gunpowder, rockets, or similar pyrotechnics for flammable substance within the City limits contrary to the established rules or instructions for such device or when the state fire marshal or City fire marshal has publicly prohibited the same in response to a fire danger or similar hazard.

6.03 Public Indecency

6.03.010 Public Indecency Definitions
6.03.020 Construction And Severability
6.03.030 Penalty

6.03.010 Public Indecency Definitions

1. Definitions. As used in this Section, the following terms shall have the following meanings:
    a. Public place means:
        i. Any public building, park, or stadium;
        ii. Any publicly-owned building or real property;
        iii. Any public street, sidewalk, alley or right-of-way;
        iv. Any area open to the sky to which the public or a substantial group of the public has access and includes, but is not limited to, parking lots, access-ways, entry-ways, private streets, sidewalks, landscaped areas, playgrounds or common areas;
        v. All buildings and enclosed places to which the public or a substantial group of the public has access, including such places of entertainment, taverns, restaurants, private clubs, cabarets, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.
    b. Nudity means a state of dress in which the female breast below a point immediately above the top of the areola, or the male or female genitals, the buttocks, the pubic area or the anus are not fully covered by opaque clothing.
2. A person is guilty of public indecency if the person knowingly or intentionally, in a public place:
    a. Appears in a state of nudity;
    b. Exposes on his or her person:
        i. any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region.
        ii. any devise worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola; or
    c. Engages in any of the following acts:
        i. an act of sexual intercourse or sodomy;
        ii. masturbation;
        iii. fondling the genitals of himself, herself or another person.
3. The prohibition set forth in subsection 3 above shall not apply to:
    a. A woman exposing a breast in the process of breast-feeding an infant under two (2) years of age, including breast feeding in any location where the woman otherwise may be, irrespective of whether or not the breast is covered during or incidental to feeding as provided in Utah Code Annotated §§ 10-8-41 and 10-8-50;
    b. Any child under ten (10) years of age; or
    c. A licensed sexually-oriented business employee performing in a state of semi-nudity in an adult live entertainment business, in accordance with the requirements of the Sexually Oriented Business regulations of Perry City.

6.03.020 Construction And Severability

It is the intention of the City that the provisions of this ordinance be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights consistent with the purposes of this ordinance. Should a court of competent jurisdiction determine that any part of this ordinance, or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the ordinance, or specific application of the ordinance shall be severed from the remainder, which shall continue in full force and effect.

6.03.030 Penalty

Public indecency is punishable as a class B misdemeanor.

6.05 Juvenile Night Curfew

6.05.010 Minors Prohibited In Public Places: Responsibility Of Parents And Guardians
6.05.020 Exemptions
6.05.030 Enforcement Body
6.05.040 Enforcement Procedures
6.05.050 Violations

6.05.010 Minors Prohibited In Public Places: Responsibility Of Parents And Guardians

The following regarding minors in public places:

1. It is unlawful for any minor under the age of sixteen (16) to remain in any public place within the City between the hours of 10 p.m. and 5 a.m., except as provided in Section 9.11.030 below.
2. It is unlawful for any minor sixteen (16) years of age or older to remain in any public place within the City between the hours of 12 midnight and 5 a.m., except as provided otherwise in this chapter.
3. It is unlawful for any parent, guardian or other person having legal care and custody of any minor to knowingly permit or by insufficient control allow a minor to violate this chapter.

6.05.020 Exemptions

A minor under the age of eighteen (18) shall not be in violation of this chapter if, at the time the minor was stopped by a law enforcement officer, the minor was:

1. Sixteen (16) years or older and emancipated by marriage;
2. Accompanied by the minor's parent, guardian or other adult person having the care, custody or supervision of said minor;
3. In a motor vehicle involved in interstate travel;
4. On an errand at the direction of the minor's parent or guardian, without detour or stop;
5. Acting in response to an emergency;
6. Within one thousand (1,000') feet of the minor's primary residence;
7. Engaged in a lawful employment activity or going to or returning home from such an employment activity without any detour or stop; or
8. Returning home from, going to or being in attendance at any religious, family, or school function, organized dance, theater, sporting event, events associated with City or other local government or civic clubs, or other such associational activity; provided, however, that going to or from such activity shall be by a direct route and within a reasonable time of the commencement or termination of such event.

6.05.030 Enforcement Body

Any law enforcement officer shall enforce this chapter with reasonable discretion if a minor is in violation of this chapter where such minor has committed no foreseeable criminal conduct, or vandalism, and has no potential to so, but the officer shall make record of the name and address of the minor. Any law enforcement officer shall strictly enforce this chapter if a minor is in violation under this chapter where such minor has committed any criminal conduct, mischief or vandalism; or has the intent to commit any such an act.

6.05.040 Enforcement Procedures

The following regarding enforcement procedure:

1. Before taking any enforcement action under this Chapter, the officer shall attempt to ascertain the apparent offender's age, home address, and reason for being in the public place.
2. The officer shall not take enforcement action under this chapter unless the officer has probable cause to believe that no exemption under this chapter applies.

6.05.050 Violations

A violation of this chapter shall be punishable as a class C misdemeanor.

6.07 Juvenile Day Curfew

6.07.010 Daytime Curfew For Minors
6.07.020 Parent's Responsibility
6.07.030 Enforcement And Penalty

6.07.010 Daytime Curfew For Minors

Unless otherwise provided in this section, it is unlawful for any minors under the age of eighteen (18) years, who is subject to compulsory education, to be in any public place as defined in this chapter during the hours of 8:30 a.m. and 2:00 p.m. on weekdays when the minor's public or private school is in session. This section does not apply if:

1. The minor is accompanied by the minor's parent, guardian or other adult person having the care, custody and control of the minor.
2. The minor is on an emergency errand directed by the minor's parent, guardian or other adult person having the care, custody and control of the minor.
3. The minor is going to or coming from the minor's place of gainful employment, to or from a medical, dental or related appointment, or is participating in an approved alternate education program.
4. The minor has in the minor's possession a valid, school issued, off-campus permit granting permission to leave the school campus for lunch or a school related activity.
5. The minor has been declared by the local school board to be exempt from school attendance in conformity with Utah Code Annotated § 53A-11-102, as amended, or the minor's absence is authorized by other applicable federal, state or local law.
6. The minor is exempt by law from compulsory education.
7. The minor is attending, or without any detour or stop, going to or returning from an official school, religious, government-sponsored, or other activity which is supervised by an adult and sponsored by a civic organization, school district, or religious institution.

6.07.020 Parent's Responsibility

Parental responsibility for this chapter is the same as provided in Chapter 6.05.

6.07.030 Enforcement And Penalty

Upon any violation of this chapter, a peace officer may issue a citation to the minor and may transport the minor home or to the school from which the minor is absent. If a citation is issued, the minor and parent shall appear in court as directed in the citation. The person shall be advised of the fact that the minor was cited for a violation of this chapter. The person shall be warned of his or her responsibility and liability as the minor's custodian. Any conviction for any citation issued under this chapter shall be as follows:

1. A minor's first offense for a violation of this chapter is an infraction.
2. A minor's second offense and any subsequent convictions for a violation of this chapter is a class C misdemeanor.
3. If the person has been warned as set forth this section, the next violation of this chapter shall constitute an infraction by the parent, guardian, or other adult person having the care, custody, and control of the minor.
4. If the person has previously been convicted of an infraction as set forth in this chapter, any further violation of this chapter by the minor shall constitute a class C misdemeanor by the parent, guardian, or other adult person having the care, custody and control of the minor.

7 Fair Practices And Preservation Of Citizens' Rights

7.02 Non-Discrimination

7.02 Non-Discrimination

7.02.010 Findings And Policy
7.02.020 Unlawful Discrimination Prohibited
7.02.030 Definitions
7.02.040 Administration
7.02.050 No Private Right Of Action Or Special Rights
7.02.060 Applicability
7.02.070 Unlawful Housing Practices
7.02.080 Unlawful Employment Practices
7.02.090 Unlawful Action
7.02.100 Filing And Processing Complaints
7.02.110 Investigation
7.02.120 Conciliation
7.02.130 Disposition Of A Complaint
7.02.140 Offenses And Penalties

7.02.010 Findings And Policy

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1. Findings. The City hereby finds that:
    a. Every individual should have fair housing and the ability to work and earn wages through gainful employment.
    b. Every individual should have equal access to businesses, employment, housing, services, programs, and activities.
    c. The City has an interest in promoting fair housing, equal employment, and equal access.
    d. Fair housing, equal employment, and equal access is beneficial to the growth and vitality of the community and its businesses.
    e. The denial or deprivation of access to fair housing, equal employment, and equal access is detrimental to the health, safety, prosperity, comfort, and welfare of its citizens.
    f. Unlawful discrimination in fair housing, equal employment, and equal access is detrimental because it impedes social and economic progress by preventing all individuals from contributing to or fully participating in all aspects of community life.
    g. Unlawful discriminatory housing, employment, and access is detrimental to the health, safety, prosperity, comfort, and welfare of the community.
    h. Unlawful discriminatory housing, employment, and access practices discourage and damage prospective employees, and serve as a barrier to individuals entering the workforce and being contributing members of the community.
    i. Unlawful discriminatory housing, employment, and access practices damage the economy and the community tax base.
2. Policy statement. It is the policy of Perry City, Utah, to provide for and promote fair housing, equal employment opportunity, and equal access without discrimination.
3. Policy application. The policy applies to all housing, employment, and access practices including but not limited to: housing, financing, listing, job recruitment, application process, examination, testing, hiring, training, disciplinary actions, compensation, advancement, classification, transfer, reassignment, promotions, services, programs, and activities.

7.02.020 Unlawful Discrimination Prohibited

It is unlawful to discriminate based on age, race, religion or creed, color, national origin, gender and gender identity, pregnancy, sexual orientation, disability, marital status, veteran status, genetic predisposition, or carrier status.

7.02.030 Definitions

The definitions or portions of definitions as may be applicable to this Chapter as specified in Utah Code Annotated §34A−5−102 and §57−21−2 are hereby adopted and incorporated as part of this Chapter by this reference. The following additional definitions apply:

1. “Administrator” means the City Attorney or his designee.
2. “City” means the incorporated municipality of Perry City, Utah.
3. “Equal access” includes equal treatment in relation to any opportunity or participation involving housing, employment, and includes business or governmental services, programs, and activities.
4. “Court” means the justice court of or used by the City.

7.02.040 Administration

The City Attorney is responsible for administering and implementing this Chapter.

7.02.050 No Private Right Of Action Or Special Rights

This Chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This Chapter does not create any special rights or privileges which would not be available to all individuals.

7.02.060 Applicability

This Chapter does not apply to:

1. Any person or organization that does not meet the definition of employer as provided in Utah Code Annotated §34A−5−102.
2. Any single−family dwelling unit sold or rented by its owner who is exempt under Utah Code Annotated §57−21−3.
3. An expressive association whose employment of a person protected by this Chapter would significantly burden the association’s rights of expressive association under Boy Scouts of America v. Dale, 530 U.S. 640 (2000).
4. The government of the United States of America including any of its departments, agencies, instrumentalities, or any corporation wholly owned by it.
5. The State of Utah or any of its departments, agencies, or political subdivisions not under the jurisdiction of the City.

7.02.070 Unlawful Housing Practices

1. It is a discriminatory housing practice to do any of the following:
    a. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental, or otherwise deny or make unavailable any dwelling from any person based upon unlawful discrimination.

b. Discriminate against any person in the terms, conditions, or privileges of the sale or rental of any dwelling or in providing facilities or services in connection with the dwelling based upon unlawful discrimination.
c. Represent to any person that a dwelling is not available for inspection, sale, or rental when in fact the dwelling is available.
d. Make a representation orally or in writing or make, print, circulate, publish, post, or cause to be made, printed, circulated, published, or posted any notice, statement, or advertisement, or to use any application form for the sale or rental of a dwelling, that directly or indirectly expresses any preference, limitation, or based upon unlawful discrimination, or expresses any intent to make any such preference, limitation, or discrimination.
e. Induce or attempt to induce, for profit, any person to buy, sell or rent any dwelling by making representations about the entry or prospective entry into the neighborhood of persons based upon unlawful discrimination.
f. Engage in any discriminatory housing practices based upon unlawful discrimination or based upon a person's association with another person based upon unlawful discrimination.

2. It is a discriminatory housing practice for a real estate agent, broker, or salesperson to do any of the following:

a. Discriminate against any person in making available a residential real estate transaction, or in the terms or conditions of the transaction, in the county, based upon unlawful discrimination.
b. Deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings in the county or to discriminate against any person in the terms or conditions of access, membership, or participation in the organization, service, or facility in the county based upon unlawful discrimination.
c. Engage in any discriminatory housing practices in the county based upon unlawful discrimination or based upon a person's association with another person based upon unlawful discrimination.

7.02.080 Unlawful Employment Practices

1. Employers. An employer may not refuse to hire, promote, discharge, demote, or terminate any person, and may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any person otherwise qualified based upon unlawful discrimination.
2. Employment agencies. An employment agency may not refuse to list and properly classify for employment, or refuse to refer a person for employment, in a known available job for which the person is otherwise qualified based upon unlawful discrimination.
3. Labor organizations. A labor organization may not exclude any person otherwise qualified from full membership rights in the labor organization, expel a person from membership in the labor organization, or otherwise discriminate against or harass any of the labor organization's members in full employment of work opportunity, or representation, based upon unlawful discrimination.
4. Training programs. An employer, labor organization, joint apprenticeship committee, or vocational school providing, coordinating, or controlling apprenticeship programs, or providing, coordinating, or controlling on-the-job training programs, instruction, training, or retraining programs may not deny to, or withhold from any qualified person the right to be admitted to or participate in any apprenticeship training program, on-the-job training program or other occupational instruction, training or retraining program based upon unlawful discrimination.
5. Notices and advertisements. Unless based upon a bona fide occupational qualification, or required by and given to an agency of government for security reasons, an employer, employment agency, or labor organization may not print, circulate or cause to be printed or circulated any statement, advertisement, or publication, use any form of application for employment or membership, or make any inquiry in connection with prospective employment or membership that expresses, either directly or indirectly any limitation, specification or discrimination based upon unlawful discrimination. It is unlawful for a joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or discrimination based upon unlawful discrimination. Nothing in this Chapter prohibits a notice or advertisement from indicating a preference, limitation, specification, or discrimination if such is legitimately a bona fide occupational qualification for employment.
6. No preferential treatment. Nothing in this Chapter shall be interpreted to require any employer, employment agency, labor organization, vocational school, joint labor-management committee or apprenticeship program subject to this Chapter to grant preferential treatment to any person based upon unlawful discrimination on account of any imbalance that may exist with respect to the total number or percentage of persons of any protected class employed by any employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of not of that class available in the available workforce existing throughout the City.

7.02.090 Unlawful Action

It is unlawful for any person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another person for challenging an unlawful practice, for filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Chapter.

7.02.100 Filing And Processing Complaints

1. Generally. Any person who claims to have been injured by unlawful discrimination subject to the City's jurisdiction under this Chapter may file a complaint with the administrator. A complaint may also be filed by the administrator if the administrator has reasonable cause to believe that a person has committed unlawful discrimination. A complaint must be filed within 180 calendar days after an alleged unlawful discrimination practice has occurred.
2. Written complaint. A complaint must be in writing on a form approved by the administrator, made under oath or affirmation, and contain the following information:

a. Complainant's name, address, and signature.
b. The date the alleged unlawful discrimination occurred.
c. A statement of the facts upon which the allegation of unlawful discrimination are based.
d. Respondent's name and address.

3. Process for a complaint. Within 10 working days after the receipt of a complaint, the administrator shall:

a. Provide the respondent named in the complaint written notice that a complaint alleging the commission of unlawful discrimination has been filed against the respondent.
b. Furnish a copy of the complaint to the respondent.
c. Advise the Respondent of the respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after mailing of notice of the complaint.

4. Response. Not later than the 15 day after mailing of the notice and copy of the complaint, a respondent may file a response to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

a. Respondent's name, address, telephone number, and signature of the respondent or the respondent's attorney, if any.
b. A concise statement of facts in response to the allegations in the complaint, including facts of any defense, exemption, or exception.

7.02.110 Investigation

1. Initial review. Upon the filing of a complaint, the administrator shall commence an initial review to determine the facts behind the complaint and whether there is reasonable cause to believe the respondent committed unlawful discrimination.
    a. If after the initial review of the allegations of the complaint, the administrator determines that the complaint does not come within the scope of this Chapter then no investigation shall commence, the complaint shall be dismissed, and notification shall be given to the complainant and respondent that no further action will be taken.
    b. If the administrator determines that the there is reasonable cause to believe the respondent committed unlawful discrimination then an investigation shall commence.
2. Investigation. In connection with any investigation of a complaint filed under this Chapter, the administrator may seek the voluntary cooperation of any person to:
    a. Obtain access to premises, records, documents, individuals, and any other possible source of information.
    b. Examine, record, and copy necessary materials.
    c. Take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.
    d. Seek a subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents as provided by law.
3. Grounds for dismissal. The administrator may dismiss a complaint after or during the investigation and prior to referral for legal action if the administrator determines that:
    a. The complaint was not filed within the required time period.
    b. The location of the alleged unlawful discrimination is not within the City.
    c. The employer does not employ a sufficient number of employees to meet jurisdictional requirements.
    d. The alleged unlawful discrimination is not a violation of this Chapter.
    e. The complainant refuses to cooperate with the administrator in the investigation of the complaint or enforcement of an executed conciliation agreement.
    f. The complainant cannot be located after the administrator has performed a reasonable search.
    g. A conciliation agreement has been executed by the complainant and respondent.

7.02.120 Conciliation

1. Generally. During the investigation, but subsequent to the mailing of the notice of the complaint to the respondent, the administrator shall, if the respondent appears to have committed an unlawful discrimination practice, attempt to conciliate the complaint. In conciliating a complaint the administrator shall try to achieve a just resolution and obtain assurances that the respondent will satisfactorily remedy any violation of the complainant's rights and take action to ensure the elimination of both present and future unlawful discrimination practices. A conciliation agreement may include: sensitivity training for the respondent and/or the respondent's employees, the respondent's agreement to adopt and pursue a policy of non-discrimination in employment or housing practices; and the respondent's agreement to not engage in discriminatory practices in the future.
2. Form and content. A conciliation agreement executed under this section must be:
    a. Prepared in writing under the direction of the administrator or his designee and adequately address a response to the alleged unlawful discrimination.
    b. Approved as to form by the City Attorney.
    c. Signed by the administrator or his designee.
    d. Signed and verified by the respondent and the complainant
3. Conciliation effect. If a respondent voluntarily enters into a conciliation agreement, the administrator shall immediately dismiss the complaint.

7.02.130 Disposition Of A Complaint

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1. Referral. After completion of an investigation of a complaint, if the administrator determines that an unlawful discrimination practice has occurred and is unable to secure an acceptable conciliation agreement from the respondent, or obtain a response from the respondent within the time provided, then the administrator shall refer the case for legal action. The administrator shall refer the case file for legal action to determine the best course of action, if any, on the complaint.
2. Civil action. If the City Attorney determines that cause exists to find that an unlawful discrimination practice occurred and the facts are sufficient to warrant the initiation of a complaint in the justice court, then the City Attorney shall provide written notification to the respondent and the complainant that an action to enforce this Chapter may be initiated in justice court. If the City Attorney determines that there is insufficient cause or evidence to warrant the initiation of an action in the justice court, the City Attorney shall provide written notification to the respondent and the complainant.

7.02.140 Offenses And Penalties

An offence of this Chapter occurs if a person engages in any unlawful discrimination as specified in this Chapter. Each occurrence of any unlawful action constitutes a separate offense. In accordance with Utah Code Annotated §10−3−703, each offence is a violation of this Chapter subject to a fine not to exceed $1,000.

8 Public Health And Safety

8.01 Burning
8.03 Noise
8.04 Prohibiting The Launching Or Setting Off Of Fireworks Under Certain Circumstances
8.05 Rat Control
8.07 Intoxicating Chemical Compounds Prohibited
8.09 Discharge Of Weapons In City Limits
8.10 Public Safety Cost Recovery Procedures

8.01 Burning

8.01.010 Agricultural Burning
8.01.020 Burning Allowed By Permit
8.01.030 Permit Number Requirement
8.01.040 Types Of Burning Permitted
8.01.050 Non-permitted Burning
8.01.060 Fires On Wildlands Or Wildlife Habitats: Consent Required
8.01.070 Violation And Penalty
8.01.080 International Fire Code

8.01.010 Agricultural Burning

The following regarding agricultural burning:

1. Agricultural burning is defined by UCA Section 19-2-114.
2. Legitimate agricultural burning in the City is identified by all or a combination of several of the following criteria:
    a. Tax identification number;
    b. Acreage, greenbelt, one thousand dollars ($1,000.00) or more gross income per tax I.D. parcel number.
3. Applications are filled out by property owners. Those who meet the criteria, determined by a majority vote of City, county and/or the Utah State Farm Bureau will be given a notification number for each parcel.
4. The notification number will be used to notify the fire department as a courtesy when an agricultural burn takes place.
5. Burning is permitted on fence lines, cultivated lands, orchards, canals or irrigation ditches where burning will not pose a threat to forest, range or watershed lands, provided due care is used in the control of the burning and that the individual notifies the Box Elder sheriff dispatch office with the notification number and the approximate time the burning will occur.
6. All fires must be supervised during the time that the fire is burning.

8.01.020 Burning Allowed By Permit

All burn permits issued within the geographical limits of the City shall require, in addition to any other conditions imposed by the City or other authority, the following:

1. No fires shall be ignited before sunrise or after six p.m. Fires still burning at sunset will be extinguished thoroughly and as quickly as possible.
2. The maximum number of acres which may be actually burning at any given time shall be dependent upon the status of the clearing index for that particular day.
3. No burning by permit shall be allowed under any circumstances within the corporate limits of the City when the clearing index is less than five hundred (500') feet.
4. No burning shall occur in any area which has received heavy precipitation within the immediately proceeding twenty-four (24) hours prior to the ignition of any fire.
5. All fires must be supervised during the time that the fire is burning.

8.01.030 Permit Number Requirement

The following regarding the permit number requirement:

1. The county fire marshal, or the City or contracted fire department, shall establish a procedure to include a permit number issued over the phone when the clearing index allows, whereby persons seeking burning permits will be able to obtain the same upon application, assuming burning is permitted under provisions of this Chapter.
2. All permittees must have the permit number in their possession before commencing any burn, and the permit number shall be present at the site of the fire during the burn. On-site supervision of the fire is required by this Chapter.

8.01.040 Types Of Burning Permitted

Unless prohibited by state statutes or regulations, other county ordinances, applicable declarations of closed fire seasons, the order of a law enforcement officer, the Box Elder County fire marshal, or fire department contract representative or his duly authorized agent, following types of burning are permitted, providing that a county permit has first been obtained and subject to the provisions and restrictions in this Chapter:

1. The burning of pruning from trees, bushes and plants, or dead, or diseased trees, bushes and plants, including stubble, incidental to horticultural or agricultural operations;
2. Open burning of materials or structures when conducted under the control and supervision of the fire department contractor.
3. Fires for firemen training purposes when conducted under the direct control and supervision of the fire department contractor;
4. Other open burning for special purposes or under unique circumstances when approved by the fire department contractor and the county health department following a formal request;
5. Fires on any county property including roads, right-of-way, ditch banks, river bottomlands, wildlands or other areas of City domain.

8.01.050 Non-permitted Burning

The following types of burning are not permitted:

1. Open burning whether in container or on the ground of trash, garbage or other household or residential garbage not classified as agricultural;
2. Burning of dead animals;
3. Burning of combustible or industrial materials such as paint, oil, etc.;
4. Any commercial or industrial burning.

8.01.060 Fires On Wildlands Or Wildlife Habitats: Consent Required

The consent of the Utah Division of Wildlife Resources shall be required for any fires on any property leased, owned or controlled by that division as wildlands or wildlife habitats.

8.01.070 Violation And Penalty

The following regarding violations and penalties:

1. Any person who shall violate or fail to comply with the provisions of this chapter shall, for each day for each violation or noncompliance be guilty of a separate class "B" misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than six months, or by both such fines and imprisonment, for each offense.
2. Any person responsible for the creation and/or spreading of any uncontrolled or unattended fire, or any other fire, on public or private property, necessitating suppression

action by the City or state shall be liable to the City or state for the payment of all costs associated with that fire.

8.01.080 International Fire Code

The “International Fire Code,” as adopted by the International Conference of Building Officials and the Western Fire Chiefs Association and printed as a code in book form and as it may be subsequently amended or revised, is hereby approved and adopted, with the exceptions set forth herein, as the Fire Code for the Perry City.

8.03 Noise

8.03.010 Noise Regulations In General
8.03.020 Noises Prohibited
8.03.030 Exemptions
8.03.040 Violation And Penalty
8.03.050 Injunctions

8.03.010 Noise Regulations In General

It is unlawful for any person to willfully make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person or normal sensitiveness residing within the City limits.

8.03.020 Noises Prohibited

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exhaustive.

1. Motor Vehicle Horns: The sounding of any horn on any automobile, motorcycle, or other motor vehicle on any street or public place of the City except as a warning signal.
2. Radios, Television Sets, and Similar Devices: The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound between the hours of ten p.m. and seven a.m. in such manner as to disturb the peace, quiet and comfort of neighboring residents.
3. Loudspeakers and Amplifiers: The using or operating or any loudspeaker or sound amplifying device mounted upon any vehicle within the City for the purpose of broadcasting or advertising any information about any business or activity for any other purpose, unless a permit for such sound amplification has been obtained from the Mayor or Chief of Police.
4. Construction Equipment and Activity: The operating of any equipment or performing of any outside construction or repair work on buildings, structures, roads, or projects within the City between hours of ten p.m. and seven a.m. unless a permit for such construction or repair work between such hours has been obtained from the Mayor or Chief of Police.
5. Exhausts: The discharging into the open air of the exhaust of any internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
6. Animals and Birds: The keeping of any animal or bird which by frequent or continuous barking, chirping or other means of communication disturbs the comfort or repose of the residents of any residential neighborhood.
7. Vehicle Repair in Residential Areas: The repairing, rebuilding or testing of any motor vehicle between the hours of ten p.m. and seven a.m. within any residential area in such a manner as to disturb the peace, quiet and comfort of the residents of the area.
8. Schools, Courts, Churches, and Hospitals: The creating of any excessive noise on any street 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 patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
9. Hawkers and Peddlers: The selling of anything by outcry within the residential areas of the City, except at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
10. Drums: The using of any drum or other instrument or device for the purpose of attracting attention by the creation of noise within the City, unless a permit for such use has been obtained from the Mayor or Chief of Police.

8.03.030 Exemptions

The following uses and activities shall be exempt from the noise regulations set forth in this Chapter:

1. Noises of safety signals and warning devices;
2. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency;
3. Noises resulting from emergency work, to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

8.03.040 Violation And Penalty

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be fined in an amount not exceeding one thousand ($1,000.00) dollars or imprisonment for a period not exceeding thirty (30) days, or by both such fine and imprisonment. A separate offense shall be deemed to have been committed for each day during or upon which a violation occurs or is permitted to continue.

8.03.050 Injunctions

The operation or maintenance of any device, vehicle or machinery in violation of any provision of this chapter which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents of the City shall be deemed, and is declared to be, a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

8.04 Prohibiting The Launching Or Setting Off Of Fireworks Under Certain Circumstances

8.04.010 Purpose
8.04.020 Allowed And Prohibited Fireworks
8.04.030 Enforcement

8.04.010 Purpose

It is the purpose of this Chapter to prohibit and limit fireworks within Perry City limits as set forth in this Chapter, in order to provide for the health and safety of residents, landowners, and other interested parties. The City shall also adhere to and implement all relevant state law, and shall strongly consider all recommendations and policies promulgated or utilized by the Brigham City Fire Marshal and the Box Elder County Fire Marshal.

8.04.020 Allowed And Prohibited Fireworks

Fireworks are allowed or prohibited within Perry City limits as follows:

1. Fireworks are only allowed in residential areas if set off in a responsible way in a cleared area, preferably on concrete or asphalt, and only during July 1st to 7th and July 21st to 27th (11 am to 11 pm most days, extended to Midnight on July 4th and July 24th), or on other days allowed by State law.
2. Extensive care should be taken by those setting off or launching fireworks to protect houses and private property from potential damage, pollution, debris, etc.
3. Fireworks are prohibited in any open areas (other than the Main Perry Park), especially in or near fields, orchards, weeds, or dry areas.
4. “Private fireworks shows” (defined as one person, group, or location, other than Perry City, setting off or launching more than $200.00 worth of fireworks during one day) are prohibited, unless a permit is obtained from the City office to use the Main Perry Park.
5. Fireworks are prohibited at all times on the east side of Highway 89.
6. The Perry City Police Department may prohibit fireworks at any time (at any location within Perry City limits) if they determine that dangerous conditions or circumstances exist.

8.04.030 Enforcement

1. Criminal. Each violation of this chapter is a class B misdemeanor, which is punishable by a fine up to $1,000.00 and/or six (6) months imprisonment. Each day a violation continues constitutes a separate offense.
2. Civil. A violation of this chapter by a business constitutes grounds for the suspension or revocation of a business license issued by the city. The city may seek injunctive relief for any person, business, corporation, or entity that violates this chapter.

8.05 Rat Control

8.05.010 Definitions
8.05.020 Respective Duties Of Owner And Occupant
8.05.030 Failure Of Owner To Rat Proof After Notice
8.05.040 Failure Of Occupant To Free Building Of Rats After Notice
8.05.050 Duty Of Owner To Maintain Rat Proofed Building In Rat Proof Condition
8.05.060 Inspections By Health Officer
8.05.070 Closing Building
8.05.080 Condemnation
8.05.090 Removing Rat Proofing: New Openings
8.05.100 Structures Wherein Foodstuffs Are Kept
8.05.110 Compliance With Chapter Before Issuance Of License
8.05.120 Duty Of Building Inspector To Submit Plans To Board Of Health
8.05.130 Duty Of Utility Companies: Wires
8.05.140 Storage Of Feed For Animals
8.05.150 Garbage Or Refuse Consisting Of Waste Animal Or Vegetable Matter
8.05.160 Rubbish, Which May Afford Food Or Harborage For Rats
8.05.170 Accumulations Of Material To Be On Open, Elevated Racks
8.05.180 Rules And Regulations Of Health Officer

8.05.010 Definitions

The following definitions as they apply to this Chapter:

1. Business Building: Any structure, whether public or private, regardless of the type of material used in its construction, located within the boundaries of the City, that is adapted to occupancy for residence or for the rendering of professional services, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, rooming houses, boarding houses, apartment houses, beer houses, beer parlors, office buildings, public buildings, stores, markets, restaurants, grain elevators and abattoirs, warehouses, workshops and factories, junkyards, scrap iron businesses or places, lumberyards, coal yards, automobile tire yards, sheds or buildings used for the storage of tires and any or all similar places where rats may find harborage.
2. Health Officer: Health officer, as used in this Chapter, means the health officer of the City or any duly authorized representative.
3. Occupant: Occupant, as used herein, means the individual, partnership or corporation that uses or occupies any business building or part or fraction thereof, whether the actual owner or tenant. In the case of vacant business buildings or vacant portions thereof, the owner, agent or custodian shall have the responsibility as occupant.
4. Owner: The actual owner, agent, or custodian of the business building, whether individual, partnership or corporation. These shall be construed as the "owner" for the purpose of this chapter when business building agreements hold the lessee responsible for maintenance and repairs.
5. Rat Eradication: The elimination or extermination of rats within buildings or premises by fumigation, trapping, clubbing, etc.
6. Rat Harborage: Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside of any structure.
7. Vent Stoppage or Ratproofing: Vent stoppage or ratproofing, as used in this chapter, apply to a form of ratproofing to prevent the ingress of rats into business buildings from the exterior or from one business building to another. It consists of the closing and keeping closed of all openings in the exterior walls, ground or first floors, basements, roofs, sidewalk gratings, sidewalk openings, foundations, elevator shafts, fire escapes and other places that may be reached and entered by rats by climbing, burrowing or otherwise. The material to be used for ratproofing shall include cement, concrete, brick masonry laid in cement, concrete mortar, sheet metal and hardware cloth of not less than nineteen (19) gauge having a mesh not larger than one-half inch. All material for ratproofing shall be of such strength and thickness as to be impervious to rat gnawing. Windows and other openings for light or ventilation, the sills of which are less than thirty (30") inches from the ground or accessible to rats by means of climbing wires or pipes, shall, if open, be covered by hardware cloth conforming to the above gauge and dimensions. All exterior doors shall be protected against the gnawing of rats by the use of materials prescribed above. When closed, all exterior doors shall have a maximum clearance between doors, doors sills and jambs of not exceeding three-eighths of an (3/8") inch. In all side and rear doors which are left open at night, and those which are left open during the day, but infrequently used, shall be installed hardware cloth doors conforming to the above dimensions and equipped with a self-closing device. All concrete floors and curtain walls shall be at least four inches in thickness.

8.05.020 Respective Duties Of Owner And Occupant

All business buildings in the City shall be ratproofed by the owner and freed of rats and maintained in a ratproof and rat-free condition by the occupant or tenant, to the satisfaction of the health officer.

8.05.030 Failure Of Owner To Rat Proof After Notice

Upon receipt of written notice or order from the health officer, the owner of any business building specified herein shall take immediate measures for ratproofing the building and unless such work and improvements have been completed by the owner in the time specified in the written notice.

8.05.040 Failure Of Occupant To Free Building Of Rats After Notice

Whenever the health officer notifies the occupant of a business building that there is evidence of rat infestation of the building, such occupant shall immediate institute appropriate measures for freeing the premises he occupies of all rats and unless such measures are instituted within fifteen (15) days after receipt of notice and unless continuously maintained in a satisfactory manner until the building is free of rats, the health officer is authorized and directed to free the building. If the costs thereof are not paid by the owner or occupant the health officer shall certify the amount due from the owner or occupant to the City Attorney and the City Attorney shall bring suit to collect the same.

8.05.050 Duty Of Owner To Maintain Rat Proofed Building In Rat Proof Condition

The owners of all ratproofed business buildings are required to maintain the premises in a ratproof condition and to repair all breaks or leaks that may occur in the ratproofing without a specific order of the health officer.

8.05.060 Inspections By Health Officer

The health officer is empowered to make unannounced inspections of the interior and exterior of business buildings to determine full compliance with this chapter in emergency situations. Warrants will be required for nonemergency, nonconsensual searches. If evidence is found the health officer shall make periodic inspections at intervals of not more than three months of all ratproofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in their ratproofing. When any evidence is found indicating the presence of rats or openings through which rats may again enter business buildings, the health officer shall serve the owners or occupants with notice or order to abate the conditions found.

8.05.070 Closing Building

Whenever conditions inside or under occupied business buildings provide extensive harborage for rats, in the opinion of the health officer, the health officer is empowered, after due notification in accordance with Section 8.05.060 to close such business buildings until such time as the conditions are abated by ratproofing and harborage removal, including, if necessary, the installation of suitable concrete floors in basements or the replacement of wood on first or ground floors with concrete or other major repairs necessary to facilitate rat eradication.

8.05.080 Condemnation

Whenever conditions inside or under unoccupied business buildings provide extensive harborage for rats, in the opinion of the health officer, the health officer is empowered to require compliance with the provisions of Section 8.05.060 and in the event such conditions are not corrected in a period of sixty (60) days or within the time to which a written extension may have been granted by the health officer, the health officer is empowered to institute condemnation and destruction proceedings.

8.05.090 Removing Rat Proofing: New Openings

It is unlawful, under the provisions of this chapter, for any occupant, owner, contractor, public utility company, plumber or any other person to remove and fail to restore in like condition the ratproofing from any business building, for any purpose. Further, it is unlawful for any person to make any new openings that are not closed or sealed against the entrance of rats.

8.05.100 Structures Wherein Foodstuffs Are Kept

It is unlawful for any person to occupy any building or structure wherein foodstuffs are to be stored, kept, handled, sold, held or offered for sale without complying with the ratproof regulations prescribed in this chapter for existing buildings and structures.

8.05.110 Compliance With Chapter Before Issuance Of License

No license from the City to conduct or carry on a business will be issued to any person until the requirements of this chapter have been complied with.

8.05.120 Duty Of Building Inspector To Submit Plans To Board Of Health

When in the opinion of the chief building inspector, plans for building, remodeling or renovating indicate that such changes or construction will affect the ratproof condition of a building or structure, the chief building inspector shall forward such plans or specifications to the board of health for its recommendations with regard to ratproofing or vent stopping. This shall apply both to new buildings or the renovating of existing structures.

8.05.130 Duty Of Utility Companies: Wires

Utility companies shall place all wires or guy wires attached to buildings at least eighteen (18) inches away from the openings or attach rat guards as defined by rules and regulations of the health officer.

8.05.140 Storage Of Feed For Animals

All food and feed within the City for feeding chickens, cows, pigs, horses, and other animals shall be stored to prevent rat infestation as best as possible. If complaints are received or problems are observed the health officer will be asked to investigate, report to and make recommendations to the City Council.

8.05.150 Garbage Or Refuse Consisting Of Waste Animal Or Vegetable Matter

All garbage or refuse consisting of waste animal or vegetable matter, upon which rats may feed and all small dead animals shall be disposed of properly. If complaints are received or problems are observed the health officer will be asked to investigate, report to and make recommendations to the City Council. It is further declared unlawful for any person to dump or place on any premises, land or waterway any dead animals. Waste animal or vegetable matter used for agricultural purposes or fertilization is not included in this section.

8.05.160 Rubbish, Which May Afford Food Or Harborage For Rats

It is unlawful for any person to place, leave, dump or permit to accumulate any garbage, rubbish, trash or junk in any building or on any premises, improved or vacant, or any open lot or alley or elevated loading platform in the City so that the same shall or may afford food or harborage for rats.

8.05.170 Accumulations Of Material To Be On Open, Elevated Racks

It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or any open lot or alley in the City any lumber, boxes, barrels, bottles, cans, containers, junk or other materials that may be permitted to remain thereof, unless the same shall be placed on open racks that are elevated not less than eighteen (18) inches above the ground and evenly piled or stacked.

8.05.180 Rules And Regulations Of Health Officer

The City health officer is authorized to adopt rules and regulations necessary to enforce the provisions of this Chapter.

8.07 Intoxicating Chemical Compounds Prohibited

8.07.010 Purpose
8.07.020 Prohibited Chemical Compounds
8.07.030 General Provisions
8.07.040 Enforcement

8.07.010 Purpose

It is the purpose of this chapter to prohibit within the Perry City, Utah, the manufacture, distribution, use, possession, purchase, sale, and offering for sale of certain intoxicating chemical compounds as defined in this chapter that have an intoxicating and/or hallucinogenic effect upon the human body, and which are not regulated by state or federal law.

8.07.020 Prohibited Chemical Compounds

It is unlawful for any person, business, corporation, or entity to manufacture, distribute, dispense,ingest, use, possess, purchase, attempt to purchase, sell, publicly display for sale, attempt to sell, give, trade, barter, or exchange in any manner the following chemical compounds and/or substances, including their salts, isomers, homologues, and salts of their isomers or homologues;

1. Salvia Divinorum or Salvinorum A, including all parts of the plant presently classified botanically as Salvia Divinorum, whether growing or not, including seeds thereof, and any extract or derivative of such plant.
2. Pentyl-3(1-naphthoyl)indole (also known as JWH-018).
3. (6ar,10ar)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10atetrahydrobenzo[c] chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);
4. 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl) phenol (also known as CP-47,497), and the dimethylhexyl, dimethyloctyl, and dimethylnonyl homologues of CP-47,497.
5. 1-Butyl-3-(1-naphthoyl)indole (also known as JWH-073).
6. 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200).
7. 1-Pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250).
8. 1-Hexyl-3-(1-naphthoyl)indole (also known as JWH-019).
9. 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398).
10. N-benzylpiperazine (also known as BZP).
11. 1-(30trifluoromethylphenyl) piperazine (also known as TFMPP).
12. Any similar structure analogs of the above chemical compounds.
13. Any synthetic cannabinoids.

8.07.030 General Provisions

1. Exemptions. It is not an offense under this chapter if:
    a. A city licensing or enforcement official is enforcing this chapter or acting under a legitimate drug education program that furthers the purpose of this chapter.
    b. A person has a lawfully obtained prescription for substances approved by the U.S. Food and Drug Administration or as may be allowed by state law.
2. Seizure and disposition. The city's law enforcement official may seize, confiscate, and destroy any chemical compounds prohibited by this chapter in accordance with standard operating procedures for the same.
3. No waiver. Failure to enforce this chapter does not act as a waiver nor constitute a defense.

8.07.040 Enforcement

1. Criminal. Each violation of this chapter is a class B misdemeanor, which is punishable by a fine up to $1,000.00 and/or six (6) months imprisonment. Each day a violation continues constitutes a separate offense.
2. Civil. A violation of this chapter by a business constitutes grounds for the suspension or revocation of a business license issued by the city. The city may seek injunctive relief for any person, business, corporation, or entity that violates this chapter.

8.09 Discharge Of Weapons In City Limits

8.09.010 Definitions
8.09.020 Special Provisions
8.09.030 Unlawful To Discharge A Dangerous Weapon In The Railroad To Pineview Area
8.09.040 Unlawful To Allow A Bullet/Projectile To Enter The Railroad To Pineview Area
8.09.050 Unlawful To Discharge A Weapon Anywhere In The City Limits If It Endangers Safety Or Damages Property
8.09.060 Unlawful To Discharge A Weapon In Or On Any Public Parks Or City-Owned Property
8.09.070 Punishment For The Illegal Discharge Of A Weapon
8.09.080 Enhanced Punishment For The Illegal Discharge Of A Weapon In A School Zone

8.09.010 Definitions

The following definitions regarding the discharge of a weapon:

1. "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle, sawed-off rifle, bow (and arrows), crossbow, or any other similar dangerous device that could be used as a dangerous weapon from which is expelled a projectile by any force.
2. "Dangerous Weapon" includes all firearms, and also includes any other weapon that, in the manner of its use or intended use, is capable of causing death or serious injury. The following factors shall be used in determining whether an item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon:
    a. The character of the instrument, object, or thing;
    b. The character of the wound likely to be produced, if any; and
    c. The manner in which the instrument, object, or thing was used.
3. "Airgun" means any airsoft gun, paintball gun, or similar device capable of expelling non-metallic projectiles by any force, which does not fit the definition of a "dangerous weapon."
4. "Railroad to Pineview Area" means the portion of Perry City limits bounded by:
    a. The north Perry City limits;
    b. 600 feet east of the Pineview Canal Road and 600 feet east of any developed property (as the eastern boundary);
    c. The south Perry City limits; and
    d. The railroad tracks (as the western boundary).

8.09.020 Special Provisions

The following special provisions shall apply to all Sections in this Chapter:

1. It shall be a defense to this charge if the person discharging a dangerous weapon or airgun can show that it was discharged in self-defense;
2. It shall be a defense to this charge if the discharge of a dangerous weapon or airgun by any person is necessary to protect life or property or to kill any dangerous animal;
3. This prohibition shall not apply to any peace officer in the discharge of his duty;
4. This prohibition shall not apply to any approved target shooting after the erection, at a proper and approved place (outside the "Railroad to Pineview Area"), of a proper breastwork or battery for the protection of the citizens, as approved by: (a) the appropriate landowner(s) (for property not owned by the City); and (b) the Police Chief (the Mayor shall have authority to overrule the Police Chief regarding this Sub-Section);
5. It shall not be a defense under this section that firing of a dangerous weapon or airgun was done during an approved hunting season pursuant to the regulation of the State of Utah, except as provided in Sub-Section 6; and
6. A shotgun may be used for hunting water fowl and upland game, during legal hunting seasons, provided such shotgun is used in accordance with federal laws, Utah State Statutes, and Utah Hunting Regulations and Proclamations.

8.09.030 Unlawful To Discharge A Dangerous Weapon In The Railroad To Pineview Area

It shall be unlawful for any person to discharge a dangerous weapon of .177 caliber or greater in the "Railroad to Pineview Area."

8.09.040 Unlawful To Allow A Bullet/Projectile To Enter The Railroad To Pineview Area

It shall be unlawful for any person to discharge a dangerous weapon of .177 caliber or greater outside the "Railroad to Pineview Area," if it is reasonably foreseeable that the path or trajectory of the bullet or other projectile will enter into the "Railroad to Pineview Area."

8.09.050 Unlawful To Discharge A Weapon Anywhere In The City Limits If It Endangers Safety Or Damages Property

It shall be unlawful for any person to discharge a dangerous weapon (of any caliber), or any airgun, anywhere in Perry City limits, if the firing of said weapon endangers the safety of any person or domestic animal, or if the firing of the weapon damages any property.

8.09.060 Unlawful To Discharge A Weapon In Or On Any Public Parks Or City-Owned Property

It shall be unlawful for any person to discharge a dangerous weapon (of any caliber), or any airgun, in or on any public park or other City-owned property in Perry City limits.

8.09.070 Punishment For The Illegal Discharge Of A Weapon

A violation of this Ordinance shall be a Class B Misdemeanor punishable by a fine not to exceed $299.00 and/or a jail sentence not to exceed six months.

8.09.080 Enhanced Punishment For The Illegal Discharge Of A Weapon In A School Zone

A violation of this Ordinance which occurs within 1000 feet of any school zone will enhance the penalty to a Class A Misdemeanor, the fine will be $1,000.00 and/or a jail sentence not to exceed one (1) year, as per Utah Code Annotated §76-3-204, as amended.

8.10 Public Safety Cost Recovery Procedures

8.10.010 Title
8.10.020 Purpose
8.10.030 Definitions
8.10.040 Recovery Authorization And Procedure
8.10.050 No Admission Of Liability
8.10.060 Actions To Recover Expense

8.10.010 Title

The provisions of this chapter may be cited and referred to as the "Perry City Public Safety Cost Recovery Ordinance."

8.10.020 Purpose

This chapter shall provide procedures for recovering expenses incurred by Perry City and/or Brigham City Emergency Services with whom Perry City contracts for their fire and ambulance services in connection with any response to a Hazardous Materials Emergency, an Aggravated Fire Emergency or an Aggravated Medical Response, as defined herein.

8.10.030 Definitions

1. "Hazardous Materials Emergency" means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical or chemical or infectious characteristics, presents a direct or immediate threat to public safety or the environment and requires action to mitigate the threat.
2. "Aggravated Fire Emergency" means:
    a. a fire approximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:
        i. is caused or contributed to by the failure to comply with an order from any State, County, City or local agency, department or official; or
        ii. occurs as a direct result of an act in violation of state law or the ordinances and/or regulations of Perry City or other local agency.
    b. a fire that constitutes arson or reckless burning as defined by the Utah Code.
    c. an alarm that results in a fire unit and/or fire personnel being dispatched to Perry City, and the person transmitting, or causing the transmission of the alarm, knows or should have known at the time of said transmission that no fire or fire related emergency exists.
3. "Aggravated Medical Emergency" means an alarm that results in a fire or ambulance (medical) unit and/or fire and ambulance personnel being dispatched to Perry City, and the person transmitting or causing the transmission of the alarm knows or should have known at the time of said transmission that no medical emergency exists.
4. "Emergency Response Expenses" means the actual costs incurred to Perry City and/or Brigham City and volunteer personnel, including worker's compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and cost of any contract labor and materials, in responding or providing a response to a Hazardous Materials Emergency, and Aggravated Fire Emergency or an Aggravated Medical Emergency.

8.10.040 Recovery Authorization And Procedure

Perry City is hereby empowered to recover Emergency Response Expenses incurred by virtue of its response to a Hazardous Materials Emergency, Aggravated Fire Emergency or an Aggravated Medical Emergency, from any person, corporation, partnership or other individual or entity who caused such a response, pursuant to the following procedure:

1. Perry City through the Brigham City Emergency Services Department shall determine responsibility for the emergency or response as defined above and Perry City shall notify the responsible party by mail of the department's determination of responsibility and the expenses to be recovered.
2. The notice shall specify that the determined responsible party may appeal the department's decision before a hearing officer designated by the Perry City Council and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice.
3. In the event the determined responsible party appeals the determination, the hearing officer shall hold a hearing to consider any issues raised by the appeal, at which hearing the appealing party and the Emergency Services Department or other local government shall be entitled to present evidence in support of their respective positions.
4. After the hearing, the hearing officer shall make a recommendation to the Perry City Council, which shall issue a decision determining responsibility and assessing expenses. The Perry City Council may adopt, modify or remand the recommendation of the hearing examiner for further proceedings. The Perry City Council may, in its sole discretion, hear additional evidence prior to issuing its decision.

8.10.050 No Admission Of Liability

The payment of Emergency Response Expenses determined owing under this chapter does not constitute:

1. an admission of liability or negligence in any legal action for damage; or
2. a criminal fine.

8.10.060 Actions To Recover Expense

In the event the party or parties determined to be responsible for Emergency Response Expenses fail to make payment to Brigham City within thirty (30) days after a final administrative determination of any appeal, or thirty (30) days from the deadline for appeal in the event no appeal is filed, Perry City may initiate legal action to recover from the determined responsible party the Emergency Response Expenses determined to be owing, including the reasonable attorney's fees, and costs incurred by Perry City in such legal action.

9 Uniform Animal Control

9.01 Definitions
9.03 Administration
9.05 Licensing And Regulatory Permits
9.07 Prohibited Acts
9.09 Impoundment
9.11 Rabies Control
9.12 Residential Chickens
9.13 Other Animal Control Laws
9.15 Enforcement And Penalties

9.01 Definitions

9.01.010 Definitions

9.01.010 Definitions

The following definitions of this title:

1. Animal: Any and all types of livestock, dogs and cats, and all other subhuman creatures, domestic and wild, male and female, singular and plural.
2. Animal boarding establishment: Any establishment that takes in animals and boards them for profit.
3. Animal grooming establishment: Any establishment maintained for the purpose of offering cosmetological services for animals at a profit.
4. Animal shelter or shelter: Any facility owned and operated by a governmental entity or an animal welfare organization duly organized in Utah for the purpose of preventing cruelty to animals and used for the care and custody of seized, homeless, quarantined, abandoned, stray, or unwanted dogs, cats, or other domestic animals.
5. Animals at-large: An animal shall be considered to be "at-large" when it is off the owner's property and not under immediate control, by means of a durable restraint device, capable of keeping the animal restrained; or an animal that is on the property of the owner and not securely confined by a leash, building, fenced area, or appropriate transport device.
6. Bite: Any actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.
7. Cat: Any age feline, of the domestic type.
8. Cattery: An establishment for boarding, breeding, buying, grooming, or selling cats (five (5) or more) for profit.
9. Cat colonies: A group of two or more feral cats.
10. Chicken: Refers only to the female, or hen of the species. Roosters and crowing hens are prohibited in all residential zones.
11. City or municipality: The municipality of Perry City, Utah.
12. Dangerous animal: Any animal that, according to the records of the Perry City Animal Control Division, or other city or county law enforcement agency and/or officer:
    a. Has inflicted serious injury on a human being, with or without provocation, on public or private property;
    b. Has killed a domestic animal, with or without provocation, while off the owner's property;
    c. Has previously been found to be "potentially dangerous", the owner having received notice of such, and is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
    d. The animal is found to be in violation of any of the restrictions placed upon the animal by the Animal Control Division, pertaining to a potentially dangerous animal. As designated in this ordinance.
13. Department: The Perry City Police Department.
14. Division: The Animal Control Division within the Perry City Police Department.
15. Dog: Any canis familiaris over four (4) months of age. Any canis familiaris under the age of four (4) months is a puppy.
16. Domesticated animals: Animals accustomed to living in or about the habitation of man, including but not limited to cats, dogs, fowls, horses, swine, goats, sheep, mules, donkeys, lamas, and cattle.
17. Enclosure: As it relates to dogs, a fence or structure of at least six feet in height, forming or causing an enclosure suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering the vicious dog.
18. Astray or stray: Any animal running at-large, whose owner cannot be found after a reasonable search; and, only relating to livestock, such is more specifically defined as set forth in Utah Code §4-25-1, 1952 as amended.
19. Facility manager: The manager of the animal impound facility or animal shelter facility used or contracted by the City.
20. Feral cats: Cats that exist in a wild state and determined not to have an owner and have reverted to wild state.
21. Government working dog: A dog trained to assist officials of government agencies in law enforcement exercises.
22. Guard dog: A working dog which must be kept in a fenced run or other suitable enclosure during business hours, and on a leash or under absolute control while working so that it cannot come into contact with the public.
23. Holding facility or facility: Animal impound, animal shelter, humane establishment, or any other similar facility used for holding animals.
24. Impounded animal: Any animal taken into custody by the division, another governmental entity, or a facility.
25. Kennel: Land or buildings used in the keeping of four (4) or more dogs, four (4) months or older.
26. Leash or lead: Any chain, rope or device used to restrain an animal.
27. Licensed dog: A dog wearing its current dog license tag.
28. Livestock: Any normally domesticated animal that is not a cat, or dog, such as: cattle, sheep, goats, mules, burros, horses, geese, ducks, turkeys, lamas, pigs, etc.
29. Neutered animal: An animal having had the testicles removed; a castrated animal.
30. Officer: An animal control officer, governmental official, law enforcement officer, or other individual authorized to enforce or act within the scope of this chapter.
31. Owner: Any person who is the legal owner, keeper, possessor, and/ or the actual custodian of animal. Ownership is established by a person registering as owner on a license or other legal document or being a person claiming ownership and taking possession of an animal.
32. Pet: A domesticated animal kept for pleasure rather than utility, including but not limited to birds, cats, dogs, fish, hamsters, mice, and their animals associated with man's environment.
33. Pet shops: Any establishment containing cages or exhibition pens, not part of the kennel or cattery, wherein dogs, cat, birds or other pets for sale are kept or displayed.
34. Police Chief or Chief of Police: The duly appointed Perry City Police Chief.
35. Potentially dangerous animal: Any animal that, with or without provocation, chases or approaches a person upon the streets, sidewalks, or any public grounds, in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack with or without provocation. In addition a potentially dangerous animal is any animal that, because of witnessed and documented action, is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.
36. Quarantine: The isolation of an animal under the observation of a licensed veterinarian or in the custody of the animal shelter in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.
37. Residence: Any legally recognized dwelling (home, apartment, and/or condominium).
38. Restraint device: Any chain, leash, cord, rope, or other device commonly used to restrain an animal.
39. Ridding school or stable: An establishment which offers boarding and /or riding instruction of any horse, pony, donkey, mule or burro or which offers such animals for hire.
40. Service animal: An animal specifically trained and certified by a nationally recognized training establishment to assist physically challenged persons. Examples include but are not limited to: hearing-impaired, mobility-limited, or seeing-eye dogs.
41. Spayed: An animal having had the ovaries and uterus removed or extirpated and ovariohysterectomy.
42. Vacciated dog: A dog inoculated with an approved, currently valid, anti rabies vaccine, and wearing a current dog license tag indicating proof of such vaccination.
43. Vicious animal: a vicious animal as described below:
    a. Inflicted severe injury on human being, with or without provocation, on public or private property;
    b. Has killed a domestic animal, with or without provocation, while off the owners' property; or
    c. Has been previously found to be dangerous, the owner having received notice of such, and the animal again bites, attacks or endangers the safety of humans or domestic animals, or it is witnessed and documented that the animal is in violation of restrictions, placed upon it, as a potentially dangerous or dangerous animal pursuant to Section 9.07.050. and 9.07.060. of this ordinance.

44. Wild animal: Any animal which is not commonly domesticate, or which is a wild or predatory nature, or any animal which, because of its size, growth propensity, vicious nature or other characteristics, would constitute an unreasonable danger to human life, or property if not kept, maintained, or confined in safe and secure manner. Those animals, however domesticated, shall include but are not limited to:

    a. Alligators, Crocodiles, Caiman;
    b. Bears (ursidae). All bears including grizzly bears, brown bears and black bears;
    c. Cat Family (felidae). All except the commonly accepted domesticated cats, and including cheetah, cougar, leopard, lion, lynx, panther, mountain lion, tiger, wild cat, and similar animals;
    d. Dog Family (canidae). All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, part coyote, dingo, and similar animals.
    e. Porcupine (erethizontidae);
    f. Primate (Non-human). All subhuman primates;
    g. Raccoon (prosynnidae). All raccoons, including eastern raccoon, desert raccoon ring-tailed cat, and similar animals;
    h. Skunks;
    i. Venomous fish and piranha;
    j. Venomous snakes and lizards;
    k. Weasels (mustelidae). All including weasels, martens, wolverines, badgers, otters ermine, mink, mongoose, and similar animals;
    l. Despite the restrictions stated above, there shall be an exception granted to persons raising wild animals for their pelts and for commercial purpose.

Amended by Ord. 14-L on 2/19/2015

9.03 Administration

9.03.010 Animal Control Division Created
9.03.020 Power And Authority Of Animal Control Officials
9.03.030 Interfering With Officers Prohibited
9.03.040 Animal Shelter Provided
9.03.050 Restrictions, Rules, And Regulations

9.03.010 Animal Control Division Created

The Perry City Council hereby creates Animal Control Division within the Perry City Police Department for the purpose of resolving animal related occurrences in the municipality.

9.03.020 Power And Authority Of Animal Control Officials

The chief of the Department may designate one or more officers as animal control officers, who shall take the oath of office, and shall be:

1. Vested with the power and authority to enforce this ordinance.
2. Animal control officers are hereby authorized and empowered to apprehend and take with them and impound any animal found in violation of this chapter and administer the provisions of the same.

9.03.030 Interfering With Officers Prohibited

It is unlawful for any person to knowingly and intentionally interfere with any animal control officer in the lawful discharge of his/her duties as prescribed in this ordinance.

9.03.040 Animal Shelter Provided

The Perry City Council shall provide for suitable premises, facilities, and supplies for an animal shelter wherein impounded animals can be adequately kept, or may contract for the same with another entity. Any shelter provided or contracted shall comply with the "Municipal Animal Shelter Pet Sterilization Act" set forth in Utah Code Annotated §10 -17-101, et seq, 1953, as amended.

9.03.050 Restrictions, Rules, And Regulations

Under the direction of the Chief of Police, the division may impose restrictions on dangerous or potentially dangerous or similar animals to protect the public or persons from the same. Under the direction of the Chief of Police, the division is hereby delegated authority and may promulgate such rules and regulations necessary and consistent with this chapter to more fully implement the same. Under the direction of the Chief of Police, the division is hereby delegated authority to promulgate rules and regulations applicable to pet shops, animal grooming establishments, or similar establishments for the safe and effective operation of the same.

9.05 Licensing And Regulatory Permits

9.05.010 Licensing And Registration Of Dogs
9.05.020 Exemptions For Licensing
9.05.030 Tag And Collar Required
9.05.040 Removal Of Tag And Collar Unlawful
9.05.050 Kennel Licenses
9.05.060 Number Of Cats And/or Dogs Per Residence
9.05.070 Display Of Permit
9.05.080 Renewal Of Permit
9.05.090 Exemptions
9.05.100 Inspections
9.05.110 Suspension Or Revocation Of Permit
9.05.120 Notice Served

9.05.010 Licensing And Registration Of Dogs

It shall be unlawful for any person to own, keep, harbor, or maintain a dog over the age of four (4) months of age, without registering and obtaining a license for such dogs from the division or authorized vendor.

1. All dogs brought into the municipality shall require registering and licensing within thirty (30) days after they enter the municipality, or within thirty (30) days after having reached the age of four (4) months.
    a. The annual fee for all dog licenses shall be from time to time set by resolution by the Perry City Council.
    b. For any dog not registered within thirty (30) days after having been brought into the municipality, or within thirty (30) days of being four (4) months old, the owner thereof will be required to pay and additional license "late fee" which shall be set from time to time by resolution of the Perry City Council.
2. No dog shall be licensed as spayed or neutered without proof that the surgery has been performed.
3. Proof that the dog has a current rabies inoculation shall be presented at the time the license is applied for. Proof must be in writing and must include the licensed veterinarian who administered the vaccine.

9.05.020 Exemptions For Licensing

Section 9.05.010 does not apply to the following:

1. Persons 65 years of age or older may obtain a dog license for a spayed or neutered dog for a reduced fee. This shall be known as a "Senior Citizen License".
2. Licensed dogs, whose owners are non-residents, temporarily (up to thirty (30) days) within the municipality, provided, however, that licensed dogs whose owners remain within the municipality longer than thirty (30) days may transfer a current license from another local government authority to Perry City upon payment of a "transfer fee' and proof of current rabies vaccination.
3. Individual dogs within a properly licensed kennel or other such establishment.
4. Service animals.
5. Government working dogs.
6. Animals especially trained to assist government officials in the performance of their duties, and are owned or maintained by a government agency.
7. Notwithstanding the foregoing, nothing in this section shall be construed so as to exempt any dog from having a current rabies vaccination as prescribed in this chapter.

9.05.030 Tag And Collar Required

Upon payment of the license fee, there shall be issued to the owner, a metallic tag for each dog so licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In the event a dog tag is lost or destroyed, a duplicate will be issued by the division upon presentation of a receipt showing payment of the license fee for the current year, and payment of a duplicate tag fee as set from time to time by the Perry City Council. The license shall not be transferable from one dog to another and no refunds shall be made on any dog license for any reason whatsoever.

9.05.040 Removal Of Tag And Collar Unlawful

It shall be unlawful to deprive a registered dog of its collar and or its tags.

9.05.050 Kennel Licenses

It shall be unlawful for any person to operate or maintain a kennel or cattery without first complying with federal, state, and local law and obtaining a kennel or cattery license from the division as follows:

1. Animal owners making application for a kennel license shall first seek approval from the City's land use authority and the local health department. The division may only issue a kennel license once the required local land use authority and local health department regulations are met, the necessary inspections are made and approved, and all permits issued. No kennel license shall be issued in violation of local land use or health regulations.
2. The applicant must comply with any other federal, state, or local laws.
3. All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a printed form provided by the division.
4. Upon notification from the local land use authority and health department that the kennel facility has been inspected and approved, division personnel will perform an additional and final inspection, and upon approval, issue a kennel license.
5. Kennel licenses shall also be valid for one year from the date of purchase.
6. The procedures relating to a kennel or kennel license set forth in this section and elsewhere in this chapter shall are the same for a cattery or cattery license and shall administered accordingly.

9.05.060 Number Of Cats And/or Dogs Per Residence

No person or persons, at any one residence, shall at any time own, harbor, license or maintain more than five (5) cats and/or three (3) dogs, except as authorized by section 9.05.050 of this chapter.

9.05.070 Display Of Permit

A valid permit shall be posted in a conspicuous place in each establishment, and said permit shall be considered as an appurtenant to the premises, and not transferrable to another location. The permittee shall notify the division within thirty (30) days of any change of its establishment, or operation which may affect the status of the permit. In the event of a change in ownership of the establishment, the permittee shall notify the division, immediately. Permits shall not be transferable from one owner to another.

9.05.080 Renewal Of Permit

Any permit for a license issued, pursuant to this section, shall be renewed each year by January 31st, but may be renewed as early as the preceding December 1st. Any payment for a permit received after January 31st shall be accompanied by a late fee, in addition to the regular permit fee. Proof of a current rabies vaccination shall be provided for each dog. Regular permit fees and late fees shall be paid as provided in Chapter 4.09 (Fee Schedules) of the Perry Municipal Code (or according to the most recent City resolution). There shall be no proration of fees for a permit for a partial year.

9.05.090 Exemptions

Research facilities, where bona fide medical or related research is conducted, humane shelters and other animal establishments, operated by state or local government, or which are licensed by federal law, are excluded from the licensing requirements of this ordinance.

9.05.100 Inspections

All establishments required to obtain a permit under this ordinance shall be subject to periodic inspections, and the inspector shall make a report of such inspection with a copy to be filed with the division.

9.05.110 Suspension Or Revocation Of Permit

A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

1. Falsification of the facts in a permit application.
2. Violation of any of the provisions of this ordinance or any other regulation governing the establishment, including noise, building and zoning ordinances, or maintaining or selling illegal species.
3. Conviction of a charge of cruelty to animals under state or local codes.

The procedure for revocation of a permit is governed by this part:

1. If an inspection of any facility operating with a kennel permit reveals a violation of this ordinance, the inspector shall notify the permit holder or operator of such violation by means of an inspection report from, or other written notice.
2. The notification shall:
    a. Set forth the specific violation found.
    b. Establish a specific and reasonable period of time for the correction of the violation(s) found.
    c. State that any failure to comply with any notice issued in accordance with the provisions of this ordinance shall result in immediate suspension of the permit.
    d. State that an opportunity for an appeal from any notice of inspection finding shall be provided if a written request for hearing is filed with the Division of Animal Control within five (5) days of date of notice.
    e. Upon request of a hearing, a minimum of five (5) days notice shall be given to the permittee advising him of the date and time of such hearing and listing the cause or causes for such suspension or revocation.
3. No new permit shall be issued to any person whose permit has been previously revoked except upon application for a new permit, accompanied by the required application fee and proof that all requirements of this ordinance have been met.
4. Any permit granted under this ordinance may be suspended or revoked by the division for violations listed in this chapter.

9.05.120 Notice Served

Notice provided for under this ordinance shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge of the kennel or cattery or such notice has been sent by certified mail to the last known address of the permit or license holder. A copy of such notice shall be filed with of division.

9.07 Prohibited Acts

9.07.010 Nuisance Animal
9.07.020 Abatement Of Public Nuisance Animals
9.07.030 Control And Fencing
9.07.040 Female Dogs/Cats In Heat
9.07.050 Possession Of Potentially Dangerous Animals
9.07.060 Possession Of Dangerous Animals
9.07.065 Custody Of Dangerous Animals
9.07.070 Failure To Properly Confine Potentially/Dangerous Animal
9.07.080 Animals At-Large Prohibited
9.07.090 Allowing Domestic Fowl To Trespass Prohibited
9.07.100 Staking Animals Improperly On Unenclosed Premises
9.07.110 Animal Waste
9.07.120 Wild Animals Prohibited

9.07.010 Nuisance Animal

All persons having custody of animals shall exercise proper care and control of his/her animal(s) in order to prevent them from becoming a nuisance.

1. An animal shall be deemed to be a nuisance if the animal:
    a. causes damage to the property of anyone other than its owner.
    b. causes unreasonable odors.
    c. causes unsanitary conditions.
    d. barks, whines, howls, or makes other disturbing noises for an extended period of time.
    e. chases vehicles.
    f. is an animal which has been impounded for being at-large, or its owner or possessor has been convicted for the animal being at-large on three separate occasions within a twelve month period.
    g. is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that animal by the division.
2. In addition to other remedies allowed by law, this section also authorizes the animal control officer/shelter facility manager to abate a nuisance animal as prescribed by state or local law.

9.07.020 Abatement Of Public Nuisance Animals

When it reasonably appears to the officer/manager that any animal is a nuisance as defined in this chapter, and that such nuisance should be abated, the officer/manager shall:

1. Abatement such animal by either relocating or euthanizing the animal after attempting to obtain the written consent of the animal's owner to abate the animal.
2. If the animal owner's consent cannot be readily obtained, the officer/manager may file a complaint with the governing court charging the maintenance of a nuisance animal.
    a. The charge shall set forth the facts according to the best of the officer's/manager's information and belief, indicating that the owner is maintaining a nuisance, and the nuisance should be abated.
    b. Until such time as the owner may appear before the court, the animal(s) may be taken into impound by the division and held there pending a decision by the court.
    c. If the complaint is denied, a hearing will be set pursuant to the normal procedure of the court.
    d. If the court finds that the complaint of maintaining a nuisance has been proven, the division will seek an order from the court setting out the method of abatement.
3. Abatement by relocation shall not be an option if the animal is a continuing threat of serious harm, such as a vicious dog. If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the said animal shall not constitute a nuisance in the future.
4. In the event the court determines that the animal is a nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fee that may incur as a result of such impoundment.

9.07.030 Control And Fencing

It is unlawful for any person owning or having the custody, possession, or control of any livestock to:

1. Allow, either negligently or with specific intent, the livestock to run at-large in or about a public property or roadway, where such is not permitted by law, or appropriately marked to otherwise permit the animal to be herded, pastured, or moved upon the land of another without permission.
2. All fencing of property where livestock are kept shall be of sufficient construction to prevent the escape of or injury to the animals being confined within the fencing.
3. The fencing shall be maintained so that no part of such fence, absent extraordinary circumstances, may be broken, damaged or in any way create the possibility of injury to the confined livestock or to allow the escape thereof.
4. Failure to properly confine any class of livestock shall constitute a violation of this section.

9.07.040 Female Dogs/Cats In Heat

Except for planned breeding, any owner or person having charge, care custody or control of any female dog/cat in heat shall, in addition to restraining such dog/cat from running at-large, cause such dog/cat to be constantly confined in a building or secure enclosure so as to prevent it from attracting by scent or coming into contact with other dogs/cat and creating a nuisance.

9.07.050 Possession Of Potentially Dangerous Animals

Any person who owns or maintains a potentially dangerous animal shall use all reasonable means at his or her disposal to restrict a potentially dangerous animal from injuring any other person or animal. The division, at the discretion of the Police Chief or his designee, impose specific restrictions regarding the housing of potentially dangerous animals.

9.07.060 Possession Of Dangerous Animals

Any dangerous animal, while on the owner's property, must be securely confined indoors, or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure for a dangerous animal shall have secure sides and top and shall also provide protection from the elements for the animal. The structure shall be such that the animal cannot burrow or dig under the sides of the enclosure. Dangerous animals, when outside the proper enclosure, must be under immediate control of a responsible adult by means of a restraint device and muzzled. The muzzle shall be made in such a manner that it will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

9.07.065 Custody Of Dangerous Animals

The division may take into immediate possession any dangerous animal if the officer determines that the animal is:

1. Not maintained in a proper enclosure.
2. Is outside of the dwelling of the owner, or outside of a proper enclosure and not under physical restraint of the person, or,
3. If there are any further violations of any legal restrictions previously placed on such animal by division as provided in this ordinance.

9.07.070 Failure To Properly Confine Potentially/Dangerous Animal

Any owner of any potentially dangerous or dangerous animal who allows it to go at-large or who fails to hold the same in the manner specified for such animal by the division is guilty of a class B misdemeanor.

9.07.080 Animals At-Large Prohibited

It shall be unlawful for any animal, as defined herein, to be allowed, either negligently or with specific intent, to run at-large. The following also apply:

1. Dogs may be at-large while participating in field trials and obedience classes organized and sanctioned by recognized dog clubs, while assisting their owner or trainer in legal hunting or in herding of livestock, while assisting a peace officer engaged in law enforcement duties, or while being trained for the above purposes, or while on the owner's private property, so long as such dogs are under the direct and effective sound or gesture control, and within sight of owners or such individuals noted above, to assure that such animals do not violate any provisions of this ordinance.
2. In accordance with Utah Code Annotated §10-8-64, the following general provisions apply to animals at-large:
    a. The municipality is authorized to establish an animal control and impound facilities, impound animals running at-large, and provide for the sale of the same in the manner provided by administrative rules promulgated by the division for the sale of strays and trespassing animals.
    b. The proceeds arising from the sale of such animals after the payment of all costs shall go to the City Treasurer to be disposed of according to law.

9.07.090 Allowing Domestic Fowl To Trespass Prohibited

It is unlawful for the owner of any domestic fowls such as turkeys, ducks, geese, chickens, peacocks or any other variety of fowl to permit such fowls to trespass or go upon the premises of another or to run at-large on any public property or roadway. Fowl kept and maintained by public entities within the confines of public parks or aviaries are exempt, however such fowls shall not be allowed on public roadways.

9.07.100 Staking Animals Improperly On Unenclosed Premises

It is unlawful for any person to chain, stake out or tether any animal on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property, or the person with whom he shares joint tenancy. No animals are to be staked along public roadway easements.

9.07.110 Animal Waste

The person having custody of an animal shall be responsible for the immediate removal of any waste deposited by his animal on any public walk, recreation area, or private property other than that belonging to the owner of the animal.

9.07.120 Wild Animals Prohibited

It shall be unlawful for any person to sell, offer for sale, barter, give away, keep or purchase any wild animal as defined in this chapter, except an animal shelter, zoological park, veterinarian hospital, humane society, shelter, bona fide laboratory, circus, sideshow, amusement show, or a facility for education or scientific purposes. In such cases, animals must be maintained by means of protective devices adequate to prevent such animals from escaping or injuring the public. Every facility controlling or maintaining such animal shall comply with all state and federal regulations regarding quarantine and vaccinations as directed for each species. All such wild animals or reptiles shall be kept under confinement on the premises of the owner and shall not be allowed to run at-large, and shall be maintained on the premises or private property of the owner in such a manner as to not endanger the life or limb of any persons lawfully entering such premises. Despite the restrictions stated above, the division shall grant an exception to persons raising wild animals for their pelts and for legal commercial purpose after local land use authority and health department approvals.

9.09 Impoundment

9.09.010 Impoundment Authorized
9.09.020 Impoundment Regulations And Record Keeping Requirements
9.09.030 Redemption Requirements
9.09.040 Terms Of Impoundment/Destruction And Disposal Of Animals
9.09.050 Declaration And Disposal Of Vicious Animal

9.09.010 Impoundment Authorized

The division shall place all animals which are taken into custody in a designated animal impound or shelter facility. The following animals may be taken into custody and impounded as deemed necessary:

1. Any animal being kept or maintained contrary to the provisions of the municipal code.
2. Any animal running at-large, with any reasonable means used to immobilize or capture such animal.
3. Any animal which is by this ordinance required to be licensed and is not licensed; an animal not wearing a tag shall be presumed to be unlicensed for the purpose of this section.
4. Sick or injured animals whose owner cannot be immediately located or whose owner requests impoundment and agrees to pay a reasonable fee for the services rendered.
5. Any abandoned, neglected animal, whose safety may be threatened should the animal not be readily placed into protective custody.
6. Animals which are not vaccinated for rabies in accordance with the requirements of this ordinance.
7. Any animal needing to be held for quarantine.
8. Any potentially dangerous or dangerous animal not properly confined as required by sections 9.07.050 and 9.07.060 of this chapter.
9. Any animal in the custody of any person or persons who are arrested or otherwise detained by any police officer.

9.09.020 Impoundment Regulations And Record Keeping Requirements

The facility manager may promulgate and implement such rules and regulations necessary for an efficient and effective impound and shelter facility operation, and in accordance with state law. The impounding facility or shelter shall keep a record of each animal impounded.

9.09.030 Redemption Requirements

The owner of any impounded animal or his authorized representative may redeem such animal upon payment of the required fees and before disposition in accordance with the regulations of the impounding facility or shelter. The following regarding fees:

1. Fees shall include:
    a. Impound fees.
    b. Daily board charge.
    c. Veterinary costs incurred during the impoundment period.
    d. License fee including appropriate rabies vaccination fee, if applicable.
    e. Transportation fee if transportation of an impounded animal by specialized equipment is required. “Specialized equipment” is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers as determined by the Perry City Council or set by the contractor at a level which approximates the cost of utilizing the specialized equipment in the particular situation.
    f. Any other expenses incurred to impound an animal in accordance with state or local laws, including any reasonable restitution for property damage created by the animal, or that occurs as a result of the impoundment.
2. The Perry City Council, at the recommendation of the facility manager, may review the fees imposed from time to time and adjust the same. Such fees shall take into account the type of animal impounded.

9.09.040 Terms Of Impoundment/Destruction And Disposal Of Animals

The facility manager is delegated authority to administer the terms of impoundment substantially as follows, and subject to other rules and regulations of the facility:

1. Animals shall be impounded for a minimum of three (3) working days before further disposition unless the animal is wearing a license tag or other identification, in which case it shall be held a minimum of five (5) working days. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as provided herein.
2. All animals, except those quarantined or confined by court order, or those subject to Utah Code §4-25-4, 1953 as amended, which are held longer that the minimum impound period, and all animals voluntarily relinquished to the impound facility, may be destroyed or disposed of as the facility manager shall direct. Any healthy dog or cat may be sold in compliance with the applicable adoption policy after payment of all applicable fees. Other small animals not included as livestock may also be sold as determined by the director.
3. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease, requiring medical attention may, at the discretion of the facility manager, be released to the care of a veterinarian with or without the consent of the owner.
4. When in the judgment of the facility manager (or an officer), it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to person or property, such animal may be destroyed without regard to any time limitation otherwise established in this ordinance, and without court order.
5. The facility manager or any of his agents (or an officer) may destroy an animal upon request of the owner without transporting the animal to contracted facilities. An appropriate fee shall be charged the owner for the destruction and any subsequent disposal of the carcass by the facility.

9.09.050 Declaration And Disposal Of Vicious Animal

If an officer, the facility manager, or another authorized agent determines, as a result of a witnessed incident, that an animal is dangerous or potentially dangerous, and finds that the animal is in violation of vicious animal regulations and such deems it necessary for the safety of persons and/or animals in the community, such may:

Declare the animal to be a vicious animal.

1. Take possession of the vicious animal and place the animal in a proper quarantine holding facility.
2. After placing the animal in the holding facility seek the written consent of the animal’s owner to destroy the animal in a humane manner.
3. If the animal owner’s consent cannot be readily obtained seek a court order to destroy the animal in a humane manner.
4. In the event the court determines that the animal is a vicious animal, the owner shall pay the cost of all impoundments fees, disposal fees, or any other fees that may have been incurred.

9.11 Rabies Control

9.11.010 Animal Rabies Vaccination Requirements
9.11.020 Exceptions For Transient Animals
9.11.030 Vaccination Certification And Tags
9.11.040 Impounding Animals Without Valid Vaccination Tags
9.11.050 Rabid Animal Reports
9.11.060 Quarantine And Disposition Of Biting Or Rabid Animals
9.11.070 Duty To Report Bites

9.11.010 Animal Rabies Vaccination Requirements

All dogs, cats or other animals susceptible to rabies for which a federally approved vaccine is available shall be vaccinated at four (4) months of age and again at fifteen (15) months of age by a licensed veterinarian or rabies clinic. Every dog shall be re-vaccinated every twenty-four and/or thirty-six (36) months, depending on the type of vaccination, and every cat re-vaccinated every twelve (12) months thereafter. Any unvaccinated dog or cat over four (4) months of age adopted or brought into the jurisdiction must likewise be vaccinated initially. Thereafter valid protection must be maintained.

9.11.020 Exceptions For Transient Animals

The provisions of this chapter with respect to vaccinations shall not apply to any animal owned by a person temporarily remaining within the jurisdiction for less than thirty days. Such animals shall be kept under strict supervision of the owner. It is unlawful to bring any animal into the jurisdiction which does not comply with the animal health laws and import regulations.

9.11.030 Vaccination Certification And Tags

The following regarding vaccination certification and tags:

1. It shall be the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination, in duplicate, which includes the following information;
    a. Owner's name and address
    b. Description of the animal
    c. Date of vaccination
    d. Rabies vaccination tag number
    e. Type of vaccine administered
    f. Manufacture's serial number of vaccine
2. A copy of the certificate shall be distributed to the owner of the animal, and the original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this chapter.
3. Additionally, a metal or durable plastic rabies vaccination tag, serially numbered shall be securely attached to the collar or harness of the animal. An animal not wearing such a tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this ordinance.

9.11.040 Impounding Animals Without Valid Vaccination Tags

The following regarding impoundment of animals without a valid vaccination tag:

1. Any vaccinated animal impounded because of a lack of a rabies vaccination tag may be reclaimed by its owner by furnishing proof of a rabies vaccination and payment of all impoundment fees prior to release.
2. Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within fourteen (14) days of release.
3. Any animal not reclaimed within the prescribed period of time shall be disposed of.

9.11.050 Rabid Animal Reports

Any person having knowledge of the whereabouts of an animal known to have been exposed to, or suspected of having rabies, or of an animal or person bitten by such a suspect animal, shall notify the division, or the state or local health department.

9.11.060 Quarantine And Disposition Of Biting Or Rabid Animals

The following regarding quarantine and disposition of biting or rabid animals:

1. An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal affected with rabies, or that has been exposed to rabies shall be reported by the owner as set forth above, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal to the Animal Control agents upon demand.
2. The owner of any animal of a species subject to rabies, which has been bitten by another animal known to be capable of harboring the rabies virus, shall surrender the animal to an authorized official upon demand.
3. Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than ten (10) days by the division. The owner of the animal shall bear the cost of the confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner may be made by the division, if the animal has current rabies vaccinations at the time the bite is inflicted, or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the division if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow a health or animal control officer to make an inspection or examination of the animal during the period of quarantine. If the animal dies within ten (10) days from the date of the bite, the person having custody shall immediately notify the division. If at the end of (10) day period, an investigating officer of the division examines the animal and finds no sign of rabies, the animal may be released to the owner or, in the case of a stray, it shall be disposed of as provided in chapter 9.09.040.
4. Unvaccinated bitten animals:
    a. In the case of an unvaccinated animal species subject to rabies, which is known to have been bitten by or exposed to a known rabid animal, such bitten or exposed animal shall be immediately destroyed.
    b. If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six (6) months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.
5. Vaccinated bitten animals:
    a. If the bitten or exposed animal is currently vaccinated, as prescribed herein, the animal shall be re-vaccinated within twenty-four (24) hours and quarantined for a

period of thirty (30) days following re-vaccination; or

b. If the animal is not re-vaccinated within twenty-four (24) hours, the animal shall be isolated and quarantined under veterinary supervision for 6 months.
c. The animal shall be destroyed if the owner does not comply with subdivisions 1 or 2 of this subsection (e), regarding exposure by known rabid animals.
d. It shall be unlawful for any person to remove any such animal from the place of quarantine without written permission of the facility manager.

9.11.070 Duty To Report Bites

The following regarding the duty to report bites:

1. Any person having knowledge of any individual or animal having been bitten, by an animal, of a species subject to rabies shall report the incident immediately to the division.
2. The owner, of an animal, that bites a person and any person bitten by an animal, shall report the bite to the division within twenty-four (24) hours of the bite, regardless of whether or not the biting animal is of a species subject to rabies.
3. To the extent is section does not conflict with HIPPA provisions, a physician or other medical personnel, who renders professional treatment to a person bitten by an animal, the bite of which might cause rabies, shall report the fact that he has rendered professional treatment, to the division, within twenty-four (24) hours of his first professional attendance. He shall report the name, sex and address of the person bitten, as well as the type and location of the bite. If known, he shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the division.
4. Any person treating an animal bitten, injured or mauled by another animal, shall report the incident to the division. The report shall contain the name and address of the owner of the wounded, injured or bitten animal, the name and address of the owner and description of the animal which caused the injury, and the location of the incident.
5. Any person not conforming to the requirements of this chapter shall be in violation of this ordinance.

9.12 Residential Chickens

9.12.010 Conditions For Keeping Residential Chickens
9.12.020 Violations And Enforcement

Adopted by Ord. 14-L on 2/19/2015

9.12.010 Conditions For Keeping Residential Chickens

Chickens may be kept on single-family residential lots with the following restrictions:

1. A permit for keeping chickens in a residential zone must be obtained prior to keeping chickens and, thereafter, renewed annually through the City. Each permit holder must read and sign the supplemental educational materials supplied by the City as part of the annual permit process. The annual permit fee shall be from time to time set by resolution by the Perry City Council.
2. A maximum of twelve (12) chickens are permitted on any residential lot.
3. Chickens must be kept in a manner that will not disturb the use and enjoyment of neighboring lots due to noise, odor, or other adverse impacts. Noise restrictions for chickens shall be enforced in accordance Title 8 Chapter 3 of the Perry City Municipal Code.
4. Chickens must be cared for in a humane manner with adequate feed, water, and shelter at all times. Coops must be kept clean and well-maintained.
5. Chickens must be kept securely in a coop overnight. The coop must be enclosed, well-constructed, weather resistant, well-ventilated, predator resistant, and provide a minimum of two (2) square feet of area per chicken. If the chickens are kept in the coop at all times then the coop must have at least six (6) square feet per chicken. Portable coops (chicken tractors) are allowed, but must meet the requirements of stationary coops outlined above
6. Coops shall:
    a. be located in the back yard of the property;
    b. not be located closer than fifteen (15) feet of any neighboring residential dwellings;
    c. be treated as an accessory buildings pursuant toi5.07.110; and
    d. be subject to easement restrictions.
7. If chickens are allowed to roam, in addition to coops, an adjoining fenced outdoor area sufficient to contain chickens on the owner's property shall be provided allowing a minimum of three (3) square feet per chicken. A securely fenced rear yard is acceptable for the run. Chickens must be kept in a manner that they are not allowed to roam to neighboring properties or public right-of-ways.
8. Storage of excess feed shall be kept in a manner so it is not available to other pets, wild birds, rodents or potential predators. Feed must be kept in a rodent and predator proof container.
9. Slaughter of chickens is permitted, but must be done cleanly and discreetly in an enclosed area, outside of the public's view, unless adjoining neighbors give written consent otherwise.
10. Litter and droppings must be disposed of, composted, or used as fertilizer in an environmentally responsible manner. Dead chickens, remains, and discarded or rotting eggs shall be removed as soon as possible, but no longer than twenty-four (24) hours, and shall be disposed of properly. Byproducts must not produce odors or unclean conditions.

9.12.020 Violations And Enforcement

Any violation of the provisions of this Section, either by failing to do those acts required herein or by doing any act prohibited herein, shall be considered a Class B Misdemeanor unless otherwise specifically stated in this Section; and/or shall be a civil violation punishable by fine in the amount of up to $50.00 per day the violation continues after being notified of the violation as follows:

1. Upon report or complaint of violation, the City shall cause a letter or an enforcement officer be sent to notify the permit holder and the permit holder must come into compliance immediately.
2. If the violation continues the City and the City's enforcement officers and personnel may revoke the permit and enter the premises to remove and dispose of the chickens.
3. All costs incurred by the City to bring the violation into compliance, including the notice of violation, revocation of the permit, and the removal and disposal of the chickens, shall be payable by the permit holder and/or land owner.

9.13 Other Animal Control Laws

9.13.010 Cruelty To Animals
9.13.020 Defenses
9.13.030 Injuries And Communicable Diseases
9.13.040 Seizure Of Animals
9.13.050 Harboring Animals Prohibited Duty To Notify
9.13.060 Place Prohibited To Animals
9.13.070 Disposal Of Dead Animals

9.13.010 Cruelty To Animals

A person commits cruelty to animals when he/she:

1. Causes one animal or fowl to fight with another.
2. Intentionally or carelessly administers or applies any poisonous or toxic drug or any material injurious to tissues or organs to any animal or livestock, or procures or permits the same to be done, whether the animals be his/her own property or that of another. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin, in furtherance of public health, when applied in such a manner as to reasonably prohibit access to other animals.
3. By intention or negligence or omission causes pain, suffering, terror or torment, or if intentionally or with negligence injures, mutilates, or causes disease or death to any animal or fowl.
4. Administers, applies, procures or permits the administration or application of any trapping mechanism, other than a live capture trap or exposes such a trapping mechanism to animals or livestock, with the intent to harm or take the animal, whether the animal be his/her own property or that of another. All set live capture traps shall be checked and emptied daily. This provision shall not be interpreted so as to prohibit the use of trapping mechanisms by those licensed, with the State, and whose traps have owner identification permanently affixed to them.
5. Neglects or fails to supply an animal under his/her control, custody or care with necessary space, shelter and protection from the elements.
6. Raises, trains, purchases or sells any animal or fowl for fighting or harbors fowl for fighting purposes or which has the comb clipped or the spur altered or who is in possession of an artificial spur.
7. Is present, as a spectator, at any animal contest wherein one animal or fowl is caused to fight with another, or rents any building, shed, room, yard, ground or premises for the purpose of holding such a contest between animals or knowingly suffers or permits the use of any building, shed, room, yard, ground or premises belonging to him or under his control for any of these purposes.
8. Abandons an animal.
9. Performs or causes to be performed any of the following operations.
    a. Inhumanely removes any portion of the beak of any bird, domestic or wild.
    b. Alters the gait or posture of any animal, by surgical, chemical, mechanical, or any other means, including soring.
    c. Crops or cuts the ears, removes an animal's claws or sterilizes a dog or cat and is not a licensed veterinarian.
    d. Inhumanely docks the tail of an animal or removes an animal's claws
10. Sell, purchases, owns, or has custody of any animal or fowl that have been dyed, painted, or otherwise artificially colored.
11. Offers chicks, duckling, goslings or their fowls for sale, raffles, offers as a prize, a premium, or an advertising device, or displays chicks, ducklings, goslings or other fowl to the public without providing and operating brooders or other heating devices that may be necessary to maintain the chicks, ducklings, goslings or other fowl in good health, and without keeping adequate food and water available to the birds at all times.
12. Carries or causes to be carried any animal in a manner harmful to that animal. Suitable racks, cars, crates or cages in which such animals may stand, move freely or lie down during transportation, or while awaiting slaughter, must be provided.
13. Leaves any animal confined in a vehicle unattended in excessively hot or cold weather.
14. Continuously drives or works a horse or other animal to a point of observable strain, and denies the animal rest periods. Working animals shall be offered water periodically.
15. Takes or kills any wild bird(s) or robs or destroys any nest containing eggs, or young of any bird in violation of state law.
16. Inhumanely hobbles livestock or other animals.
17. Leaves any livestock species used for drought, driving or riding purposes on the street without protection from the weather and without food and water for a period of time that would endanger the health or safety of the animal.
18. Recklessly rides or drives any horse or other livestock species on any street, highway or avenue within its jurisdiction.
19. Induces or encourages an animal to perform through the use of chemical, mechanical, electrical or manual devices in a manner in which will cause, or is likely to cause physical injury or unnecessary suffering.
20. Violates any other state law relating to cruelty of animals.

9.13.020 Defenses

The following regarding defense:

1. It is a defense to prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using an accepted veterinary practice or directly related to a bona fide experimentation for scientific research; provided, that the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose of scientific research involved.
2. Any person may kill or disable any animal while it is attacking, chasing or harassing any domestic animal having a commercial value, or any species of hoofed protected wildlife, while attacking domestic fowls, or while such animal is being pursued thereafter.
3. Any dog making a vicious and unprovoked attack on any person, except when the attack is in defense of the person, family, and/or property of the dog's owner, may be killed by any person while it is making such an attack.

9.13.030 Injuries And Communicable Diseases

No person shall knowingly harbor or keep any animal with a serious injury, or afflicted with mange, ringworm, distemper, parvo, kennel cough, or any other contagious disease, unless such animal is being given adequate treatment to control or eliminate the disease.

9.13.040 Seizure Of Animals

A person filing charges under this chapter may seize or arrange to be seized an animal found in the keeping or custody of a person being charged, and which is being used or will be used as evidence in the case resulting from such charge. The person making said seizure shall cause such animal to be delivered immediately to the division, or when necessary to a veterinarian for treatment. It shall be the duty of that division to humanely hold such animal until further court order regarding its disposal. The perpetrator of any such act shall be responsible for the costs of impound, board, and any medical expenses incurred during the holding period of the animal.

9.13.050 Harboring Animals Prohibited Duty To Notify

It is unlawful for any person to harbor or keep within this jurisdiction any lost or strayed animal. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Animal Shelter within seventy-two (72) hours. An animal control officer may take the animal into protective custody.

9.13.060 Place Prohibited To Animals

The following regarding places prohibited to animals:

1. It shall be unlawful for any person to take or permit any animals, excluding service animals (such as hearing or seeing eye dogs) and government working dogs or similar animals, whether on a leash or in the arms of their owners, in any establishment or place of business where food or food products are sold or distributed, including but not limited to restaurants, grocery stores, meat markets, and fruit or vegetable stores.
2. Dogs, whether on a leash, or not on a leash, shall be completely prohibited from school premises and from posted picnic, pond, park, recreation, or play areas. This, however, shall not apply to service animals, government working dogs, or trained animals used by their owner for the purpose of public educational programs, law enforcement exercises, or authorized events.

9.13.070 Disposal Of Dead Animals

In accordance with Utah Code Annotated §4-26-1, 1953, as amended, it is the responsibility of the owner or other person responsible for any domestic animal which dies to bury or otherwise dispose of it within two days after death. If the owner or other person responsible for such an animal cannot be found, it is the duty of the municipality within which the dead animal is found, or its contractor, at the expense of the municipality, to bury the dead animal. The municipality or its contractor which incurs expense under this section is entitled to reimbursement from the owner of the dead animal.

9.15 Enforcement And Penalties

9.15.010 Power And Authority Of Animal Control Officers
9.15.020 Penalties
9.15.030 Applicability Of Procedure For All Peace Officers

9.15.010 Power And Authority Of Animal Control Officers

In the performance of their duties, the animal control officer is hereby vested with the power and authority given by this ordinance within the office of the division. Badges of authority shall be issued by the municipality, and officers having received and been sworn to the oath of office. An office may enter and inspect the premises of any pet shop, animal grooming establishment, or similar establishment in the enforcement of this chapter.

9.15.020 Penalties

Any person violating each provision of this chapter shall be guilty of a class B misdemeanor and shall be punished within the confines of that class as prescribed by the laws of the state of Utah. Each day a violation continues shall be deemed as a separate offense.

9.15.030 Applicability Of Procedure For All Peace Officers

The foregoing provisions of this chapter authorize any peace officer to issue a citation for a violation of this chapter. The procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the redress, abatement, citation, arrest, prosecution, or otherwise of a person for an offense under another law or regulation separate from this chapter.

10 Transportation Code

10.01 General Provisions
10.03 Street Name Sign Requirements, And Approval Procedures
10.05 Traffic Control Devices
10.07 Vehicle Regulations
10.09 Off-highway Vehicles
10.11 Speed Limits
10.13 Stopping And Parking Regulations
10.15 Obstructions On The Public Right-of-way
10.17 Snow Removal
10.19 Encroachments
10.21 Pedestrians
10.23 Rule-making, Enforcement, Penalties, And Applicability To Other Ordinances

10.01 General Provisions

10.01.010 Definitions
10.01.020 Applicability
10.01.030 Enactment Of State Motor Vehicle Code

10.01.010 Definitions

Whenever in this title the following terms are used, they shall have the meanings respectively ascribed to them in this section:

1. "Alley" means a public way, not designed for general travel, within a block primarily intended for service and access to abutting property by vehicles.
2. "City" means Perry City.
3. "Crosswalk" means that portion of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; also, any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
4. "Crosswalk line" means a single white line, not less than six inches in width, painted on a street marking the outlying limits of a pedestrian crossing.
5. "Dynamic braking devises" (commonly referred to as "jacob brake", "engine brake", or "compression break") means any device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
6. "Driver" means every person who drives or is in actual physical control of a vehicle.
7. "Intersection" means:
    a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines or the roadway of two streets that join one another at, or approximately at, right angels, or the area within which vehicles, traveling upon different streets joining at any other angle, come in conflict.
    b. Where a street includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection.
8. "Driveway" means a road or access in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not used by other persons.
9. "Emergency vehicles" means vehicles that are designated or authorized as ambulances, or any emergency vehicles of the federal, state, county, or municipal government as may be operated on the streets of the City.
10. "Jurisdiction" means under the jurisdiction, authority, and control of Perry City or another government entity.
11. "Motor vehicle" means every vehicle, with the exception of implements of husbandry (farm equipment), that is self-propelled, but not operated upon rails.
12. "Owner" means a person who holds the legal title to a vehicle or, in the event a vehicle is subject to an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.
13. "Park" means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in loading or unloading.
14. "Pedestrian" means any person afoot.
15. "Person" means every natural person, entity, organization, partnership, association, or corporation as based upon the context.
16. "Police Chief" means the duly appointed Police Chief of Perry City.
17. "Police department" means the Perry Police Department, or any law enforcement agency authorized to enforce the law.
18. "Police officer or law enforcement officer" means any duly sworn peace officer of the state of Utah.
19. "Road or highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
20. "Roadside box" means any mailboxes, newspaper box, or other roadside boxes along or adjacent to a road, highway, or public right-of-way.
21. "Safety zone" means that area within the crosswalk for the exclusive use of pedestrians, bounded on two sides by the crosswalk lines and on the other two sides by yellow lines or by physical barriers, or otherwise so protected, marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
22. "Sidewalk or sidewalk area" means that portion of a street or highway between the curb lines of the lateral lines of a roadway and the adjacent property lines.
23. "Stop" means complete cessation from movement.
24. "Traffic control device" means all signs, signals, traffic markings and devices of the state placed or erected by authority of the official having jurisdiction, for the purposes of regulating, warning or guiding traffic.
25. "Traffic Engineer" means the City Engineer for Perry City or another designated City official or contractor designated by the City to administer this title.
26. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

10.01.020 Applicability

All vehicles using the roads and highways within the City shall be subject to the provisions of this title. Every person propelling any pushcart, bicycle, scooter, motorcycle, moped, or like device, or riding an animal upon a roadway, and every person driving an animal-drawn vehicle, shall be subject to such provisions as are applicable to the drivers of vehicles, except those that by their nature have no application.

10.01.030 Enactment Of State Motor Vehicle Code

The following regarding the Utah Criminal and Traffic Code:

1. Adoption: The Utah Criminal and Traffic Code, current edition, as compiled by the Utah Department of Public Safety and published in code book form, and as duly filed with the City, is hereby approved and adopted by this reference is if fully set forth herein. The provisions herein adopted are adopted as they now exist and as such may be amended, seceded, or enacted in the future.
2. Reference: Corresponding title, chapter, and section numbers as used in the Utah Criminal and Traffic Code, current edition, adopted herein correspond and shall be referenced as the same title, chapter and section numbers within the Perry Municipal Code.
3. Limitations: Those provisions of Utah Criminal and Traffic Code, current edition, which are reserved exclusively to the state of Utah, counties of the state of Utah, or cities of another class than Perry City are not adopted. Those provisions which are within the jurisdiction of the justice court designated or used by the City are specifically adopted and incorporated by reference. Those adopted provisions of the Utah Criminal and Traffic Code, current edition, which conflict with the Perry Municipal Code are superceded by the Perry Municipal Code.

10.03 Street Name Sign Requirements, And Approval Procedures

10.03.010 Street Names
10.03.020 Street Name Signs
10.03.030 City Council Directing Traffic Engineer To Study Special Traffic Control Devices
10.03.040 Legislative And Financial Responsibility

10.03.010 Street Names

Unless not deemed to be practicable by the City Council, all City Streets shall have “numbered names,” but the City Council may designate a secondary “non-numbered name” for any given street, either on its own motion, or after having received a petition for consideration from a citizen with signatures of all property owners on the street. As of March 5, 2015 all "non-numbered name" streets and street signs are accepted and acknowledged by Perry City.

Amended by Ord. 15-D on 3/5/2015

10.03.020 Street Name Signs

For the benefit of emergency services, all Perry City Street name signs shall contain "numbered names." If a street in Perry City also has a "non-numbered name" then the street name sign may contain both the "numbered name" and the "non-numbered name" with the "numbered name" being on top and larger in size. The Perry City Council may in its discretion and upon its own motion, or after having received a petition for consideration from a citizen with signatures of all property owners on the street, may allow for variances of the requirements set forth herein.

Amended by Ord. 15-D on 3/5/2015

10.03.030 City Council Directing Traffic Engineer To Study Special Traffic Control Devices

The City Council, either on its own motion, or after having received a petition for consideration, may direct the Traffic Engineer to study certain traffic control devices and to provide options for the City Council to consider.

Amended by Ord. 15-D on 3/5/2015

10.03.040 Legislative And Financial Responsibility

The City Council may periodically update the ordinances regarding vehicles and traffic in the best interest of the public welfare, and shall fund the placement and maintenance of traffic control devices.

Amended by Ord. 15-D on 3/5/2015

10.05 Traffic Control Devices

10.05.010 Obedience To Traffic Control Devices
10.05.020 Traffic Control Devices
10.05.030 Unauthorized Traffic Control Devices Prohibited
10.05.040 Authority To Designate Crosswalks, Safety Zones, And Traffic Lanes
10.05.050 Authority To Designate One-Way Highways
10.05.060 Reserved
10.05.070 Restrictions Upon Use Of Highways
10.05.080 Weight And Size Limits
10.05.090 Vehicle Size And Weight Restrictions (Reserved)
10.05.100 Dynamic Braking Devices Prohibited
10.05.110 Obstruction Of View Prohibited

10.05.010 Obedience To Traffic Control Devices

Subject to the exceptions granted drivers of authorized emergency vehicles, no person shall disobey the instructions of any applicable traffic control device placed in accordance with the provisions of this title unless otherwise directed by an appropriate law enforcement officer.

10.05.020 Traffic Control Devices

The Traffic Engineer, or his designee, is authorized to administer the placement and maintenance of all traffic control devices upon City roads and highways as provided in this title, or otherwise regulate, warn, or guide traffic. Generally, all traffic control devices should conform to the Manual on Uniform Traffic Control Devices, most current edition, as published by the Federal Highway Administration under the direction of the U.S. Department of Transportation.

10.05.030 Unauthorized Traffic Control Devices Prohibited

The following regarding prohibition and removal of unauthorized traffic control devices:

1. Prohibition. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, light, marking or other device:
    a. That purports to be, imitates or resembles an official traffic control device, railroad sign or signal, or authorized emergency flashing light;
    b. That attempts to direct the movement of traffic;
    c. That hides from view or interferes with the effectiveness of any official traffic device or any railroad sign or signal; or
    d. That is of such brilliant illumination and so positioned as to be in danger of blinding or dazzling a driver on any highway adjacent thereto.
2. Removal. Every such prohibited sign, signal, light or marking is declared to be a public nuisance which any police officer is empowered to remove or cause to be removed without notice to the owner.

10.05.040 Authority To Designate Crosswalks, Safety Zones, And Traffic Lanes

The Traffic Engineer is hereby authorized to:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at other places as he may deem necessary;
2. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians; and
3. To mark lanes for traffic on street pavements at places he may deem advisable, consistent with this title.

10.05.050 Authority To Designate One-Way Highways

The Traffic Engineer, with the consent of the City Council, may designate by appropriate markings certain City roads and highways as one-way, requiring that all vehicles thereon move in one specific direction.

10.05.060 Reserved

10.05.070 Restrictions Upon Use Of Highways

The Traffic Engineer may impose restrictions on the operation of certain vehicles upon any jurisdictional road or highway in accordance with Utah Code Annotated §72-7-408, 1953, as amended, if an engineering inspection concludes that, due to deterioration caused by climatic conditions, a jurisdictional road or highway will be seriously damaged or destroyed unless certain vehicles are prohibited. Any such restriction shall be designated by appropriate signs.

10.05.080 Weight And Size Limits

It is unlawful for any person to drive or move upon the roads or highways of the City any vehicle subject to jurisdictional size or weight limits when such vehicle exceeds the limitations thereof as provided by law, except where a permit or authority is granted by the appropriate jurisdiction.

10.05.090 Vehicle Size And Weight Restrictions (Reserved)

10.05.100 Dynamic Braking Devices Prohibited

Where posted, it is unlawful for any person to operate any motor vehicle with a dynamic braking device engaged, except for the aversion of imminent danger.

10.05.110 Obstruction Of View Prohibited

Any tree, plant, shrub, sign, vehicle, fence or other obstacle of any kind that blocks the view of any traffic control device to the vision of oncoming motorists or to obscure the vision of oncoming traffic constitutes a traffic hazard and is a nuisance that may be abated. The City may remove traffic hazards nuisance or order the owner or occupant of the property where the traffic hazard is located to remove the traffic hazard within ten (10) days of the notification. Failure of an owner or occupant to remove the traffic hazard order to be removed by the City is a Class C misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.

10.07 Vehicle Regulations

10.07.010 Interference With Control Of Vehicle Prohibited
10.07.020 Negligent Collision
10.07.030 Duty To Keep Proper Lookout
10.07.040 Noise Emanating From A Motor Vehicle

10.07.010 Interference With Control Of Vehicle Prohibited

No driver shall engage in any activity that interferes with the safe control and operation of his vehicle while the same is in motion. A violation of this Section is a class B misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.

10.07.020 Negligent Collision

It is unlawful to operate a vehicle with such lack of due care as to cause the same to collide with any vehicle, person or object. A violation of this Section is a class B misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.

10.07.030 Duty To Keep Proper Lookout

No person shall drive a vehicle on the streets of the City without keeping a reasonable and proper lookout for traffic. A violation of this Section is a class B misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.

10.07.040 Noise Emanating From A Motor Vehicle

While operating, driving, or parking a motor vehicle it is unlawful for any unauthorized person to use or operate any stereo, radio, or other electronic device that create a noise in such manner that it disturbs peace, quiet, or create vibration for persons within the vicinity of said motor vehicle. It is a prima facia violation of this Section if sound emanating from the stereo, radio, or other electronic device in a motor vehicle is clearly audible from a distance of fifty (50) feet. A violation of this Section is a class B misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.

10.09 Off-highway Vehicles

10.09.010 Policy Declaration
10.09.020 Definitions
10.09.030 Registration Of Vehicles - Application - Issuance Of Sticker And Card - Proof Of Property Tax Payment - Records
10.09.040 Staggered Registration Dates - Registration Renewal
10.09.050 Falsification Of Documents Unlawful - Alteration Or Removal Of Serial Number Unlawful - Display Of Sticker
10.09.060 Off-Highway Husbandry Vehicles
10.09.070 Duplicate Registration Cards And Registration Stickers
10.09.080 Registration Fees
10.09.090 Vehicles Exempt From Registration
10.09.100 Vehicles Operated By Persons Age 16 Or Over
10.09.110 Vehicles Operated On Posted Public Land
10.09.120 Off-Highway Vehicles - Prohibited On Interstate Freeway
10.09.130 Operation Of Vehicles On Highways - Limits
10.09.140 Local Ordinances - Designating Routes - Supervision
10.09.150 Off-Highway Vehicle Designated Streets And Roads - Definitions - Exception - Penalty
10.09.160 Requiring Compliance With Traffic Laws
10.09.170 Vehicle Equipment Requirements - Rule Making - Exceptions
10.09.180 Protective Headgear Requirements - Owner Duty - Penalty For Violation
10.09.190 Operation By Person Under 16 Years Of Age Prohibited - Definitions - Exception - Pentalty
10.09.200 Supervision, Safety Certificate, Or Driver License Required - Penalty
10.09.210 Off-Highway Vehicle User Fee - Decal - Agents - Penalty For Fraudulent Issuance Of Decal - Deposit And Use Of Fee Revenue
10.09.220 Agencies Authorized To Erect Regulatory Signs On Public Land
10.09.230 Restrictions On Use Of Public Lands
10.09.240 Restrictions On Use Of Privately-owned Lands Without Permission - Unlawful For Person To Tamper With Signs Or Fencing On Privately-owned Land
10.09.250 Prohibited Uses
10.09.260 Permission Required For Race Or Organized Event
10.09.270 Authorized Peace Officers - Arrest Provisions
10.09.280 Penalties For Violations
10.09.290 Ordinances Or Local Laws Relating To Operation And Equipment Of Vehicles

10.09.010 Policy Declaration

It is the policy of Perry City to promote safety and protection for persons, property, and the environment connected with the use, operation, and equipment of off-highway vehicles, to promote uniformity of laws, to adopt and pursue a safety education program, and to develop trails and other facilities for the use of these vehicles.

10.09.020 Definitions

As used in this chapter (see also the definitions in PMC Section 10.01.010):

1. "Advisory council" means the Perry Council.
2. "All-terrain type I vehicle" means any motor vehicle 50 inches or less in width, having an un-laden dry weight of 800 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.
3.
    a. "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsections (2), (7), or (18), designed for or capable of travel over unimproved terrain; but
    b. "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors.
4. "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.
5. "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.
6. "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.
7. "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.
8. "Motor vehicle" means every vehicle which is self-propelled.
9. "Off-highway vehicle" or “OHV” means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle.
10. "Off-highway implement of husbandry" means every all-terrain type I vehicle, motorcycle, or snowmobile that is used by the owner or his agent for agricultural operations.
11. "Operate" means to control the movement of or otherwise use an off-highway vehicle.
12. "Operator" means the person who is in actual physical control of an off-highway vehicle.
13. "Organized practice” and “sanctioned race” [see PMC Section 10.09.190(2)].
14. "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.
15. "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.
16. "Register" means the act of assigning a registration number to an off-highway vehicle.
17. "Roadway" is used as defined in Section 41-6a-102 of the Utah Code.
18. "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.
19. "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.
20. "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102 of the Utah Code.

10.09.030 Registration Of Vehicles - Application - Issuance Of Sticker And Card - Proof Of Property Tax Payment - Records

The following regulations apply regarding the registration of vehicles, and the application for and issuance of stickers for vehicles:

1.
    a. Unless exempted under PMC Section 10.09.090, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

b. Unless exempted under PMC Section 10.09.090, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

2. The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.
3. Each application for registration of an off-highway vehicle shall be accompanied by:

   a. evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;
   b. the past registration card; or
   c. the fee for a duplicate.

4.

   a. Upon each annual registration, the Motor Vehicle Division shall issue a registration sticker and a registration card for each off-highway vehicle registered.
   b. The registration sticker shall:

      i. contain a unique number using numbers, letters, or combination of numbers and letters to identify the off-highway vehicle for which it is issued;
      ii. be affixed to the OHV for which it is issued in a plainly visible position; and
      iii. be maintained free of foreign materials and in a condition to be clearly legible.

   c. At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

5.

   a. An applicant for a registration sticker shall provide the Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.
   b. The certificate required under Subsection (5)(a) shall state one of the following:

      i. the property tax on the off-highway vehicle for the current year has been paid;
      ii. in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or
      iii. the OHV is exempt by law from payment of property tax for the current year.

   c. Inspection verifying compliance with OHV safety requirements.

10.09.040 Staggered Registration Dates - Registration Renewal

The following regulations apply regarding registration dates and renewal:

1. Unless exempted under PMC Section 10.09.090, every off-highway vehicle registration, every registration card, and every registration sticker issued under this chapter for the first registration of the off-highway vehicle in this state, continues in effect for a period of 12 months beginning with the first day of the calendar month of registration and does not expire until the last day of the same month in the following year.
2. If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the off-highway vehicle is extended to 12 midnight of the next business day.
3.

   a. The Division may receive applications for registration renewal and issue new registration cards at any time prior to the expiration of the registration, subject to the availability of renewal materials.
   b. Applications for registration renewal shall be made in accordance with PMC Section 10.09.030.

4.

   a. The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.
   b. The year of registration expiration shall be changed to reflect the renewed registration period.

5. If the registration renewal application is an application generated by the Division through its automated system, the owner need not surrender the last registration card or duplicate.

10.09.050 Falsification Of Documents Unlawful - Alteration Or Removal Of Serial Number Unlawful - Display Of Sticker

A person may not:

1. knowingly falsify an application for registration, affidavit of ownership, or bill of sale for any off-highway vehicle;
2. alter, deface, or remove any manufacturer's serial number on any off-highway vehicle;
3. use or permit the use or display of any registration sticker, registration card, or permit upon an off-highway vehicle or in the operation of any off-highway vehicle other than the vehicle for which it was issued; or
4. alter or deface a registration sticker, registration card, or permit issued to an off-highway vehicle.

10.09.060 Off-Highway Husbandry Vehicles

1.

   a. The owner of an all-terrain type I vehicle, motorcycle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker. Each application shall be accompanied by evidence of ownership, a title, or a manufacturer's certificate of origin, and a signed statement certifying that the off-highway vehicle is used for agricultural purposes. The owner shall receive an off-highway implement of husbandry sticker upon production of the documents required above and payment of an off-highway implement of husbandry sticker fee established, not to exceed $20.
   b. If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 10.09.030.
   c. The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the board and shall identify the all-terrain type I vehicle, motorcycle, or snowmobile as an off-highway implement of husbandry.

2. The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, or snowmobile and is not transferable.
3. The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, or snowmobile which is being operated adjacent to a roadway:

   a. when the all-terrain type I vehicle, motorcycle, or snowmobile is only being used to travel from one parcel of land owned or operated by the owner of the vehicle to another parcel of land owned or operated by the owner; and

b. when this operation is necessary for the furtherance of agricultural purposes.

4. If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.
5. It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

10.09.070 Duplicate Registration Cards And Registration Stickers

1. If a registration card is lost or destroyed, or if an owner changes the owner's address from the address shown on the owner's registration card, the owner shall, within 15 days, apply for a duplicate registration card.
2. If a registration sticker is lost, stolen, or becomes illegible, the owner of the off-highway vehicle shall immediately apply for and obtain a replacement registration sticker.

10.09.080 Registration Fees

Perry City shall establish the fees which shall be paid in accordance with this chapter, subject to the following:

1. The fee for each registration sticker shall be $20, unless a different fee is set forth in Chapter 4.09, Fee Schedules.
2. The fee for each duplicate registration sticker shall be $10, unless a different fee is set forth in Chapter 4.09, Fee Schedules.

10.09.090 Vehicles Exempt From Registration

1. The following off-highway vehicles are exempt from the registration requirements of this chapter:
    a. vehicles that are currently registered for highway use, have a valid motor vehicle safety inspection sticker or certificate, and on which the required safety equipment has not been subsequently modified;
    b. except as provided in Subsection (2), a street-legal all-terrain vehicle registered in accordance with Section 14-6a-1509;
    c. off-highway vehicles that are owned by a nonresident and that are displaying a current annual off-highway vehicle user decal in accordance with Section 10.09.210;
    d. off-highway vehicles sold by a dealer to a person who is not a resident of this state;
    e. off-highway implements of husbandry operated in the manner prescribed by Subsections 10.09.060(3) through (5); and
    f. new off-highway vehicles being transported to an off-highway vehicle dealership by the dealer, employee of the dealership, or agent for the dealership.
2. In addition to the registration requirements imposed under Section 14-6a, a street-legal all-terrain vehicle is subject to the fees under Sections 10.09.080.

10.09.100 Vehicles Operated By Persons Age 16 Or Over

Except as set forth in PMC Sections 10.09.190 and 10.09.200, off-highway vehicles may only be operated by persons age 16 or over who:

1. Have a valid driver's license (not a "learner's permit"); and
2. Meet all of the other qualifications of this chapter and of state law; and
3. Are operating an OHV which meets all the qualifications of this chapter and of state law.

10.09.110 Vehicles Operated On Posted Public Land

1. Currently registered off-highway vehicles may be operated on public land, trails, streets, or highways that are posted by sign or designated by map or description as open to off-highway vehicle use by the controlling federal, state, county, or municipal agency.
2. The controlling federal, state, county, or municipal agency may:
    a. provide a map or description showing or describing land, trails, streets, or highways open to off-highway vehicle use; or
    b. post signs designating lands, trails, streets, or highways open to off-highway vehicle use.
3. Liability may not be imposed on any federal, state, county, or municipality relating to the designation or maintenance of any land, trail, street, or highway open for off-highway vehicle use.

10.09.120 Off-Highway Vehicles - Prohibited On Interstate Freeway

It is unlawful for an off-highway vehicle to operate along, across, or within the boundaries of an interstate freeway or controlled access highway.

10.09.130 Operation Of Vehicles On Highways - Limits

A person may not operate an off-highway vehicle upon any street or highway, not designated as open to off-highway vehicle use, except:

1. when crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;
2. when loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation;
3. when an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority.

10.09.140 Local Ordinances - Designating Routes - Supervision

The following regulations apply regarding local ordinances, designating routes, etc.:

1. Perry City may adopt ordinances designating certain streets and highways under its respective jurisdiction (see PMC Section 10.09.150):
    a. as open for street-legal all-terrain vehicle use;
    b. as open for general off-highway vehicle use; or
    c. as open for limited off-highway vehicle use to allow off-highway vehicle operators to gain direct access to or from a private or public area open for off-highway vehicle use.
2. Perry City may adopt an ordinance requiring an operator who is under 16 years of age to be under the direct visual supervision of an adult who is at least 18 years of age while using a route designated under Subsection (1) (see PMC Sections 10.09.190 and 10.09.200).
3. A route designated under Subsection (1) may not be along, across, or within the boundaries of an interstate freeway or limited access highway.
4. Except as provided under PMC Section 10.09.130, a person may not operate an off-highway vehicle on any street or highway that is not designated or posted as open for off-highway vehicle use in accordance with Subsection (1) or PMC Section 10.09.110.
5. Subsection (4) does not apply to off-highway implements of husbandry used in accordance with PMC Section 10.09.060.

10.09.150 Off-Highway Vehicle Designated Streets And Roads - Definitions - Exception - Penalty

The following regulations apply regarding designated streets and roads for off-highway vehicles:

1. Roads and streets within Perry City limits can only be used by OHV vehicles for the movement of vehicles from home to an OHV designated destination (examples listed below):
    a. Perry Canyon;
    b. Authorized and organized race events;
    c. Areas designed as an authorized ATV park; and/or
    d. Any other areas designated by Perry City.
2. 1200 west from north to south on the west side of Hwy 89.
3. Unpaved or dirt surface City roads are appropriate for traversing from point to point within the City (the “Pineview” canal road is not an authorized City road or street).
4. OHV riders may not use Perry City streets for the purpose of testing, racing or joy riding with no OHV destination in mind (no driving back and forth or up and down the road).
5. Off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this Section.
6. An OHV being used for snow removal is exempt from the provisions of this Section.
7. A person convicted of a violation of this Section is guilty of an infraction and shall be fined not more than $100 per offense. In the alternative, a civil infraction, with a fine not to exceed $100 per offense, may be issued.

10.09.160 Requiring Compliance With Traffic Laws

Any person operating an off-highway vehicle is subject to all of the provisions of Title 10, unless specifically excluded.

10.09.170 Vehicle Equipment Requirements - Rule Making - Exceptions

The following regulations apply regarding vehicle equipment requirements and rulemaking:

1. Except as provided under Subsection (3), an off-highway vehicle shall be equipped with brakes, lights, warning devices, and all other equipment necessary to pass a state inspection, and must actually pass a state inspection.
2. The Perry City Council may make rules which set standards for the equipment.
3. An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this Section.

10.09.180 Protective Headgear Requirements - Owner Duty - Penalty For Violation

The following regulations apply regarding protective headgear requirements:

1. A person under the age of 18 may not operate or ride on all-terrain type I vehicles, snowmobiles, or motorcycles on public land unless the person is wearing a properly fitted and fastened, United States Department of Transportation safety-rated protective headgear designed for motorized vehicle use.
2. The owner of an off-highway vehicle or any other person may not give permission to a person who is under 18 years of age to operate or ride on an off-highway vehicle in violation of this Section.
3. An operator and passengers of off-highway implements of husbandry operated in the manner prescribed by PMC Subsections 10.09.060(3) and (4) are exempt from the requirements of this Section.
4. A person convicted of a violation of this Section is guilty of an infraction and shall be fined not more than $100 per offense. In the alternative, a civil infraction, with a fine not to exceed $100 per offense, may be issued.

10.09.190 Operation By Person Under 16 Years Of Age Prohibited - Definitions - Exception - Pentalty

The following regulations apply regarding the exception for the operation of off-highway vehicles by persons under 16 years of age (and at least 8 years of age):

1. Except as provided under this Subsection and under Subsection (3), a person under 16 years of age may not operate and an owner may not give another person who is under 16 years of age permission to operate an off-highway vehicle on any public land, trail, street, unless they are:
    a. 8 years of age or older, and
    b. are under the direct supervision of an adult 18 years and older, and
    c. have a State of Utah OHV Safety Certificate, and
    d. meet all of the other relevant requirements of PMC Section 10.09.100, the remainder of Chapter 10.09, and the other requirements of state and local law.
2. As used in this Section:
    a. "Organized practice" means a scheduled motorcycle practice held in an off-road vehicle facility designated by the City and conducted by an organization carrying liability insurance in at least the amounts specified by the Division under Subsection (5) covering all activities associated with the practice.
    b. "Sanctioned race" means a motorcycle race conducted on a closed course and sponsored and sanctioned by an organization carrying liability insurance in at least the amounts specified by the Division under Subsection (5) covering all activities associated with the race.
3. A child under 16 years of age (and at least 8 years of age) may participate in a sanctioned race or organized practice if:
    a. the child is under the immediate supervision of an adult; and
    b. emergency medical service personnel are on the premises and immediately available to provide assistance at all times during the sanctioned race or organized practice; and
    c. an ambulance provider is on the premises and immediately available to provide assistance for a sanctioned race; and
    d. all of the other relevant requirements of PMC Section 10.09.100, the remainder of Chapter 10.09, and the other requirements of state and local law are met.
4. A person convicted of a violation of this Section is guilty of an infraction and shall be fined not more than $100 per offense. In the alternative, a civil infraction, with a fine not to exceed $100 per offense, may be issued.

10.09.200 Supervision, Safety Certificate, Or Driver License Required - Penalty

The following regulations apply regarding required supervision, OHV Safety Certificate, or driver license for persons under 16 years of age:

1. As used in this Section, "direct supervision" means oversight at a distance:
    a. of no more than 50 feet; and
    b. within which:

i. visual contact is maintained; and
ii. advice and assistance can be given and received.

2. A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:

a. is under the direct supervision of a certified off-highway vehicle safety instructor during a scheduled safety training course;
b.

i. has in the person's possession the appropriate OHV Safety Certificate issued or approved by the State of Utah; and
ii. if under 16 years of age, is under the direct supervision of a person who is at least 18 years of age if operating on a public streets or roads that is:

(1) open to motor vehicles; and
(2) not exclusively reserved for off-highway vehicle use; or

c. has in the person's immediate possession a valid motor vehicle operator's license, as provided in Utah State Code, Title 53, Chapter 3, Uniform Driver License Act.

3.

a. A person convicted of a violation of this Section is guilty of an infraction and shall be fined not more than $100 per offense. In the alternative, a civil infraction, with a fine not to exceed $100 per offense, may be issued.
b. It is a defense to a charge under this Section, if the person charged:

i. produces in court a license or an appropriate OHV Safety Certificate that was:

(1) valid at the time of the citation or arrest; and
(2) issued to the person operating the off-highway vehicle; and

ii. can show that the direct supervision requirement under Subsection (2)(b) was not violated at the time of citation or arrest.

4. The requirements of this Section do not apply to an operator of an off-highway implement of husbandry (agricultural implement).

10.09.210 Off-Highway Vehicle User Fee - Decal - Agents - Penalty For Fraudulent Issuance Of Decal - Deposit And Use Of Fee Revenue

The following regulations apply regarding off-highway vehicle user fees and decals:

1.

a. Except as provided in Subsection (1)(b), any nonresident owning an off-highway vehicle who operates or gives another person permission to operate the off-highway vehicle on any public land, trail, street, or highway in this City shall:

i. apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of Perry City;
ii. pay an annual off-highway vehicle user fee; and
iii. provide evidence that:

(1) the person is a nonresident; and
(2) the person is the owner of the off-highway vehicle.

b. The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by Perry City.

2. The off-highway vehicle user fee shall be $20, unless a different fee is set forth in Chapter 4.09, Fee Schedules.
3. Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

a. receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and
b. display the decal on the off-highway vehicle in accordance with rules made by Perry City.

4. In accordance with this ordinance the City Council shall make rules establishing:

a. procedures for:

i. the payment of off-highway vehicle user fees; and
ii. the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

b. acceptable evidence indicating compliance with Subsection (1);
c. eligibility requirements for reciprocal operating privileges for nonresident users; and
d. eligibility for scheduled competitive events or other events under Subsection (1)(b).

10.09.220 Agencies Authorized To Erect Regulatory Signs On Public Land

No person, except an agent of an appropriate federal, state, county, or city agency, operating within that agency's authority, may place a regulatory sign governing off-highway vehicle use on any public land.

10.09.230 Restrictions On Use Of Public Lands

The following regulations apply regarding restrictions on use of public lands:

1. Perry City is encouraged to pursue opportunities to open public land to responsible off-highway vehicle use.
2. A person may not operate and an owner of an off-highway vehicle (OHV) may not give another person permission to operate an OHV on any public land which is closed to OHV's.

10.09.240 Restrictions On Use Of Privately-owned Lands Without Permission - Unlawful For Person To Tamper With Signs Or Fencing On Privately-owned Land

1.

a. No person shall operate or accompany a person operating an off-highway vehicle upon privately-owned land of any other person, firm, or corporation without permission from the owner or person in charge.
b. It is unlawful for any person operating or accompanying a person operating an off-highway vehicle to refuse to immediately leave private land upon request of the

owner or person in charge of such land.

c. Subsections (a) and (b) shall not apply to prescriptive easements on privately owned land.
d. No person operating or accompanying a person operating an off-highway vehicle shall obstruct any entrance or exit to private property without the owner's permission.

2. It is unlawful for any person to tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of operating an off-highway vehicle on land; or to tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to any such fence or enclosure.

10.09.250 Prohibited Uses

No person may operate an off-highway vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes, or damage to the environment which includes excessive pollution of air, water, or land, abuse of the watershed, impairment of plant or animal life, or excessive mechanical noise.

10.09.260 Permission Required For Race Or Organized Event

No person may organize, promote, or hold an off-highway vehicle race or other organized event on any land or highway within this City, except as permitted by (a) Perry City and (b) the landowner(s) having jurisdiction over the land. See also Section 10.09.190(2) regarding "organized practice(s)" and “sanctioned race(s).”

10.09.270 Authorized Peace Officers - Arrest Provisions

Any peace officer authorized under Title 53, Chapter 13 of the Utah State Code, may enforce the provisions of this chapter and the rules promulgated under this chapter.

10.09.280 Penalties For Violations

The following regulations apply regarding penalties for violations:

1. Except as otherwise provided, a person who violates the provisions of this chapter is guilty of a class C misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.
2. Perry City may revoke or suspend the registration of any OHV whose application for registration has been falsified. The owner shall surrender to Perry City, within 5 days of suspension or revocation, the suspended or revoked registration card and registration sticker.

10.09.290 Ordinances Or Local Laws Relating To Operation And Equipment Of Vehicles

The provisions of this chapter and other applicable laws of Perry City govern the operation, equipment, registration, and all other matters relating to the use of off-highway vehicles on public land. Nothing in this chapter may be construed to prevent the adoption of any ordinance or local law relating to the operation and equipment of off-highway vehicles in which the provisions are identical to the provisions of this chapter or the rules promulgated under this chapter, but these ordinances or local laws shall be operative only as long as and to the extent that they continue to be identical to the provisions of this chapter or the rules promulgated under this chapter.

10.11 Speed Limits

10.11.010 Establishing Speed Limits: Designation By Traffic Engineer
10.11.020 Reduced Speed School Zones

10.11.010 Establishing Speed Limits: Designation By Traffic Engineer

In accordance with Utah Code Annotated §41-6a-603, 1953, as amended, the Traffic Engineer is authorized to determine the reasonable and safe speed limit for each highway or section of highway under the City's jurisdiction as specified under Title 72, Chapter 3, Highway Jurisdiction and Classification Act. Any speed limit shall be established in accordance with the provisions of Utah Code Annotated §41-6a-602(1-3, 5).

10.11.020 Reduced Speed School Zones

In accordance with Utah Code Annotated §41-6a-604, 1953, as amended, the Traffic Engineer is authorized to designate reduced speed school zones as defined in Utah Code Annotated §41-6a-303, 1953, as amended.

10.13 Stopping And Parking Regulations

10.13.010 Unauthorized Parking And Stopping Prohibited
10.13.020 Stopping And Parking Traffic Control Devices
10.13.030 Curb Markings
10.13.040 Regulation Of Parking
10.13.050 Vehicles For Sale Or Used For Merchandise Sale
10.13.060 Parking Of Certain Trucks
10.13.070 Removal And Impound Procedures For Illegally Parked Or Abandoned Vehicles

10.13.010 Unauthorized Parking And Stopping Prohibited

It is unlawful for the owner or operator of a vehicle to park or stop said vehicle in violation of this chapter. The fact that an automobile is unlawfully parked is sufficient to constitute a rebuttable presumption that the registered owner was in control of the automobile at the time it was parked.

10.13.020 Stopping And Parking Traffic Control Devices

The Traffic Engineer is hereby authorized to administer the placement and maintenance of all traffic control devices relating to stopping and parking. The Traffic Engineer is also authorized to designate parking and no parking areas. No traffic control device shall be placed or maintained by the City upon any highway under the jurisdiction of the Utah Department of Transportation.

10.13.030 Curb Markings

The following are definitions regarding curb markings:

1. Markings: The Traffic Engineer is authorized to designate the appropriate curb markings, along with the other respective traffic control devices, to denote applicable stopping or parking regulations in the City. The traffic markings shall designate the appropriate zone and shall have the following meanings:
    a. “Red” marking means no vehicle stopping or parking at any time.
    b. “Yellow” marking which may include the stenciled words “Restricted Zone” means no vehicle stopping or parking, except as stated on the signs or markings giving notice thereof.
2. Notice: When appropriate signs or traffic curb markings have been erected or placed according to this section, no person shall stop or park a vehicle in any zone in violation of this section.

10.13.040 Regulation Of Parking

1. Generally. The Traffic Engineer may, on placement of the traffic control device:
    a. Prohibit or restrict the parking or loading of vehicles where, in his opinion, such parking or loading is dangerous to those using the road, highway, or where the parking of vehicles would unduly interfere with the free movement of traffic thereon.
    b. Prohibit, restrict or regulate the parking or stopping of vehicles on any off-street parking facility or property that the City owns or operates.
2. Brakes set. When parking on a hill, slope, perceptible grade, or any location where a motor vehicle may roll it is unlawful for the driver to fail to turn the front wheels to the curb side of the street to and set the parking brake.
3. Parallel parking. It is unlawful for any driver to park a motor vehicle on any road or highway other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, with the right-hand wheels of the vehicle more than 18 inches away from the curb or edge of road, except where otherwise marked by a traffic control device.
4. Disabled parking. It is unlawful for any person to park in any stall or area designated for handicap or disabled parking, loading, or unloading.
5. Disabled vehicles. It is unlawful for any person to leave or cause to be left any disabled or inoperable vehicle on a jurisdictional road or highway for more than 48 hours. It is unlawful for any person to dismantle or disassemble any vehicle on any jurisdictional road or highway.
6. Specific prohibition. It is unlawful for any person to park in violation of Utah Code Annotated §41-6a-1401, 195, as amended, or in any manner that obstructs traffic.
7. Public facilities. Parking at any public facility or parking lot owned or operated by the City shall be as follows:
    a. Parking is allowed only in designated stalls and as otherwise provided.
    b. Double parking is prohibited.
    c. No overnight parking is allowed without the consent of an authorized City official, except for City employees in the normal course of their employment.
8. Penalty. Any person in violation of this section is guilty of an infraction.

10.13.050 Vehicles For Sale Or Used For Merchandise Sale

It is unlawful for the owner or operator of any vehicle to park a vehicle on a road or highway for the purpose of displaying it for sale. It is also unlawful for the owner or operator of any vehicle to park said vehicle on any road or highway for the purpose of advertising or for the selling of merchandise. Each vehicle parked in violation of this section constitutes a separate offense.

10.13.060 Parking Of Certain Trucks

Parking in general. No truck or truck trailer with a rated capacity of one and one-half tons or more, or licensed for more than eighteen thousand (18,000) pounds gross, with the exception of implements of husbandry, shall be allowed to parked on the public streets for a period in excess of two (2) hours, except while actually loading or unloading merchandise. In no event shall a truck or trailer remain parked for longer that eight (8) hours.

a. For the purposes of this section, a truck shall be deemed parked, even though the motor is running, if the vehicle is left standing for any period in excess of three (3) minutes with its driver present at the wheel of the vehicle; or
b. Any time the vehicle is not attended by its lawful driver at the wheel. Access limits. Except as stated above, no truck with a rated capacity of one and one half tons or more, or licensed in excess of eighteen thousand (18,000) pounds gross weight shall be parked on any public street closer that thirty (30) feet of a public road or highway, private driveway, private street, alley, or similar access.

10.13.070 Removal And Impound Procedures For Illegally Parked Or Abandoned Vehicles

Whenever any law enforcement officer finds a vehicle stopped or parked upon a road or highway in violation of this title, the officer is authorized to move the vehicle or require the driver or other person in charge of said vehicle to move it to a position not in violation of this title, or remove and impound the vehicle.

10.15 Obstructions On The Public Right-of-way

10.15.010 Obstruction Of Road Or Highway Is A Public Nuisance
10.15.020 Roadside Box Standards
10.15.030 Liability For Repair Of Sidewalk
10.15.040 Defects To Be Reported And Repaired
10.15.050 Building Material In Street
10.15.060 Obstructions Generally
10.15.070 Sales Attracting Crowds On A Sidewalk
10.15.080 Playing On Sidewalk Or In Street: No Driving On Sidewalk
10.15.100 Coasting On Street
10.15.110 Gates To Swing Inward
10.15.120 Billboards
10.15.130 Irrigation Water
10.15.140 Leaving Railroad Cars In Streets
10.15.150 Public Parade Regulations
10.15.160 Dropping, Sifting, And/or Leaking Loads

10.15.010 Obstruction Of Road Or Highway Is A Public Nuisance

In accordance with Utah Code Annotated §76-10-803, 1953, as amended, any action or object that obstructs, or tends to obstruct, or renders dangerous any road, highway, or public right-of-way is hereby declared a public nuisance and may be abated accordingly. Any 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.

10.15.020 Roadside Box Standards

Purpose. The purpose of this section is to establish a policy for roadside boxes along roads, highways, and right-of-ways in the City.

1. Installation. A roadside box shall be constructed and installed in conformance with current standard regulations of the Department of Transportation and the U.S. Postal Service.
2. Prohibition. It is unlawful for the owner of any roadside box to install the roadside box in violation of this section or in a manner that endangers the public, obstructs traffic, or unduly encroaches on the public-right-of-way. Existing roadside boxes in violation of this section shall be removed and altered by the owner, at owner's expense, to conform to this section.
3. Liability. The owner of any box in violation of this section is liable for any damage, civil or criminal, for said violation.
4. Penalty. A violation of this section is an infraction.

10.15.030 Liability For Repair Of Sidewalk

Whenever a sidewalk is out of repair by reason of the act or omission of any person, the same shall be repaired at his expense under the direction of the Superintendent of Streets and Sidewalks.

10.15.040 Defects To Be Reported And Repaired

All defects in public streets coming to the knowledge of any officer or person in the employ of the City shall be by him at once communicated to the Superintendent of Streets and Sidewalks and he or some competent person detailed by him shall, without delay, repair or cause such defect to be immediately repaired. Until such repair is completed, he shall do whatever shall be necessary to protect the public from injury by reason of the defect.

10.15.050 Building Material In Street

It shall be unlawful for any person to occupy or use any portion of the public street for the erection or repair of any building upon and abutting thereon, without first making application to and receiving from the City Council a permit for the occupation or use, for building purposes, of such portions of streets and for such periods of time and under such limitations and restrictions as may be required by the City Council; provided that no permit shall be granted to occupy more than fifteen feet of any street, measured from the curb line, and any such permit may be revoked by the City Council at any time when the holder thereof fails to comply with any rule or regulation under which it is granted or when in the opinion of the City Council, the public good requires such revocation.

10.15.060 Obstructions Generally

It shall be unlawful for any person to put or place or cause to be put or placed anywhere upon a public street or sidewalk, and it shall be unlawful for any such person, after reasonable notice by the Chief of Police or any police official, to suffer to be or remain in front of his premises, upon the sidewalk, on the half of the street next to such premises:

1. Any broken ware, glass, filth, rubbish or refuse matter, on the half of the street next to such premises;
2. Any wagons, old automobiles, lumber, wood, boxes, fencing, building material, merchandise or other things which shall obstruct such public streets or sidewalks, or any part thereof, or the free use and enjoyment thereof, or the free passage over and upon the same, or any part thereof, without the permission of the City Council;
3. Any goods, wares, or merchandise, for sale or show or otherwise, beyond three feet of the front line of the lot where such goods, wares or merchandise may be exposed.
4. It shall be unlawful to:
    a. place, pile, cause, or permit to be placed or piled any sand, gravel, lime, cement, mortar, plaster, concrete, or any other like substance or mixture.
    b. to allow the same to remain on any portion of any paved street or sidewalk in the City.
    c. Make, mix, cause, 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 in the City without first obtaining a permit from the Superintendent of Streets and Sidewalks.

No person receiving or delivering goods, wares or merchandise in the City shall place or keep upon, or sue for to be placed or kept upon, any sidewalk in the City any goods, wares or merchandise which he may be receiving or delivering, for a longer period than two hours.

10.15.070 Sales Attracting Crowds On A Sidewalk

It shall be unlawful for any merchant, auctioneer or other individual to sell or exhibit for sale any kind of property on or near to any street so as to cause people to gather in crowds on the sidewalk or to obstruct free passage thereon.

10.15.080 Playing On Sidewalk Or In Street: No Driving On Sidewalk

It shall be unlawful for any person to obstruct any sidewalk or street by games of any kind, playing ball, marbles, jumping, rolling hoops, flying kites or roller skating, so as to annoy or obstruct the free travel of any pedestrian or vehicle. It shall be unlawful for any person to drive or operate any vehicle or load, ride, or drive any animal upon any sidewalk in the City.

10.15.100 Coasting On Street

It shall be unlawful for any person to coast or slide with any sled, sleigh, toboggan or vehicle upon any public street, avenue, sidewalk or alley within the City; provided that the City Council, by public notice or proclamation, may authorize the use of certain streets for coasting during the winter season. During the period for which such notice or proclamation shall be issued, coasting and sliding upon such streets as may be designated by the proclamation or notice shall be permissible.

10.15.110 Gates To Swing Inward

It shall be unlawful for any person to allow or cause any gate to open outward and upon the sidewalk.

10.15.120 Billboards

It shall be unlawful for any person to erect and maintain any billboard for advertising purposes on, in or along any street in the City without first obtaining a permit therefore from the Special Uses and Appeals Board (see Chapter 15.27, Sign Regulations).

10.15.130 Irrigation Water

All owners or occupants of lots in the City requiring water from a main ditch for irrigation or other purposes are hereby required to dig suitable ditches, erect flumes or lay pipes and maintain the same to convey the water across the sidewalk to or from their respective lots. It shall be unlawful for any person to allow or cause any irrigation water to overflow or be directed upon the street or the public right-of-way where it causes any damage.

10.15.140 Leaving Railroad Cars In Streets

It shall be unlawful for any person to cause to be left standing or allow any boxcar or other railroad vehicle to remain on switches or other tracks, other than main lines, laid in the streets of the City; provided that boxcars may be left so standing while a switch engine or other power unit is in the immediate vicinity and in the process of switching other cars at such location.

10.15.150 Public Parade Regulations

The following shall apply to public property adjoining parade routes and staging areas for parades and it shall be unlawful for any person to violate these provisions:

1. No person shall place, erect, use or employ any tent or other enclosed shelters, including vehicles and trailers, on public property along a parade route or staging areas at any time.
2. No person shall obstruct public sidewalks, paved portions of streets, or occupy any unsafe position or occupy a position which may cause damage to public or private property.
3. From and after 8:00 p.m. of the day before a parade and continuing until the conclusion of the parade, no person shall park a motor vehicle, trailer or tent trailer on the streets designated as the parade route. Only motor vehicles and trailers which are parade entries or parts thereof are allowed to be in the areas designated as staging areas. Any vehicle, motor vehicle, trailer or tent trailer parked in violation of this section is a public nuisance and may be towed from the prohibited area at the owner's expense.
4. The Mayor may authorize the City to reserve places for the observation of the parade and to erect and control seating on reserved public property.

10.15.160 Dropping, Sifting, And/or Leaking Loads

It shall be unlawful for any person to drive a vehicle or move the same upon any street within the City unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping there-from. There shall at all times be a minimum of three inches between the top of the contents and the top of the sideboards and end gate of the vehicle.

10.17 Snow Removal

10.17.010 Snow Removal From City Right-of-Way
10.17.020 Snow Removal From Sidewalks And Private Driveways
10.17.030 Parking Vehicles On Streets After Snowstorm

10.17.010 Snow Removal From City Right-of-Way

The City shall be responsible for snow removal on jurisdictional roads and highways. Snow may be pushed by the City off the travel-ways into the roadside drainage ditch channels or burrow areas in rural areas and toward the curb and gutter and onto the parking strip as far as possible in urban areas. Snow removal by the City may take place according to an operation plan which affords priority relatively as follows: major arterial road, medium collector roads, and then to residential roads. Additionally, higher priorities may be afforded to public facilities and areas with heavy user access.

10.17.020 Snow Removal From Sidewalks And Private Driveways

The following regarding snow removal from sidewalks and private driveways:

1. It shall be unlawful for any person or entity owning, having charge or control of or occupying any real estate abutting on any street within the City to fail, refuse or neglect to remove all weeds and noxious vegetation from the curb line to the inside line of public sidewalks and further, to keep the sidewalk in front of such property free from litter, snow, ice and obstructions (see Perry Municipal Code, Chapter 10.09).
2. The violation of the foregoing shall constitute a Class B Misdemeanor. Additionally, should the City choose to remove the weeds, vegetation, letter, snow, ice or obstructions, the real property owner shall be indebted to the City for the reasonable cost of such removal. In the event legal action is commenced to obtain reimbursement for said costs, the abutting property owner shall also pay all legal expenses incurred by the City in obtaining judgment for such costs.

10.17.030 Parking Vehicles On Streets After Snowstorm

The following regarding parking:

1. No person shall park or allow to be parked a motor vehicle, trailer, camper, or any other obstruction on any street in Perry City at any time during a period of forty-eight (48) hours immediately following any snowfall on the streets of Perry City, especially when such parking would interfere with the City’s efforts to remove snow or to conduct any other public works activity. In the event of sequential snowstorm activity, the time period will commence at the first snowfall and end forty-eight (48) hours after the conclusion of the latter storm. Any motor vehicle, camper, trailer or other object parked in violation of this requirement shall be presumed to be so parked by the owner unless the registered owner by competent evidence shows that the vehicle was so parked by some other individual and without the owner's permission or knowledge. Garbage cans shall be removed from City streets as soon as possible, to assist with snow removal.
2. Police officers are authorized to issue citations to individuals violating the foregoing paragraph. In the event of an apparent repeat offender or if the vehicle or object creates a serious maintenance or safety problem, then the vehicle, trailer, camper or other object may be impounded. The owner shall be responsible for all costs of towing, storage and any other incidental expenses incurred as a result of said impoundment.
3. A violation of this Section shall be considered to be a public nuisance. A person convicted of a violation of this Section is guilty of an infraction and shall be fined not more than $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.
4. It shall be a defense to any prosecution hereunder if the defendant can show that the vehicle for which the citation was issued was parked in front of the individual's residence and that the individual is a tenant, rather than an owner of the residence, and that the rental property has no off-street parking for the tenant and constitutes a nonconforming use which existed prior to the enactment of the City zoning ordinances.

10.19 Encroachments

10.19.010 Notice To Remove: By Whom Given
10.19.020 Notice To Remove: To Whom Given, Posting, And Contents
10.19.030 Failure To Remove After Notice: Removal By Superintendent Of Streets And Sidewalks
10.19.040 Action To Abate

10.19.010 Notice To Remove: By Whom Given

If any street is encroached upon by a fence or building or otherwise, the Superintendent of Streets and Sidewalks shall, in writing, require the encroachments to be removed.

10.19.020 Notice To Remove: To Whom Given, Posting, And Contents

Notice must be given to the occupant or owner of the land or person causing or owning the encroachments or be left at his place of residence, if he resides in the City; if not, it must be posted on the encroachment, specifying the breadth of the street, the place and extent of the encroachment and requiring the removal thereof within ten days thereafter.

10.19.030 Failure To Remove After Notice: Removal By Superintendent Of Streets And Sidewalks

It shall be unlawful to leave, or cause to be left, any encroachment upon the streets of the City after the expiration of ten days from the service or posting of a notice to remove such encroachment. If the encroachment is such as to effectually obstruct and prevent the use of the highway for vehicles, the Superintendent of Streets and Sidewalks shall forthwith remove the same. If the encroachment is not denied but is not removed for five days after the notice is complete, the Superintendent of Streets and Sidewalks shall cause such encroachment to be removed at the expense of the owner, occupant or person controlling the same and recover his costs and expenses in an action for that purpose.

10.19.040 Action To Abate

If the encroachment is denied and the owner, occupant or person controlling the matter or thing charged with being an encroachment refuses either to remove or permit the removal thereof, the City Council may direct the City Attorney to commence in the proper court an action to abate same as a nuisance, or may direct the Community Development Director or other official(s) to take other appropriate action allowed by law.

10.21 Pedestrians

10.21.010 Responsibility Of Driver To Exercise Caution
10.21.020 Pedestrian Has Right-of-Way At Crosswalk
10.21.030 Pedestrian To Yield Of Right-of-Way
10.21.040 Pedestrian Limited Access Area

10.21.010 Responsibility Of Driver To Exercise Caution

Notwithstanding the provisions of this title, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any incapacitated person upon a roadway.

10.21.020 Pedestrian Has Right-of-Way At Crosswalk

The following regarding a pedestrian right-of-way:

1. Vehicle to yield: When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if necessary, to a pedestrian crossing the roadway within the crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
    a. A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the driver to yield.
    b. This section does not apply where the pedestrian is crossing at a place other than a crosswalk.
2. No passing: Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle on either side.

10.21.030 Pedestrian To Yield Of Right-of-Way

The following regarding pedestrians yielding the right-of-way:

1. No crosswalk. Every pedestrian crossing a roadway at any point, other than within a marked crosswalk or within an unmarked crosswalk or at an intersection, shall do so only if:
    a. No crosswalk exists within 350 feet of the desired point of crossing; and,
    b. When crossing, the pedestrian shall yield the right-of-way to all vehicles upon the roadway.
2. Tunnel or overhead crossing. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
3. Marked crossing. Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

10.21.040 Pedestrian Limited Access Area

The traffic engineer is authorized to restrict or prohibit pedestrian traffic in designated areas where public safety necessitates. In such designated areas, no unauthorized pedestrian may trespass. A violation of this Section shall constitute a Class “C” misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued.

10.23 Rule-making, Enforcement, Penalties, And Applicability To Other Ordinances

10.23.010 Pedestrian Limited Access Area Traffic Engineer Rules And Regulations
10.23.020 Police Chief Rules And Regulations
10.23.030 Enforcement
10.23.040 Violation And Penalties
10.23.050 Applicability Of Other Ordinances

10.23.010 Pedestrian Limited Access Area Traffic Engineer Rules And Regulations

The Traffic Engineer is hereby authorized to create and administer rules, regulations, and any policies and procedures to effect the administration of this title.

10.23.020 Police Chief Rules And Regulations

The Police Chief is hereby authorized to create and administer rules, regulations, and any policies and procedures to effect the administration of this title.

10.23.030 Enforcement

The police department is charged with the enforcement of this title. The police department, by its officers, shall issue citations or warnings for violations, make arrests for violations, investigate accidents, conduct studies, create reports, impose a reasonable fee for documents as set by rule, follow applicable policies and procedures, keep records and documents, make recommendation, and cooperate with other City official in the administration of this title in order to improve traffic safety.

10.23.040 Violation And Penalties

The penalty for any violation of this title not specifically stated herein shall be set as defined by the Utah Criminal and Traffic Code. The penalty for any violation of this title not otherwise stated is a class B misdemeanor, with a fine not to exceed $500 per offense. In the alternative, a civil infraction, with a fine not to exceed $500 per offense, may be issued. Each violation of this title or each day of continuing violations under this title constitutes a separate offense.

10.23.050 Applicability Of Other Ordinances

See also Chapter 15.19, Streets, Trees, Parkways, and Parking.

11 Buildings And Construction, Including Rules To Adopt Standards And Guidelines

11.01 Building Codes Adopted
11.03 Building Permit Requirements
11.05 Regulation Of Temporary Dwelling Units
11.07 Procedures For Adopting And Amending Public Works Standards And Architectural Design Guidelines
11.09 Penalties

11.01 Building Codes Adopted

11.01.010 Names Of Building Codes Adopted

11.01.010 Names Of Building Codes Adopted

The most recent editions of the ICC, IBC, IRC, and related codes are adopted, and with any further updates approved by the State of Utah to be automatically adopted by Perry City.

11.03 Building Permit Requirements

11.03.010 Building Permits: Site Plan Required
11.03.020 Rural Road Agreement Required
11.03.030 Building And Occupancy Permits Required
11.03.040 Building And Occupancy Permits To Comply With This Code
11.03.050 Fees For Permits And Amendments
11.03.060 Inspection And Approval Required Prior To Occupancy

11.03.010 Building Permits: Site Plan Required

The following requirements have been set forth for building permit applications:

1. An application for a building or use permit shall be made to Perry City and reviewed by the Building Inspector and the Zoning Administrator and shall include a site plan and such other information as may be required by resolution in Perry City. Refer to I.B.C. Section 105, as amended. (See Perry City Building Permit Application Guidelines for the procedure of the application process.)
2. All applications for building permits for new construction of a primary building/structure, not in an approved subdivision, must be reviewed by the Perry City Planning Commission.
3. After permits are issued, any violation of any provision of this ordinance or any other ordinance or resolution of Perry City, whether intentional or otherwise, shall null and void such building permit.

11.03.020 Rural Road Agreement Required

An application for a building or use permit, for a primary structure, fronting or abutting a road or street that is not improved to meet Perry City Standards must be accompanied by a signed Rural Road Agreement.

11.03.030 Building And Occupancy Permits Required

All buildings or structures that are erected, constructed, enlarged altered repaired, moved, improved, removed, converted or demolished require a building permit as defined and described in the International Building Code, Section 105, as amended.

11.03.040 Building And Occupancy Permits To Comply With This Code

Building and occupancy permits shall not be granted for the construction or alteration of any building or structure, or for the moving or removing of a building onto or from a lot or for the use or occupancy of a building or land if such structure, construction, alteration, moving, use, or occupancy would be in violation of any of the provisions of this ordinance or the International Building Code adopted by Perry City.

11.03.050 Fees For Permits And Amendments

In order to cover the costs incidental to processing permits required by this ordinance, considering amendments to this ordinance or map, and considering appeals (to an Appeal authority) shall establish and reestablish by resolution such fees directly related to processing fees, permits, amendments or appeals (see Chapter 4.09 Fee Schedule).

11.03.060 Inspection And Approval Required Prior To Occupancy

Buildings and structures requiring a building permit pursuant to the provisions of this ordinance shall not be occupied or put into use until the local Building Official, as appointed by the City Council, has inspected such building or structure, finds compliance with this ordinance and the International Building Code as adopted by Perry City, and gives a written certificate of occupancy and use to the owner or owner's agent to occupy and/or use the building or structure in the manner approved by the issuance of a valid building permit.

11.05 Regulation Of Temporary Dwelling Units

11.05.010 Intent
11.05.020 Definitions
11.05.030 When Allowed: Conditions
11.05.040 Time Periods
11.05.050 Penalty

11.05.010 Intent

The State of Utah has provided that cities and municipal governments may enact zoning and building ordinances, policies, rules, and codes as determined to be necessary and helpful for the City and Perry City desires to define the conditions that allow a temporary unit.

11.05.020 Definitions

The following is a list of definitions for this Chapter:

1. Dwelling Unit: Any dwelling unit that has living facilities including sleeping, eating, and bathroom arrangements.
2. Definition of Temporary: A period of time not to exceed one (1) year during which a permanent home or other approved structure is being constructed.

11.05.030 When Allowed: Conditions

A temporary dwelling unit is allowed on a normal building lot during the construction of a permanent structure and the following also apply:

1. It is intended that mobile units must remain mobile.
2. If a mobile unit is moved onto the property, the axles and tires making the unit mobile must remain intact.
3. If a structure exists on the property and is not mobile, a defined use for that structure must be given to the City in writing at the time of application for a building permit.
4. If that structure will remain after construction for the purpose of a garage, storage, or other use, it must be approved for such use by the building inspector prior to a building permit being issued for the new structure.

11.05.040 Time Periods

If the structure is to be removed after completion of the permanent structure, a written contract must be made between the owner and the City to remove that unit within ninety (90) days after the occupancy permit is issued. This contract shall authorize the City to remove that unit within one hundred and twenty (120) days after the occupancy permit is issued. This contract shall authorize the City to remove that structure at the expense of the property owner if the time period has lapsed.

11.05.050 Penalty

Any person who shall maintain a temporary dwelling unit without permission and contract from Perry City as defined in this Ordinance shall be deemed guilty of a misdemeanor.

11.07 Procedures For Adopting And Amending Public Works Standards And Architectural Design Guidelines

11.07.010 Process To Approve The First Edition Of The Revised Public Works Standards
11.07.020 Process To Approve Amendments To The First Edition Standards Or Design Guidelines
11.07.030 Approval By PWS Review Committee Of Amended Standards Or (New Or Amended) Design Guidelines
11.07.040 Legislative Review Process

11.07.010 Process To Approve The First Edition Of The Revised Public Works Standards

The process to approve the first edition of the revised public works standards as follows:

1. The Community Development Department, primarily the Community Development Director and the City Engineer, shall recommend the First Edition of the (Revised) Public Works Standards and Technical Specification (referred to herein as "First Edition Standards").
2. The Public Works Director, the City Attorney, the Planning Commission (or individual members), and/or other City officials may provide comments as to the recommended First Edition Standards.
3. The Mayor and City Council may approve, by a Joint Resolution, the recommended First Edition Standards, with or without amendment.

11.07.020 Process To Approve Amendments To The First Edition Standards Or Design Guidelines

The process to approve amendments to the first edition standards or design guidelines as follows:

1. The Community Development Department, primarily the Community Development Director and the City Engineer, shall recommend amendments to or subsequent editions of the Standards (referred to herein as "Amended Standards" or (New or Amended) Architectural Design Guidelines).
2. The Public Works Director, the City Attorney, and/or other City officials may provide comments as to the Amended Standards or as to (New or Amended) Architectural Design Guidelines.

11.07.030 Approval By PWS Review Committee Of Amended Standards Or (New Or Amended) Design Guidelines

The "Public Works Standards Review Committee" shall act in a quasi-legislative manner and shall make a final decision by rejecting (with or without comment) or approving (with or without amendment) any recommended Amended Standards or (New or Amended) Architectural Design Guidelines (which shall follow the processes set forth in Section 15.05.050.1, items 7A and 7B). The Special Uses and Appeals Board shall act as this Committee, unless the Mayor appoints, with the advice and consent of the City Council, three to five specific Members for this committee.

11.07.040 Legislative Review Process

The Mayor and City Council may, at any time (with or without a recommendation), commence a "legislative review process" to:

1. Review the Public Works Standards or Architectural Design Guidelines; and/or
2. amend the Public Works Standards or Architectural Design Guidelines, by adopting a Joint Resolution approving of said amendment(s).

11.09 Penalties

11.09.010 Available Penalties

11.09.010 Available Penalties

Available penalties are set forth in Chapter 15.01.030.

12 Public Service Ordinances

12.01 Questar Gas Franchise
12.03 Parks, Trails, And Recreation
12.05 Storm Water And Drainage
12.07 Culinary Water
12.09 Wastewater
12.11 Garbage Collection

12.01 Questar Gas Franchise

12.01.010 Effective Date
12.01.020 Purpose
12.01.030 Grant Of Franchise
12.01.040 Consideration
12.01.050 Term
12.01.060 Acceptance
12.01.070 Construction And Maintenance Of Facilities.
12.01.080 Compliance With Ordinances -- Conflict
12.01.090 Information Exchange
12.01.100 Relocation
12.01.110 Terms Of Service
12.01.120 Indemnification
12.01.130 Assignment
12.01.140 Insurance
12.01.150 Effect Of Invalidity
12.01.160 Amendment

12.01.010 Effective Date

This ordinance shall become effective upon the date of acceptance by Questar Gas as established above.

12.01.020 Purpose

1. Questar Gas Company, a Utah corporation, (Questar Gas) desires to construct, maintain and operate a gas distribution system within the City of Perry (City); and
2. The City Council has determined that it is in the best interest of the citizens of the City to grant a franchise to Questar Gas to use the roads and streets within the City for such purpose; and
3. The City Council has therefore approved an ordinance granting to Questar Gas Company a franchise for the construction, operation and maintenance of a gas distribution system in Perry City, Box Elder County, State Of Utah.

12.01.030 Grant Of Franchise

The City grants to Questar Gas a nonexclusive franchise (Franchise) to construct, maintain and operate in the present and future roads, streets, alleys, highways and other public rights-of-way within City limits, including any property annexed or otherwise acquired by the City after the effective date of this Franchise, (collectively, Streets) a distribution system for furnishing natural and manufactured gas to the City and its inhabitants for heating and other purposes. Questar Gas shall have the right to erect, construct, equip and maintain along, over and under the Streets a system of mains, pipes, laterals and related equipment (Facilities) as are reasonably necessary for supplying gas service in accordance with this Franchise.

12.01.040 Consideration

In consideration of this Franchise, Questar Gas shall pay to City the sum of $50.00 upon acceptance of this Franchise and shall provide gas service in accordance with the terms of this Franchise.

12.01.050 Term

This Franchise is granted for an initial term of twenty (20) years. At the expiration of the initial term, the Franchise shall continue in effect upon the same terms and conditions for up to two additional terms (each of which is a renewal period) of fifteen (15) years each. The City may terminate the Franchise at the end of the initial term, or at the end of any renewal period, by giving Questar Gas written notice of the City's intent to so terminate not less than ninety (90) calendar days before the expiration of the initial term or any renewal period.

12.01.060 Acceptance

Within sixty (60) days after the passage of this ordinance, Questar Gas shall file with the City an unconditional written acceptance of the Franchise declaring its acceptance of the Franchise and its intention to be bound by the terms and conditions of the Franchise.

12.01.070 Construction And Maintenance Of Facilities.

1. All Facilities shall be constructed and installed so as to interfere as little as possible with traffic over and public use of the Streets and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Streets. All Facilities shall be constructed in accordance with established gas distribution construction practices and in a manner which protects the Facilities from all traffic loads. Without unreasonable additional cost to Questar Gas, all Facilities that are installed during the term of the Franchise shall be sited to be visually unobtrusive and to preserve the natural beauty and neighborhood aesthetics within the City limits.
2. Questar Gas shall repair or replace, at its own expense, any and all rights of way, pavements, sidewalks, street improvements, excavations, other facilities, landscaping, or other improvements, public or private, that it damages in the Franchise operations.

12.01.080 Compliance With Ordinances -- Conflict

1. Questar Gas shall comply with all City ordinances, regulations and requirements and shall pay all applicable excavation fees and charges that are or may be prescribed by the City with respect to the construction, maintenance and operation of all Facilities. However, these obligations shall apply only as long as such ordinances, regulations, requirements or fees are not preempted by or otherwise in conflict with any applicable statutory or constitutional law, rule or regulation, or the tariffs approved by regulatory bodies having jurisdiction over Questar Gas, including this Franchise and any lawful revisions made and accepted by Questar Gas during the term of the Franchise.
2. The City shall have the right to inspect the construction, operation and maintenance of the Facilities to ensure the proper compliance with applicable City ordinances, regulations and requirements. In the event Questar Gas should fail to comply with the terms of any City ordinance, regulation or requirement, the City shall give Questar Gas written notice of such non-compliance and the time for correction provided by ordinance or a reasonable time for correction if there is no time frame provided by the applicable ordinance, regulation, or requirement. After written notice and failure of Questar Gas to make correction, the City may, at its sole risk, make such correction itself and charge the cost to Questar Gas including any minimum cost provided by ordinance. Nothing in this Franchise limits Questar Gas' right to oppose any ordinance, either existing, proposed, or adopted from and after the effective date of this Franchise.

12.01.090 Information Exchange

Upon request by either the City or Questar Gas, as reasonably necessary, Questar Gas and the City shall meet for the purpose of exchanging information and documents regarding construction and other similar work within the City limits, with a view towards coordinating their respective activities in those areas where such coordination may prove mutually beneficial. Any information regarding future capital improvements that may involve land acquisition shall be treated with confidentiality upon request to the extent that the City may lawfully do so.

12.01.100 Relocation

1. Upon written notice to Questar Gas, the City may require the relocation and removal or reinstallation (collectively, Relocation) of any Facilities located in, on, along, over, across, through, or under any of the Streets. After receipt of such written notice, Questar Gas shall diligently begin such Relocation of its Facilities as may be reasonably necessary to meet the City's requirements. The Relocation of Facilities by Questar Gas shall be at no cost to the City if (i) such request is for the protection of the public health, safety and welfare pursuant to lawful authority delegated to the City; (ii) the Facilities have been installed pursuant to this or any other Questar Gas franchise and not pursuant to a property or other similar right, including, but not limited to, a right-of-way, grant, permit, or license from a state, federal, municipal or private entity; and (iii) the City provides a new location for the Facilities. Otherwise, a Relocation required by the City pursuant to such written notice shall be at the City's expense. Following Relocation of any Facilities, Questar Gas may maintain and operate such Facilities in a new location within City limits without additional payment. If a City project is funded by federal or state monies that include an amount allocated to defray the expenses of Relocation of Facilities, then the City shall compensate Questar Gas up to the extent of such amount for any Relocation costs mandated by the project to the extent that the City actually receives or is otherwise authorized to direct or approve payment of such federal or state funds.
2. Notwithstanding the preceding paragraph, Questar Gas shall not be responsible for any costs associated with an authorized City project that are not attributable to Questar Gas' Facilities in the Streets. Further, all such costs shall be allocated among all utilities or other persons whose facilities or property are subject to Relocation due to an authorized City project.

12.01.110 Terms Of Service

Questar Gas shall furnish gas service without preference or discrimination among customers of the same service class at reasonable rates, in accordance with all applicable tariffs approved by and on file with regulatory bodies having jurisdiction over Questar Gas, including revisions to such tariffs made during the term of the Franchise, and in conformity with all applicable constitutional and statutory requirements. Questar Gas may make and enforce reasonable rules and regulations in the conduct of its business, may require its customers to execute a gas service agreement as a condition to receiving service, and shall have the right to contract with its customers regarding the installation and operation of its Facilities. To secure safe and reliable service to the customers, and in the public interest, Questar Gas shall have the right to prescribe the sizes and kinds of pipes and related Facilities to be used and shall have the right to refuse service to any customer who refuses to comply with Questar Gas' rules and regulations.

12.01.120 Indemnification

Questar Gas shall indemnify, defend and hold the City, its officers and employees, harmless from and against any and all claims, demands, liens, liabilities, damages, actions and proceedings arising from the exercise by Questar Gas of its rights under this Franchise, including its operations within City limits, and Questar Gas shall pay the reasonable cost of defense plus the City's reasonable attorneys' fees. Notwithstanding any provision to the contrary, Questar Gas shall not be obligated to indemnify, defend or hold the City harmless to the extent that any underlying claim, demand, lien, liability, damage, action and proceeding arises out of or in connection with any act or omission of the City or any of its agents, officers or employees.

12.01.130 Assignment

Questar Gas may assign or transfer its rights and obligations under the Franchise to any parent, affiliate, or subsidiary of Questar Gas, to any entity having fifty percent (50%) or more direct or indirect common ownership with Questar Gas, or to any successor-in-interest or transferee of Questar Gas having all necessary approvals, including those from the Utah Public Service Commission or its successor, to provide utility service within the City limits. Otherwise, Questar Gas shall not transfer, assign or delegate any of its rights or obligations under the Franchise to another entity without the City's prior written approval, which approval shall not be unreasonably withheld or delayed. Inclusion of the Franchise as an asset of Questar Gas subject to the liens and mortgages of Questar Gas shall not constitute a transfer or assignment requiring the City's prior written consent.

12.01.140 Insurance

The Company shall responsibly self-insure or maintain insurance in an amount sufficient to cover its obligations and liabilities. In lieu of any insurance as may be required in any City ordinances.

12.01.150 Effect Of Invalidity

If any portion of this Franchise is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of any remaining portions of this Franchise.

12.01.160 Amendment

This ordinance shall not be altered or amended without the prior written consent of Questar Gas.

12.03 Parks, Trails, And Recreation

12.03.010 Superintendent
12.03.020 Applicability
12.03.030 Designated Park Hours
12.03.040 Prohibited Activities
12.03.050 Activities Requiring Permit
12.03.060 Penalty
12.03.070 Required Amenities For All Parks, Trails, And Trailheads
12.03.080 Characteristics And Amenities For Mini-Parks, Neighborhood Parks, Community Parks, Trails, And Trailheads
12.03.090 Purpose And Application
12.03.100 Purpose And Application
12.03.110 Location Of Trails, Paths, Public Spaces, Waterway Corridor Setbacks
12.03.120 Trails, Paths, And Other Public Space Improvement Requirements
12.03.130 Purpose And Application
12.03.140 Location Of Parks, Open Space, And Other Public Spaces
12.03.150 Parks, Open Space, And Other Public Spaces Purchase Fees

12.03.010 Superintendent

The Mayor, with the advice and consent of the City Council, may select a competent person to supervise the maintenance, operation, care, improvement and beautification of all City parks and public grounds who shall be called the Superintendent of Parks.

12.03.020 Applicability

The provisions of this ordinance apply to all public parks and grounds located within the corporate limits of Perry City. Public grounds means any public property or public facility owned, operated or otherwise controlled by Perry City that is not a public roadway and includes such things as public buildings and landscaping around them, public infrastructure and facilities such as storm drainage areas, well houses, or pump/lift stations, planting strips, flower beds, open spaces, playgrounds, trails, walkways, riding arena or wildlife viewing areas. The provisions of this ordinance shall not be applicable to a peace officer or Perry City employee while acting within the scope of his duty or employment.

12.03.030 Designated Park Hours

It shall be unlawful for any person, other than a peace officer on duty, or an employee of Perry City acting within the scope of his employment or an officer in the discharge of his official duties, to be in or about any park or public grounds within the corporate limits of Perry City between thirty (30) minutes after sunset and six o'clock (6:00) a.m., except in connection with an organized event or activity authorized by the Mayor and the Superintendent of Parks. The hours referred to in this part shall be deemed to be the time then in current use at the date in question, whether the same is Mountain Standard Time or Daylight Saving Time.

12.03.040 Prohibited Activities

This part does not apply to the vehicles, equipment and employees of Perry City or independent contractors acting under Perry City's discretion. The following activities are prohibited in or upon any park or public grounds except as expressly authorized by the Perry City Council or where specific, designated approval has been obtained from the Mayor and Superintendent of Parks:

1. Skating: It shall be unlawful for any person to operate/ride a skateboard, roller blades, roller skates, or similar devices on any table, bench, landscaping, playground equipment or similar improvement.
2. Shooting Games: It shall be unlawful for any person to play and/or practice golf, paint balling, archery, shooting, hunting or any similar game or activity.
3. Hitching Animals: It shall be unlawful to hitch or fasten any horse or other animal to any structure, improvement or tree/plant except the use of a structure that is expressly designated for such purpose.
4. Trailers: It shall be unlawful to stop, park, use, load or unload any private trailer.
5. Sleeping and Camping: It shall be unlawful for any person to sleep overnight or camp except while engaging in an organized event or activity authorized by the Mayor and Superintendent of Parks.
6. Injury and/or Vandalism to Public Property or Landscaping: It shall be unlawful for any person to remove or willfully damage or deface, scratch, cut, injure or write upon any building, improvement, furniture, structure, rest room facility, fence, fountain, bench, bleachers, irrigation system or any other public property or parts thereof. It shall be unlawful to cut, remove or willfully damage any landscaping, tree, flower, plant, shrub, grass, soil, rock, sand, gravel or any other material.
7. Alcohol Consumption or Possession: It shall be unlawful for any person to have in his possession or to consume any alcohol or alcoholic beverage.
8. Animals at large: It shall be unlawful for the owner or care-taker of any dog or other a animal to permit such animal at large. It shall be unlawful for any animal owner or care-taker having a leashed or controlled animal or any animal at large, to fail to clean up and remove any excrement from or to fail to repair any damages caused by such animal.
9. Use of firearms, fireworks or explosives: It shall be unlawful for any person to fire or discharge any firearms, fireworks, firecracker, or any explosive device or weapon except for a peace officer in the performance of his duty or specific written consent of City Fire Marshal and under his direction for fireworks displays approved by the Mayor and Superintendent of Parks.
10. Littering and Smoking: It shall be unlawful for any person to litter, leave, fail to clean up or deposit garbage, junk, or refuse of any kind in any place except for inside of the receptacles provided for that purpose. It shall likewise be unlawful to smoke or leave smoking debris.
11. Annoying Behavior and Disorderly Conduct: It shall be unlawful for any person to engage in any activity that causes or creates annoyances such as excessive noise (defined as 83 DBA measured 3 feet from the source), lewdness, disorderly conduct or other such harmful nuisances.
12. Trespassing: It shall be unlawful for any person to trespass on any public grounds where trespassing is expressly prohibited.

12.03.050 Activities Requiring Permit

Any person holding an activity, event, meeting, gathering, picnic, musical, theatrical or other entertainment in any park or City Building or public grounds is responsible for first obtaining a permit and paying a fee and/or deposit, if applicable. Such fees and deposit amounts shall be included in a fee schedule adopted by a resolution of the Perry City Council and may be changed by resolution whenever deemed necessary.

12.03.060 Penalty

Any person who violates any of the provisions of this ordinance is guilty of a Class C misdemeanor and shall be fined not less than $100.00 for each violation. The sentencing judge may, upon the request of the City, also order that the offender:

1. Render community service to remedy damage caused by him or pay restitution for the same, and/or
2. Be prohibited from entering and/or using any park, public grounds and/or public facilities as dictated by the court for a period of time set by the court, or order that the offender be restrained from engaging in any prohibited activity in any park, public grounds or public facilities.

12.03.070 Required Amenities For All Parks, Trails, And Trailheads

The following regarding the required amenities for all parks, trails, and Trailheads:

1. Park amenities: Park amenities will be to the required standards set by the City Parks Superintendent. Specific improvements will be approved by the City Parks Superintendent and will be in accordance with Ordinance 07-D Parks and Public Grounds – Use Regulations. All parks will have:
    a. Park signs designating the name of the park and rules;
    b. Picnic tables;
    c. Pavilion or bowery;
    d. Restroom facilities (not required for Mini-Parks);
    e. Play structures (primarily constructed of plastic and powder-coated metal);
    f. Benches (primarily constructed of aluminum, plastic or powder-coated metal);
    g. Parking facilities (not required for Mini-Parks);
    h. Walking paths (not required for Mini-Parks under one acre);
    i. ADA accessibility;
    j. Landscaping/lawn/trees/sprinkler system;
    k. Lighting/electricity availability;
    l. Water fountain;
    m. Designated street crossings for entrance to park (painted lines and park crossing signs).
2. Trail and Trailhead amenities: Trail and Trailhead amenities will be to the required standards set by the City Parks Superintendent. Specific improvements will be approved by the City Parks Superintendent and will be in accordance with Ordinance 07-D Parks and Public Grounds – Use Regulations. Required amenities shall be as follows:
    a. Bike and Pedestrian Trails will consist of landscaping (where the City deems necessary), benches, trees, trail signs, asphalt/concrete surfaces (unless otherwise specified by the City), 10-foot wide (unless otherwise specified by the City) and will follow the following class system:
    b. Class I Bike and Pedestrian Trails (path): Paved hard surface paths, with a minimum 10-foot wide tread, and require a minimum separation of 5-feet from the roadway. AASHTO standards should be used as design guidelines.
    c. Class II Bike Lane: Striped lanes adjacent to the curb on a roadway, with width and other requirements as per UDOT and/or other standard regulations.
    d. Class III Bike Routes: Existing streets with signage for on-street bicycle use.
3. Equestrian Trails: Dirt or stabilized dirt is a preferred surface. The equestrian trail should be at least three to six feet away from a hard surface trail for bikes and pedestrians and at least 5-foot wide tread for horses. Vertical clearance for equestrians should be at least ten feet, with a horizontal clearance of at least five feet.
4. Trailheads: Trailheads will consist of landscaping, restroom facility, benches, parking facility(ies), bicycle rack, drinking fountain, shelter, information station, and trail sign.

12.03.080 Characteristics And Amenities For Mini-Parks, Neighborhood Parks, Community Parks, Trails, And Trailheads

The following regarding the characteristics and amenities for mini-parks, neighborhood parks, community parks, trails, and Trailheads:

1. Mini-parks: A specialized facility that serves a concentrated or limited population or specific group, such as tots or senior citizens. This facility should be located within neighborhoods and in close proximity to apartment complexes, townhouse developments, or housing for the elderly. When used for detention of storm water, mini-parks must maintain a minimum seventy five (75%) percent of dry area (i.e. not used for detention). Mini-parks less than one acre are not customarily included in the impact fee level of service for the City's parks because they are usually considered project improvements of a new development. In order for a park less than one acre to be considered in the impact fee level, it must be developed by the City and not as part of a new development. The following regarding mini-parks:
    a. Typical Park Size: 5,445 sq. ft- 2.99 acres
    b. Site Characteristics: Centrally located in neighborhoods and higher-density residential. The walking distance should not exceed one-quarter mile nor require the crossing of busy streets. Appropriate facilities include children's playground equipment, grassy play areas, picnic tables and shelters, and benches.
2. Neighborhood Parks: Areas designed for intense recreational activities such as field games, court games, crafts, playground apparatus, skating, picnicking, wading pools, etc. Neighborhood park sites should be suited for intense development, easily accessible to neighborhood populations, and geographically located for safe walking and bicycle access (service radius of one-half mile). A minimum twenty percent of the site area should be dry (i.e. not used for detention). These parks are included in the City's level of service and considered system improvements. The following regarding neighborhood parks:
    a. Typical Park Size: 3.0 – 12.99 acres
    b. Site Characteristics: Centrally located to provide direct and safe walking/biking access. Appropriate facilities include open play areas for softball, soccer, youth baseball, Frisbee, etc., as well as restrooms, parking facilities, picnic areas, shelters, and a children's playground with seating available nearby. Sites should be relatively visible from adjoining streets.
3. Community parks: Areas of diverse recreational value including intense recreational facilities, such as athletic complexes and pools, as well as more passive uses such as picnicking, viewing, nature studying, and other types of recreational development. The size and amenities contained within each community park should be based on the planned population to be served. A minimum twenty percent of the site area should be dry (for a 10-year storm event). Community parks should serve the majority of residential areas with overlapping service area coverage. These parks are included in the City's level of service and are considered system improvements. The following regarding community parks:
    a. Typical Park Size: 13.0 – 50.0 acres
    b. Site Characteristics: Comprises both active and passive recreational activities with support facilities such as off-street parking and restrooms. Appropriate facilities include fields for formal baseball-softball, soccer, etc., along with picnic facilities, trail/pathway systems, and children's playgrounds. The park should be located on an arterial or collector street and have landscaped setbacks to buffer active use areas from residential areas as needed.

12.03.090 Purpose And Application

To establish specific standards for all parks and trails in order to ensure appropriate high quality parks and trails are developed within the community, and ensure that maintenance patterns are standardized throughout the Perry City Parks and Trails System. Residents are encouraged to participate in "adopt a tree," "adopt a trail" and similar programs. This ordinance shall be immediately effective upon approval and shall be applicable to all subdivisions and areas for which there is not yet final approval by the City Council.

12.03.100 Purpose And Application

To establish the location, requirements and specifications for development of trails, paths, and other public spaces which have been outlined and planned in the Perry City Parks, Trails, Open Space and Critical Lands Master Plan. This ordinance shall be immediately effective upon approval and shall be applicable to all subdivisions and areas for which there is not yet final approval by the City Council.

12.03.110 Location Of Trails, Paths, Public Spaces, Waterway Corridor Setbacks

The following regarding the location of trails, paths, public spaces, and waterway corridor setbacks:

1. Land shall be reserved and improvements shall be installed: The Planning Commission, in its review of each subdivision, shall require that land be reserved and improvements installed for trails, paths, and other public spaces designated within the Perry City Parks, Trails, Open Space and Critical Lands Master Plan or in other areas where such amenities would be appropriate and would benefit the subdivision and its residents. The area shall be shown on the Final Plat and will be built to the City's specifications.
2. Areas to be left completely as Open Space include those for which one or more of the following conditions apply:
    a. Areas within required waterway corridor setbacks; and/or
    b. Areas designated as floodplain by FEMA (the Federal Emergency Management Agency), and/or
    c. Slopes over thirty (30%) percent, and/or
    d. Wetlands (unless exceptions apply as per Army Corps of Engineers regulations).
3. Setbacks for subdivisions (and other areas) developed along major waterways, including major canals, rivers, creeks and streams where trails are planned shall require a forty foot (on each side) Perry City right of way dedication (waterway corridor setback) for trail development.
4. Setbacks for subdivisions (and other areas) developed along minor waterways, including minor canals, ditches and streams where trails are planned shall require a fifteen (15') foot (on each side) Perry City right-of-way dedication (waterway corridor setback) for trail development.

12.03.120 Trails, Paths, And Other Public Space Improvement Requirements

The following regarding trails, paths, and other public space improvement requirements:

1. In order for the City to obtain property for trails, paths, and other public spaces, the developer shall provide for a right of way dedication, which shall be dedicated to Perry City for trails, paths, or other public spaces and developers will be required to install all improvements to these areas and shall be built to City specifications.
2. Trails, paths, and other public spaces shall be developed appropriately to permit efficient drainage, provide safe access, and allow links to adjacent trails. Trails should provide a link to schools, recreation facilities, commercial areas, parks and significant natural features.
3. Trails should be provided to allow efficient internal pedestrian and non-motorized circulation as well as provide links to other cities' trails and regional trails. Construction of new trails will be required concurrently with the installation of other public improvements unless the Planning Commission determines otherwise, in which case, cash deposits shall be required pursuant to this Code for trail improvements. The developer or the developer's engineer shall provide cost estimates for trail development, as needed. The City Engineer(s) shall review all cost estimates for trail development.
4. Although required trails may not link to adjacent trails immediately, each trail is a vital part of the overall circulation plan.

12.03.130 Purpose And Application

This parks, open spaces, and other public spaces location and purchase fee ordinance will establish placement and assess fees to purchase land for the development of parks, open space and other public spaces. This ordinance shall be immediately effective upon approval and shall be applicable to all subdivisions and areas for which there is not yet final approval by the City Council, excepting subdivisions and areas for which preliminary approval was given by the City Council on or before November 30, 2006.

12.03.140 Location Of Parks, Open Space, And Other Public Spaces

The City shall require a minimum of six (6) acres of property for parks, open space or other public spaces for every 1,000 population throughout the City. The location of parks shall be determined by the City as identified in the Perry City Parks, Trails, Open Space and Critical Lands Master Plan. Developers will be required to work with the City to obtain park property within the development where placements of parks have been identified.

12.03.150 Parks, Open Space, And Other Public Spaces Purchase Fees

The following regarding parks, open space, and other public spaces purchase fees:

1. Regular 2% Cash Purchase Fee: In order for the City to obtain property for parks, open space, and other public spaces, and as a condition of subdivision approval, the developer shall contribute to the City two (2%) percent of the appraised value of all land being developed which shall be used to purchase property for parks, open space and other public spaces in the City. This assessment shall be made on each phase of the development. Payment of cash will be made by the developer to the City before recording the plat.
2. Optional 2% Land Donation: In lieu of cash, the City may require the developer to donate two (2%) percent of the property being developed should the City desire a park, open space, or public space in that location; provided, not less than a contiguous minimum of ten thousand (10,000) square feet shall be so allocated.
3. MAI Appraisal: The amount of the Park Purchase Fee shall be determined by a third party MAI (Member of the Appraisal Institute) designated appraisal requested by the City. The developer shall pay a nominal fee as per the City's fee schedule (or as determined by the City Council) to defray the cost of the appraisal report. The developer may accept the City's MAI appraisal or may procure and submit to the City an MAI appraisal of the subdivision property. The City Council shall choose between MAI appraisals if more than one is available, subject to review in District Court.
4. Exclusive Use of Funds: The monies shall be exclusively used for park, open space, or other public space development (thus, monies shall not be placed in the general fund; but rather, in the appropriate capital facilities fund or other special fund and used accordingly).

12.05 Storm Water And Drainage

12.05.010 Purpose And Intent
12.05.020 Best Management Practices
12.05.030 Easements
12.05.040 Definitions
12.05.050 Prohibited Discharge Standards
12.05.060 Requirements And Penalties
12.05.070 Permits
12.05.080 Storm Water Pollution Prevention Plan
12.05.090 Civil Penalty: Administrative Hearing

12.05.010 Purpose And Intent

The purpose of this article is to prevent the discharge of sediment and other construction related pollutants from construction sites. Sediment and debris from construction sites are a major source of pollution to waterways and water systems located within the City and surrounding areas, Each year, storm water runoff carries tons of sediment from construction sites into local drainage systems, irrigation systems, canals, rivers and lakes. Sediment from storm water runoff also clogs and obstructs storm drains, culverts and canals and causes damage to private property, wildlife habitat and water quality.

12.05.020 Best Management Practices

The following regarding Best Management Practices (BMP's):

1. Requirement: Any person connecting to the storm sewer system developing a commercial or residential site shall employ best management practice (BMPs) approved by the City. The City shall adopt a policy establishing a menu of BMPs that may be used to satisfy this requirement. The BMPs shall be designed to ensure that the quality and quantity of storm water released to the City storm sewer system meets the requirements of federal, state and local laws and regulations and the City NPDES permit, and will not exceed the designed capacity of the storm sewer system or jeopardizes the integrity of the storm sewer system.
2. Failure to Comply: Failure to conform to prescribed BMPs will result in the penalties as set forth in this Title.

12.05.030 Easements

City employees may enter all private properties through which the City holds an easement for the purpose of inspecting, observing, measuring, repairing or maintaining any portion of the storm sewer facilities lying within the easement or the performance of any other duties pertinent to the operation of the storm sewer system.

12.05.040 Definitions

Best Management Practices (BMPS): A wide range of management procedures, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which gave been demonstrated to effectively control the quality and/or quantity of storm water runoff and which are compatible with the planned land use, BMPs also include treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage.

Catch Basin: The following words and phrases shall be defined as follows for the purpose of this Title.

Clean Water Act: The federal water pollution prevention and control act, 33USC 1251 et seq.

Debris: Any rock, dirt, sand, sediment, vegetation, rubbish or litter.

Detention Basin: A depression designed to detain storm water runoff until downstream storm sewer resources are less heavily taxed. A detention basin contains an inlet and an outlet, allows debris to settle out, and regulates water flow.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to site preparation, filling, grading, paving, excavation and construction of buildings or other structures.

Disturb: To alter the physical condition, natural terrain or vegetation of lad by clearing, grubbing, grading, excavating, filling, building, other construction activity.

Drain Outlet: A point of entry into a sump, detention basin, or storm drain system is a drain outlet.

Hazardous Material: Any material, including any substance, waste, of combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial presence or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed, "Hazardous material" includes, but is not limited to, any hazardous substance designated under 40 CAR part 116 pursuant to section 311 of the clean water act.

Illicit Connection: Either of the following can be an illicit connection:

1. Any drain of conveyance, whether on the surface of subsurface, which allow an illicit discharge to enter the storm drain system, Examples include, but are not limited to, any conveyances with allow non-storm water discharge such as sewage, process wastewater, or wash water to enter the storm drain system, and any connections to the storm drain system form indoor drains or sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by a government agency; or
2. Any drain or conveyance connected to or discharging to the storm drain system, which has not been:
    a. Documented in plans, maps or equivalent records submitted to the City; and
    b. Approved in writing by the City.

Illicit Discharge: Any non-storm water discharge to the storm sewer system, "Illicit discharges" include both direct connections (e.g., wastewater piping either mistakenly of deliberately connected to the storm sewer system) and indirect connections (e.g., infiltration of debris, hazardous materials or pollutants into the storm sewer system or spills collected by drain inlets).

Land Development: Any development of a parcel, lot, subdivision plat or site plan, If there is more than one lot in the subdivision plat or site plan, all lots in the subdivision plat or site plan shall jointly be considered to be part of the land development.

Non-storm Water Runoff: Any runoff other than storm water.

Person: Any individual, corporation, partnership, association, company or body politic, including any agency of the state of Utah and the United States government.

Pollutant: Dredged spoil, solid waste, incinerator reside, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat wrecked or discarded equipment, rock, sand cellar dirt, industrial, municipal and agricultural waste, paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish garbage litter or other discarded or abandoned objects, articles and accumulation that may cause or contribute to pollution; floatables; pesticides, herbicide and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure(including, but not limited to, sediments, slurries and concrete resinates); and noxious or offensive matter of any kind.

Redevelopment: Alterations of a property that change the footprint of a site or building in such a way that disturbs one acre of land or more.

Storm Drain: A closed conduit for conducting collected storm water.

Storm Sewer System: The system of conveyances (including sidewalks, roads with drainage systems, municipals streets, catch basins, detention basins, curbs, gutters, ditches, man-made channels, sups storm drained and ground water) owed and operated by the City, which is designed and used for collection or conveying storm water. The "storm sewer system" is also referred to as a "municipal separate storm sewer system" or "MS4".

Storm Water: Any flow that occurs during or following any form of natural precipitation. "Storm water" includes only the portion of such flow that is composed of precipitation.

Storm Water Runoff: Water that is generated by storm water flows over land.

Sump: A formalized underground structure, surrounded by drain rock, which acts as a detention basin to allow the slow release of water into the surrounding subsoil. Sumps usually receive storm water runoff from paved areas such as streets, parking lots building roofs, etc.

12.05.050 Prohibited Discharge Standards

It is unlawful for any person to:

1. Obstruct the flow of water in the storm system.
2. Contribute to the obstruction of the flow of water in the storm sewer system, e.g., placement of dirt and or rock in the flow line of the gutter or storm water system, and /or construction of a ramp between the edge of the roadway and the top of the curb without the use of permitted culvert.
3. Cover or obstruct any drain inlet.

The following obstructions are exempt from the prohibitions of this Section:

1. Street and/or sewer improvement projects authorized by the City.
2. Flood control and prevention activities performed by the City.
3. Obstructions approved by the City as part of a site's storm water drainage plan.
4. Obstruction occurring during cleanup periods established by the City; provided that the materials are placed according to City directions and do not obstruct drain inlets.

It is unlawful for any person to cause or allow an illicit discharge to the storm sewer system. The following discharges to the storm sewer system are exempt from the prohibitions of this Section;

1. Discharge regulated under a valid a national pollutant discharge elimination system storm discharge permit; provided, that the discard complies with the terms of the permit.
2. Discharges from water line flushing performed by the City.
3. Discharge from sprinkled landscape irrigation or sprinkled lawn watering.
4. Discharges from individual residential car washing; provided that biodegradable detergent is used.
5. Discharges from natural riparian habitat or wetlands flows.
6. Discharges form natural ground water flows.
7. Discharge from firefighting or emergence management activities.
8. Discharges from air conditioning condensation.
9. Discharges from swimming pools constructed prior to April 10, 1990.
10. Discharges from foundation drains, footing drains or crawl space or basement pumps if the discards have been approved in writing by the City.
11. Discharges allowed by a City storm sewer connection permit.

It is unlawful for any person to maintain, store, keep, deposit, or leave any pollution or hazardous material, or any item containing a pollutant or hazardous material to the storm sewer system.

The following regarding a notice of violations of the various prohibitions:

1. Requirements: Whenever the City finds that a person has violated a prohibition or failed to comply with a requirement of this article, the City will order compliance by written notice of violation. Such notice may be require, without limitation:
    a. The performer of monitoring, analyses and reporting;
    b. The elimination of illicit, connections or discharges:
    c. That violating discharges, practices or operations shall cease and desist;
    d. The abatement, remediation or cleanup of storm water pollution or contamination hazards, and the restoration of any affected property;
    e. Payment to cover administrative, remediation, monitoring, analyses and reporting cost; and
    f. The implementation of source control or treatment BMPs.
2. Immediate Legal Action: The City may skip the notice requirements set forth in this Section and immediately proceed with legal action against the violator if:
    a. The violator has committed the same violation in the past; or
    b. The violation, in the opinion of the City, creates a serious risk to person, the environment or property; or
    c. The City deems the violation to constitute and emergency.

The following regarding damage to the storm sewer system or irrigation lines:

1. Responsibility For Repair: Any person who damages any portion of the storm sewer system, a City owned irrigation line or a City maintained irrigation line shall be responsible for repairing the damages, The damages shall be repaired by a licensed contractor bonded to do work in the City and shall be repaired in accordance with Chapter 12.09 of the Perry Municipal Code, Public Works Standards.
2. Permission Required to Remove or Alter: It is unlawful to remove or alter any portion of the storm sewer system without permission from the public works director/City

Engineer.

12.05.060 Requirements And Penalties

12.05.060.1 Authority To Inspect
12.05.060.2 Requirement To Monitor And Analyze
12.05.060.3 Manhole Covers
12.05.060.4 Drinking Water Protection
12.05.060.5 Compliance With Federal And State Law
12.05.060.6 Penalty

12.05.060.1 Authority To Inspect

The following regarding the authority to inspect provisions of this Title:

1. Authorized: Whenever necessary to make an inspection to enforce any provision of this article, or whenever the City has cause to believe that there exist, or potentially exists, a condition which constitutes a violation of this article, the City may enter the premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance.
2. Refusal: In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

12.05.060.2 Requirement To Monitor And Analyze

If City tests or inspections indicate that a site is causing or contributing to storm water pollution, illegal discharges and/or non-storm water discharges to the storm sewer system or waters of the United States and if the violations continue after notice from the City, the City may require any person engaged in the illicit activity and/or the owner of operator of the site to provide, at their own expense, monitoring and analyses required by the City to determine compliance with this Title.

12.05.060.3 Manhole Covers

It shall be unlawful to open any storm sewer manhole or other storm sewer fixture (such as grates, lids, or inlets) without permission from the public works director.

12.05.060.4 Drinking Water Protection

All storm water and non-storm water discharges shall comply with the City drinking water source protection ordinance.

12.05.060.5 Compliance With Federal And State Law

Nothing in this Title shall be interpreted to relieve any person from an obligation to comply with an applicable federal, state, or local law relating to storm water discharge or drinking water protection.

12.05.060.6 Penalty

See Section 12.05.090 of this Title for violations and penalties.

12.05.070 Permits

12.05.070.1 Storm Sewer Connection Permit
12.05.070.2 Permit For Storm Water Construction Activity
12.05.070.3 Application For Permit
12.05.070.4 Proper Operation And Maintenance
12.05.070.5 Inspection And Entry
12.05.070.6 Revocation Or Suspension Of Permit

The following regarding storm water connection permits:

1. Permit Requirement: No person shall connect to the City storm system, either directly or indirectly, without first obtaining a storm sewer connection permit from the City.
2. When Permit is Required: Any person beginning new construction (development of an undeveloped parcel) or “redevelopment” in the City, as defined in this Chapter, shall obtain a storm sewer connection permit before commencing construction.
3. Application: The applicant for a storm sewer connection permit shall submit the following to the City:
    a. Application Form: A completed application form. Application forms will be available at the City offices.
    b. BMP Plan: A plan incorporating storm water BMP’s that meet the requirements of this Title.
    c. Maintenance Plan: A plan outlining hoe the applicant will maintain the storm water improvements listed in the application.
    d. Fee: A fee in an amount set by resolution of the City Council
4. Submission: The application shall be submitted to the City Building Official.
5. Review: The storm sewer connection permit application shall be reviewed by the building official and either approved, approved with conditions, or denied. Either the permit applicant or the City may appeal the building official’s decision to the City Engineer.
6. Factors: When deciding whether to approve, conditionally approve, or deny a storm sewer connection permit application, the following factors shall be considered:
    a. Whether the application complies with applicable City Ordinances and policies.
    b. Whether the application compiles with the City storm drainage master plan.
    c. Whether the proposed connection introduces pollutants into the storm drain system.
    d. Whether the proposed connection creates a safety hazard.
    e. Whether the proposed connection incorporates effective best management practices.
    f. Whether the proposed connection affects the integrity of the storm sewer system, infrastructure.
    g. Whether the proposed connection endangers the City drinking water.
    h. Applicant has submitted a maintenance plan ensuring the proper maintenance and upkeep of the applicant’s connection and on site storm water improvements.
7. Failure: Failure to construct or maintain storm water improvements in accordance with an approved storm sewer connection permit shall be a violation of this article.
8. As Built Plans: Any person connection to the storm sewer system shall provide the City storm sewer utility with as built plans showing the details and the locations of the connection. The plans shall be in a format that is acceptable to the City.
9. Rate: Connection to the storm sewer system shall be designed so that the discharge to the storm sewer system does not exceed two-tenths (0.2) cubic feet per second per acre.

10. Exempt Connections; The following connections to the storm sewer system are exempt from the permitting requirements of this Section:

    a. Single-family Residences: Connection from single-family residences; provided that the runoff from the residences is handled according to a plat or site plan approved by the City. However, any person desiring to use a basement pump, foundation drain, or other related fixture directly or indirectly connection to the storm sewer system must obtain a storm sewer connection permit.
    b. City: Connections made by the City.

12.05.070.1 Storm Sewer Connection Permit

The following regarding storm water connection permits:

1. Permit Requirement: No person shall connect to the City storm system, either directly or indirectly, without first obtaining a storm sewer connection permit from the City.
2. When Permit is Required: Any person beginning new construction (development of an undeveloped parcel) or "redevelopment" in the City, as defined in this Chapter, shall obtain a storm sewer connection permit before commencing construction.
3. Application: The applicant for a storm sewer connection permit shall submit the following to the City:

    a. Application Form: A completed application form. Application forms will be available at the City offices.
    b. BMP Plan: A plan incorporating storm water BMP's that meet the requirements of this Title.
    c. Maintenance Plan: A plan outlining hoe the applicant will maintain the storm water improvements listed in the application.
    d. Fee: A fee in an amount set by resolution of the City Council

4. Submission: The application shall be submitted to the City Building Official.
5. Review: The storm sewer connection permit application shall be reviewed by the building official and either approved, approved with conditions, or denied. Either the permit applicant or the City may appeal the building official's decision to the City Engineer.
6. Factors: When deciding whether to approve, conditionally approve, or deny a storm sewer connection permit application, the following factors shall be considered:

    a. Whether the application complies with applicable City Ordinances and policies.
    b. Whether the application compiles with the City storm drainage master plan.
    c. Whether the proposed connection introduces pollutants into the storm drain system.
    d. Whether the proposed connection creates a safety hazard.
    e. Whether the proposed connection incorporates effective best management practices.
    f. Whether the proposed connection affects the integrity of the storm sewer system, infrastructure.
    g. Whether the proposed connection endangers the City drinking water.
    h. Applicant has submitted a maintenance plan ensuring the proper maintenance and upkeep of the applicant's connection and on site storm water improvements.

7. Failure: Failure to construct or maintain storm water improvements in accordance with an approved storm sewer connection permit shall be a violation of this article.
8. As Built Plans: Any person connection to the storm sewer system shall provide the City storm sewer utility with as built plans showing the details and the locations of the connection. The plans shall be in a format that is acceptable to the City.
9. Rate: Connection to the storm sewer system shall be designed so that the discharge to the storm sewer system does not exceed two-tenths (0.2) cubic feet per second per acre.
10. Exempt Connections; The following connections to the storm sewer system are exempt from the permitting requirements of this Section:

    a. Single-family Residences: Connection from single-family residences; provided that the runoff from the residences is handled according to a plat or site plan approved by the City. However, any person desiring to use a basement pump, foundation drain, or other related fixture directly or indirectly connection to the storm sewer system must obtain a storm sewer connection permit.
    b. City: Connections made by the City.

12.05.070.2 Permit For Storm Water Construction Activity

A City storm water construction activity permit is required before any person or entity may excavate, grub and clear, grade or perform any type of construction activity that will disrupt or cause a change in the natural landscape upon any of the following types of property located within the City:

1. One Acre or More: Any parcel, lot, or land development which is one acre (43,560 square feet) or greater than or equal to one acre in size qualifies under this subsection even if each of the individual lots in the subdivision are smaller than one acre.
2. Special Concern Areas: Any parcel, lot, or land development for which the building official determines that because of the nature or type of the parcel, lot or development, disturbance of the lands is likely to result in erosion or the transport of sediment off the site by storm water to a degree substantially greater than that which would occur under natural landscape conditions.

12.05.070.3 Application For Permit

Any person or entity desiring a storm water construction activity permit must first file an application with the City. The application shall be submitted as part of an application for a subdivision preliminary plat, site plan approval or building permit. The following regarding the application for permit:

1. Content: The application shall include a storm water pollution prevention plan which meets the criteria set forth in Section 12.05.060, and other applicable Chapters, of this Title.
2. Timing: The applicant shall file the application on the following dates:

    a. Subdivision: The date that the applicant submits the subdivision preliminary plat application if the applicant proposes to develop a subdivision.
    b. Site Plan: The date that the applicant submits a site plan application if the applicant proposes to develop a site plan or amended site plan.
    c. Building Permit: The date that the applicant submits a building permit application if the applicant proposes to construct a building on an existing lot or parcel.
    d. Other: At least two (2) weeks before the developer intends to perform application any type of work not listed above that would require a storm water construction activity permit pursuant to this Title.

3. Compliance: If an applicant's development comes under more that one of the categories listed above, them the applicant shall submit the storm water construction activity permit application on the earliest of the listed dates, Failure to comply with the application dates set forth above is not a criminal offense, but may delay the applicant's project. Failure to acquire a required storm water construction activity permit is grounds for denying a related subdivision application, site plan application, conditional use permit application or building permit application. It is unlawful to commence work (move dirt) on a development site before obtaining a required storm water construction activity permit..
4. Application Approval: The building official or designee shall approve that application and grant the permit if the application is complete and meets the criteria set forth in Section 12.05.060, and other applicable Chapters, of this Title and the applicant has paid any permit fees that the City may prescribe by resolution. The building official shall deny the application or approve the application with conditions if he or she determines that the measures proposed in the plan fail to meet the criteria set forth in Section 12.05.060, and other applicable Chapters, of this Title. Conditions the building official may impose in connection with the approval of a permit include, but are not limited to, the establishment of specific measures and controls to prevent erosion and the discharge of sediment, debris and other construction related pollutants from the

site by storm water.

5. Term: Unless otherwise revoked or suspended, a storm water construction activity permit shall be in effect for the full period of the construction activity. The construction activity will not be considered to be completed until the following events occur:
    a. Subdivisions: For permits associated with a subdivision plat approval:
        i. The permittee must complete all required subdivision improvements; and
        ii. One of the following three (3) events must occur:
            (1) The City issues a final certificate of occupancy for each lot in the subdivision; or
            (2) Individual storm water construction activity permits have be issued for each lot in the subdivision not having a final occupancy permit; or
            (3) The property has been re-vegetated or landscaped in a manner that eliminates erosion and sediment discharge or that brings the property back to its natural state.
    b. Site Plans: For permits associated with a site plan approval, the date that the permittee has completed all required landscaping and all outside construction work associated with the site plan.
    c. Building Permits: For permits associated with a building permit application, the date that the City issues a final occupancy permit for the structure covered by the building permit.
    d. Other: For permits issued that are not tied to other approvals from the City, the date that the permittee has completed all work associated with the permit and takes steps required by the permit to prevent further erosion and runoff from the site.
6. Termination: No storm water constriction activity permit shall be considered terminated until the permittee submits a notice of termination of construction activity permit ("notice") to the City and the notice is accepted by the City.
7. Amendments: In the event that the proposed construction activity for a site to which a permit pertains is materially altered from that described in an original plan n a way that may have a significant impact upon the effectiveness of the measures and controls described in the original plan, the permittee shall file an amended storm water pollution prevention plan which meets the criteria set forth in Section 12.05.060, and other applicable Chapters, of this Title.

12.05.070.4 Proper Operation And Maintenance

The recipient of a storm water construction activity permit (the permittee) shall install the erosion and sediment control measures required by the approved storm water pollution prevention plan before commencing any construction activity on the site to which the plan applies or at such times indicated in accordance with the permit, the manufactures specification and good engineering practice. The permitee shall maintain such measures on the site until the City accepts the termination of the permit pursuant to Section 12.05.070.6.

12.05.070.5 Inspection And Entry

The permittee shall allow any authorized employees and representatives of the City, representatives of the state division of water quality and representatives of the EPA to enter the site to which a permit applies at any times and to inspect the erosion and sediment control measures maintained by the permittee. The permittee shall also inspection of any records pertaining to the condition of the permit.

12.05.070.6 Revocation Or Suspension Of Permit

The following regarding revocation or suspension of permits:

1. Revocation or Suspension: A storm water construction activity permit may be revoked or suspended by the building official or his designee upon the occurrence of any one of he following events:
    a. Failure of a permittee to comply with the plan or any condition of the permit; or
    b. Failure of a permittee to comply with any provision of this article or any other applicable law, ordinance, rule or regulation related to storm water; or
    c. A determination by the building official or his designee that the erosion and sediment control measures implemented by a pemittee pursuant to the plan are inadequate to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris or other pollutants, from the construction site by stormwater.
2. Notice: The City shall mail a permittee written notice of noncompliance before revoking or suspending a permit. The notice shall state the location and nature of the noncompliance and shall also specify what action is required for the permittee to avoid evocation or suspension of the permit. The notice shall allow he permittee a reasonable time to take the necessary corrective action to avoid revocation or suspension of the permit which time, in the absence of exceptional circumstances, shall not be less than ten (10), nor more than thirty (30) days. The notice shall be mailed to the address listed for the permittee in the application. If the permittee fails to correct the problems identified on the notice during the time specified in the notice, the building official may suspend or revoke the permit by mailing or delivering written notice of the suspension or revocation to the permittee. The permittee may appeal s suspension or revocation of the permit pursuant to the appeal procedure as set forth in section 12.05.060.4 of this Title.
3. Exceptional Circumstances: For purposes of this Chapter, "exceptional circumstances" include, but are not limited to, situations that involve a risk of injury to person, damage to storm drain facilities, or damage to other property or the environment. The City may take any steps the City deems necessary to alleviate any such "exceptional circumstances", as defined above, and may bill the owner, developer or contractor responsible for creating the exceptional circumstances for the cost of allocating said circumstances.
4. Stop Work Order: A stop work order may be issued upon the revocation or suspension of a permit, or upon the discovery of work being conducted without a required permit. The stop work order may be issued by the building inspection department. No construction activity may be commenced or continued on any site for which a permit has been revoked or suspended until the permit has been reinstated or reissued.
5. Reinstatement: A storm water construction activity permit may be reinstated or reissued upon compliance with all provisions of this section and all permit conditions, or in the case of a suspension for reasons provided in this section, upon the filing of an amended storm water pollution prevention plan which is designed to correct the deficiencies of the original plan.

12.05.080 Storm Water Pollution Prevention Plan

12.05.080.1 Required Information
12.05.080.2 Goals And Criteria
12.05.080.3 Exemptions
12.05.080.4 Appeal
12.05.080.5 Compliance With Federal And State Law
12.05.080.6 Enforcement: Penalty

12.05.080.1 Required Information

The storm water pollution prevention plan (the "plan") shall contain the following information:

1. Site description: a site description (including a map with spot elevations and contour lines) which includes a description of the nature and location of the construction activity, a description of the intended sequence of major activities which will disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation, etc.) and estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading or other activities.
2. Control Description: A description of the proposed measures and controls that will be implemented during construction activity and/or while the site is not stable. The plan must clearly describe the times during the construction prices that the measures will be implemented for each major activity identified pursuant to subsection 1 of this section. The plan shall also state the mane and phone number of the person or entity responsible for implementation of each control measure.

12.05.080.2 Goals And Criteria

The proposed measures and controls described in the plan shall be designed to meet the following goals and criteria:

1. Prevent Or Minimize Discharge: The proposed measures and controls shall be designed to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris and other construction related pollutants from the construction site by storm water runoff into the storm drainage system.
2. Prevent O Minimize Construction Debris: The proposed measures and controls shall be designed to prevent or minimize, to the maximum extent practicable, the deposit, discharge, tracking by construction vehicles, or dropping of mud, sediment, debris or other potential pollutants onto public streets and rights of way. Any such discharge shall be cleaned up and removed immediately upon notification to the permittee or when it otherwise comes to the attention of the permittee, At a minimum, the deposit or discharge shall be cleaned and removed upon notification from the City within a twenty four (24) hour period or penalty will be assessed.
3. BMPS: The proposed measures and controls shall consist of best management practices (BMPs) available at the time that the plan is submitted. BMPS may include, but shall not be limited to, temporary silt or sediment fences, sediment traps and detention ponds, gravel construction entrances and wash down pads to reduce or eliminate off site tracking, straw bale sediment barriers, establishment of temporary ground cover, erosion control blankets, temporary interceptor dikes and swales, storm drain inlet protection, check dams, subsurface drains, pipe slope drains, level spreaders, rock outlet protection, reinforced soul retaining systems, and gabion.
4. Stabilization: The proposed measures and controls shall be designed to preserve existing vegetation, where possible. Disturbed portions of the site shall be stabilized. Stabilization practices may include temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation and other appropriate measures. Use of impervious surfaces for stabilization should be avoided. Stabilization measures shall be indicated as soon as practicable in disturbed portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased, except under the following circumstances:

    a. If the initiation of stabilization measures by the fourteenth day after construction activity temporarily or permanently ceases is precluded by snow cover or frozen ground conditions, stabilization measures shall be indicated as soon as practicable; or
    b. If construction activity on a portion of the site is temporarily ceased, and earth disturbing will resume within twenty on (21) days, temporary stabilization measures need not be initiated on that portion of the site.

5. Minimize Risk of Discharge of Other Materials: The proposed measures and controls shall be employed to minimize the risk of discharge of construction related pollutants (such as paint, thinners, solvents and other chemicals) from the construction site, Such measures may include implantation of storage practices to minimize exposure of the material to storm water as well as spill prevention and response.

12.05.080.3 Exemptions

The following activities are exempt from the requirements of this Title:

1. Actions by a public utility, the City or any other governmental entity to remove or alleviate an emergency condition, restore utility service or reopen a public thoroughfare to traffic;
2. Actions by any other person when the City determines, and document in writing, that the actions are necessary to remove or alleviate an emergency conditions, restore utility service or reopen a public thoroughfare to traffic;
3. Construction activities which disturb less than five hundred (500) square feet of land surface area, or which consist of the excavation and/or fill of less than twenty (20) cubic yards of material,
4. Landscape maintenance activities on full developed properties, necessary to maintain the existing developed landscape; and
5. Bona fide agricultural and farming operations that constitute the principal use of any lot or tract of ground located within the City and which meet the requirements of the zoning ordinance.

12.05.080.4 Appeal

The following regarding appeals:

1. Time limit Information Requirement: An applicant for a storm water construction activity permit or a permittee of a storm water construction activity permit may appeal any decision or directive made by the City or its representatives pursuant to this article. The party desiring to appeal shall file a notice of appeal with the City Recorder within ten (10) days of the decision or directive being appealed. The notice of appeal shall contain the following information:

    a. The appellant's name, address and daytime telephone number;
    b. A short statement describing the basis for the appeal; and
    c. The relief sought by the appellant.

2. Informal Hearing: Upon receipt of the notice of appeal, the City Recorder shall set a date for an informal hearing to consider the appeal. The informal haring shall be conducted before the City hearing officer in accordance with policies established by the City Administrator. The City hearing officer shall uphold the decision or directive being appealed unless the City hearing officer finds that there has been an error in the interpretation or implementation of this article. The City hearing officer shall render a decision on the appeal within ten (10) days of the inform hearing with the appellant. The City hearing officer shall have authority to affirm, reverse or modify any decision or directive appealed pursuant to this section.

12.05.080.5 Compliance With Federal And State Law

Nothing contained in this Title is intended to relieve any person or entity from any obligation to comply with applicable feral and state laws and regulations pertaining to clean water and/or storm water runoff.

12.05.080.6 Enforcement: Penalty

The following regarding penalties to enforce this Ordinance:

1. See Section 12.05.090 with regards to civil fines and/or penalties.
2. In addition to any civil fines and/or penalties which may be assessed for a violation of this Title, the City shall have the right to issue a stop work order or to install and/or maintain appropriate erosion and sediment control measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed as required by this article. The City shall have the right to have such measures installed or maintained by the City personnel or to hire a private contractor to perform such work and the contractor and/or the property owner shall be liable for any and all expenses related to performing

such work, plus a twenty five percent (25%) penalty charge.
3. Violators of this article may also be subject to prosecution, fines and penalties from the state and the United States EPA.

12.05.090 Civil Penalty: Administrative Hearing

12.05.090.1 Civil Penalties For Violations
12.05.090.2 Amount Of Penalties Set By Resolution
12.05.090.3 Enforcement Officers
12.05.090.4 Notices
12.05.090.5 General Contractor Responsibility
12.05.090.6 Property Owner Responsibility
12.05.090.7 Payment Of Penalties
12.05.090.8 Hearings
12.05.090.9 Collection
12.05.090.10 Appeals

12.05.090.1 Civil Penalties For Violations

The following regarding civil penalties for violations:

1. Any person violating any provision of this Title shall be liable for a civil penalty. Any penalty assessed under this article may be in addition to other penalties that may be provided in other applicable laws. Each day that a violation occurs shall constitute a separate offense.
2. If, as the result of the violation of any provision of this Title, the City or any other party suffers damages and is required to make repairs and/or replace, any materials, the cost of repair and/or replacement shall be borne the violating party and shall be in addition to any civil fines and/or penalties.
3. Violators of this Title may also be subject to prosecution, fines and penalties from the state and the United States EPA.

12.05.090.2 Amount Of Penalties Set By Resolution

The amount of any civil penalty assessed under this Title may be established by an ordinance or resolution adopted by the City Council.

12.05.090.3 Enforcement Officers

Employees of the building inspection department, police department, or the code enforcement officer shall have the authority to issue notices under this Chapter.

12.05.090.4 Notices

The following regarding notices:

1. Requirements: Whenever the City finds that a person or company has violated, or failed to comply with requirements of this Title, the City will order compliance by written notice of the violation. Such notice may require without limitation:
    a. The performance of monitoring, analyses and reporting;
    b. The elimination of illicit connections or discharges;
    c. That violating discharge, practice or operations shall cease and desist;
    d. The abatement, rededication or cleanup of storm water pollution or contamination hazards and the restoration of any affected property:
    e. Payment to cover administrative, rededication, monitoring analyses and reporting costs;
    f. The implementation of source control or treatment BMPs
2. Immediate Legal Action: The City may skip the notice requirements set forth in this section and immediately proceed with criminal and/or civil action against the violator if:
3. The violator has committed the same violation in the past; or
4. The violation, in the opinion of the City, creates a serious risk to person, the environment or property; or
5. The City deems the violation to constitute an emergency.

12.05.090.5 General Contractor Responsibility

Whenever any violation of this Title is found, there shall be a rebuttal presumption that the general contractor for the project from where the violation originated is responsible for the violation and subject to the civil penalty provided.

12.05.090.6 Property Owner Responsibility

Whenever any violation of this Title is found and there is no general contractor responsible for the project, there shall be a rebuttal presumption that the property owner for the project from where the violation originated is responsible for the violation and subject to the civil penalty provided.

12.05.090.7 Payment Of Penalties

Any civil penalty imposed under this Chapter, which is paid within ten (10) days of the notice, shall be reduced by the sum of twenty-five ($25.00) dollars. All monetary penalties, expenses and/or damages must be paid in full within forty (40) days of the notice, unless other arrangements have been made with the City hearing officer.

12.05.090.8 Hearings

The following regarding hearings:

1. Appointment of Hearing Officer: The Mayor, with the advice and consent of the City Council, shall appoint the hearing officer, as he or she deems appropriate to consider matters relating to violations of this Chapter. The hearing officer may be a City employee, the Administrative Law Judge, or another impartial individual.
2. Request For Hearing: Within thirty (30) days after receiving the notice described in Section 12.05.090.4, the person who received the notice may request a hearing on the allegation that he or she violated this chapter, including articles A B and D, except that a person may not request a hearing under this section of the violation is alleged to have occurred I conjunction with a criminal violation as part of a single criminal episode and the criminal violation will be prosecuted in a criminal proceeding. A person desiring to have a hearing under this section shall file a written request a hearing within thirty (30) days shall be deemed to have waived the right to a hearing.
3. Conduct Of Hearing: Within ten (10) days after receiving the request for a hearing, the hearing officer shall schedule a hearing on the alleged violation of this chapter. The hearing shall:
    a. Be a public meeting held during the City's regularly scheduled business hours.
    b. Provide due process to all of the parties, including the right to be represented by counsel.
    c. Burden Of Proof: The burden to prove any defense shall be upon the person raising the defense.

4. Dismissal: The hearing officer shall dismiss the notice of the violation if:
    a. The hearing officer finds that no violation of this chapter, including articles A B and C occurred;
    b. The City Attorney has recommended dismissal and provided the hearing officer with good cause for the dismissal.
5. Reduction Of Penalty:
    a. The hearing officer may reduce the penalty provided in this article if:
        i. The hearing officer finds good cause for the reduction; or
        ii. The City Attorney recommends the reduction of the penalty and provides the hearing officer with good cause for the reduction.
    b. In no event shall the hearing officer reduce the penalty below the sum of twenty-five ($25.00) dollars.
6. Agreement for Payment: If the hearing officer finds that a violation of this Title occurred and no applicable defense exists, the hearing officer may in the interests of justice and on behalf of the City, enter into an agreement for the timely payment of the applicable penalty.

12.05.090.9 Collection

If any penalty, expenses and/or damages imposed pursuant to this Title remains unpaid after forty (40) days from the receipt of the notice, or after ten (10) days from the date of a hearing pursuant to Section 12.05.090.8, the City may act to recover the penalty, expenses, and/or damages.

12.05.090.10 Appeals

The hearing officer shall make final administrative determinations in all maters in which a violation of this Title has been alleged.

12.07 Culinary Water

12.07.010 General Provisions
12.07.020 Applications, Fees, And Charges
12.07.030 Regulations Including Prohibited Actions
12.07.040 Installation
12.07.050 Jurisdiction Of City Outside City Limits
12.07.060 Water Source Protection
12.07.070 Water Conservation Plan
12.07.080 Power To Adopt Additional Regulations: Penalties

12.07.010 General Provisions

12.07.010.1 Adoption Of Ordinance
12.07.020.2 Supervision
12.07.030.3 Water Connections

12.07.010.1 Adoption Of Ordinance

Perry City having expanded its culinary water system hereby adopts the following Ordinance concerning such water system repealing all former ordinances in conflict herewith.

12.07.020.2 Supervision

Supervision shall be the determined by the Perry City Council which may appoint a Water Superintendent and prescribe his duties and responsibilities.

12.07.030.3 Water Connections

Water Connections to the Perry City culinary water system shall not be made without a water meter installed by or under the direction of Perry City and in compliance with this ordinance.

12.07.020 Applications, Fees, And Charges

12.07.020.1 Application For Water Service Connection
12.07.020.2 Owner And Tenant Responsibilities
12.07.020.3 Deposit And Application Fee
12.07.020.4 Water Connection And Rates
12.07.020.5 Service Billings Payment And Delinquency

12.07.020.1 Application For Water Service Connection

Any person, firm or corporation within the municipal boundaries of Perry City, who desires a culinary water connection to the water mains of Perry City, and any such person, firm or corporation who purchase or otherwise acquires ownership of or an interest in a property already connected to the Perry City water system shall make application in writing and file an agreement with the City which shall be substantially the following form:

PERRY CITY APPLICATION FOR SERVICES

(Current Address of City Offices)

Address of Property: _____ Parcel #:_____

Name of Property Owner:_____

Address of Property Owner (# and street): _____ (city, state, zip)_____

Preferred Billing Address: (check one)

Address of Property Owner	
Address of Property	

1. Property Owner's Responsibility. The Undersigned Property Owner hereby applies for culinary water, sanitary sewer, storm water, and garbage services from Perry City for the property described by the above listed address. By signing this Application, the Undersigned represents and acknowledges being the Property Owner of the real property located at the above provided address and accepts responsibility for the payment of all fees and charges associated with the services provided under this Application, until such a time as the Property Owner shall direct the services be discontinued. If renting or leasing the property, the lessee/resident may pay for said fees and charges, but the Property Owner remains ultimately responsible to pay for all fees and charges. The Undersigned agrees that in the event of transfer or sale of the property at the above address, the Undersigned shall ensure that all fees and charges assessed against the property for these services are paid in full at the closing of that transaction. The Undersigned hereby acknowledges that notice of this Application, if approved by Perry City, may be recorded in the Office of the Box Elder County Recorder.
2. Deposit and Application Fee. A fee of $200.00 ($175.00 refundable deposit and $25.00 non-refundable application fee) shall be paid by the Property Owner at the time services are requested. In the event the services are discontinued due to failure to pay the fees and/or charges, the deposit shall be forfeited for the amount of the $50.00 re-connection fee and the outstanding balance of the account. The Property Owner shall be required to restore the deposit to the original $175.00 amount prior to the restoration of services. If the balance is greater than the deposit, the entire balance and a new $175.00 deposit shall be paid prior to the restoration of services. The $25.00 non-refundable application fee paid shall be applied to the processing of this Application and/or the recording of the notice of assessment for service with the County Recorder. No Application for service shall be accepted unless, at the time the Application is submitted, the Property Owner: (a) is present; (b) produces photographic identification and proof of ownership; and (c) pays the security deposit and application fee.
3. Waiver/Refund of Deposits. As per Resolutions 05-19 and 06-01, a waiver of all deposits (and a refund of all past deposits) shall be granted for any Property Owner or resident who can establish that they:
    a. have already been a Property Owner and/or resident for at least three (3) years during the past ten (10) years; and
    b. were in good standing and paid all of their utility payments to the City on time during that time period.
4. Monthly Bills; Late Fees; Interest; and Termination of Service. Payment for all fees and charges shall be assessed each month and shall be due and payable as per the monthly billing notice (mailed to the Billing Address provided above). Any payment that is more than thirty (30) days late shall be assessed a late fee of $25.00.

Any delinquency in the payment of fees or charges outstanding for more than sixty (60) days may result in:

a. the termination of services until all delinquencies are paid in full (or until the said failure to conform is corrected); and/or
b. the assessment of an annual interest rate of eighteen (18%) percent. If a notice other than the monthly billing statement is served upon the Property Owner as a result of any delinquency, an additional fee of $15.00 shall be assessed for any mailed notice (and a $50.00 fee shall be assessed for any notice served in person upon the property or upon the Property Owner).

5. Collection Action; Incorporation by Reference of Perry Municipal Code. In the event of default or late payments, Perry City shall have the right to institute collection action (including legal proceedings) on all outstanding amounts. Any amounts turned over to an attorney or collection agency for collection shall be assessed an annual interest rate of eighteen (18%) percent. The Property Owner agrees to pay for all court costs and administrative expenses involved in collecting past due amounts including attorney's fees and collection costs of forty (40%) percent of the balance turned over to any attorney or collection agency. In addition to the terms of this Application, the Undersigned agrees to be bound by the Ordinances, Resolutions, and Regulations (enacted or adopted by Perry City) applicable to the City's utility system and the provisions of this Application.

_____
Property Owner Signature Date

_____
Property Owner Signature Date

[A Notary (Jurat) Certificate is on the Back Side of this Page]

State of Utah)
§
County of Box Elder)

Subscribed and sworn to before me on this _____ day of _____, in the year 2 _____,
DAY MONTH YEAR

By_____and_____ _____
NAME OF DOCUMENT SIGNER NAME OF SECOND DOCUMENT SIGNER (IF ANY)

_____
NOTARY PUBLIC SEAL

12.07.020.2 Owner And Tenant Responsibilities

Property owners will be billed for the utility service. If tenants do not comply with the ordinance, rules, regulations, and resolutions in any form, the Property Owner will be held responsible.

12.07.020.3 Deposit And Application Fee

A fee of $200.00 ($175.00 refundable deposit and $25.00 non-refundable application fee) shall be paid by the Property Owner at the time culinary water and other utility services are requested. In the event the services are discontinued due to failure to pay the fees and/or charges, the deposit shall be forfeited for the amount of the $50.00 re-connection fee and the outstanding balance of the account. The Property Owner shall be required to restore the deposit to the original $175.00 amount prior to the restoration of services. If the balance is greater than the deposit, the entire balance and a new $175.00 deposit shall be paid prior to the restoration of services. The $25.00 non-refundable application fee paid shall be applied to the processing of the Application and/or the recording of the notice of assessment for service with the County Recorder. No Application for service shall be accepted unless, at the time the Application is submitted, the Property Owner:

1. Is present;
2. Produces photographic identification and proof of ownership; and
3. Pays the security deposit and application fee.

12.07.020.4 Water Connection And Rates

The following regarding water connections and rates:

1. Water connections shall be made to the Perry City water system only by qualified plumbers and only upon the written approval, as to materials and means of connection, by the Perry City Water Superintendent.
2. All connections will be by 3/4 inch line for single dwellings. As specifically authorized by Resolution, of the Perry City Council, larger sizes may be authorized for commercial, school, church or other use.
3. Water connection fees after the effective date of this ordinance shall be as follows:
   3/4 inch line - As set forth in Chapter 4.09, Fee Schedule
   1 inch line - As set forth in Chapter 4.09, Fee Schedule
   2 inch line - As set forth in Chapter 4.09, Fee Schedule
   *Larger size cost will be determined individually and by Perry City Council action.
4. Water Service Rates for single dwellings and commercial buildings shall be a certain minimum rate per month, usage not to exceed 15,000 gallons per month, a certain rate per each 1,000 gallons or part thereof in excess of 15,000 gallons used per month, as per Chapter 4.09, Fee Schedule.
5. Multiple Housing Dwelling Units with more than one living unit serviced by one water meter shall be considered multiple housing under the ordinances of Perry City. Fees will be charged a certain monthly rate for each unit allowing 10,000 gallons minimum per unit per month as per Chapter 4.09, Fee Schedule. Water cannot be disconnected for one unit when both are occupied. The property owner is responsible for all water, sewer, garbage and other charges. If, the unit is unoccupied, water can be disconnected upon the owner's request. (If one unit is occupied, the basic fee for each unit will be charged per month.)
6. The connection fees and water rated hereinabove provided for, shall be subject to change by Resolution of the City Council duly passed and adopted, provided however, no change of size or rate will be made which may impair the ability of Perry City to pay and discharge the bonds or other obligations incurred for the installation, maintenance or repair of the Perry City Water System.
7. It is hereby expressly provided that it shall be unlawful for the owner or other person having charge of, or occupying any property upon which a building shall have been or is being constructed for residential or commercial use, any part of which building is within two (200') hundred feet of a City water line in existence and when the City water line abuts the property line and used in the City for culinary purposes to not be connected to such line. When a water line is within the required distance and when property owner has received written and proper notice from Perry City, such owner, agent or other person having charge of or occupying all property coming within scope of this section must be connected to the culinary water line.
8. In the instance where Perry City does not have an existing water line in place at the time of occupancy of the building and the owner or other person having charge of the

property has had to seek other means of obtaining culinary water and indeed has obtained culinary water by such means as a legalized private well, due to the inability of the City to provide such water at that time, the owner or other person having charge of said property will not be required to connect to Perry City water or pay water connection or impact fees until a City water connection is desired or at such time as the subject property is sold or conveyed in any manner. At that time, the owner or other person having charge of the property may make application for a culinary water connection and will be required to pay the appropriate fees that are in place at the time of application.

12.07.020.5 Service Billings Payment And Delinquency

The City shall bill each water user for each calendar month for the water actually or constructively used and adjusted by actual meter readings. The bill for said water service may be combined with the City sewer service charges, garbage or other City contracted services and one bill only rendered to the user. Payment in full for such combined billings shall be made to Perry City on or before the first (1st) day of each calendar month covering the previous month's services. If any water user fails to pay his water and utility charge, the municipality may enforce charges and/or collection as follows:

1. Monthly Bills, Late Fees, Interest, and Termination of Service:
    a. Payment for all fees and charges shall be assessed each month and shall be due and payable as per the monthly billing notice (mailed to the Billing Address provided). Any payment that is more than thirty (30) days late shall be assessed a late fee of $25.00. Any delinquency in the payment of fees or charges outstanding for more than sixty (60) days may result in:
        i. the termination of services until all delinquencies are paid in full (or until the said failure to conform is corrected); and/or
        ii. the assessment of an annual interest rate of eighteen (18%) percent. If a notice other than the monthly billing statement is served upon the Property Owner as a result of any delinquency, an additional fee of $15.00 shall be assessed for any mailed notice (and a $50.00 fee shall be assessed for any notice served in person upon the property or upon the Property Owner).
2. Collection Action and Incorporation by Reference of Perry Municipal Code:
    a. In the event of default or late payments, Perry City shall have the right to institute collection action (including legal proceedings) on all outstanding amounts. Any amounts turned over to an attorney or collection agency for collection shall be assessed an annual interest rate of eighteen (18%) percent. The Property Owner agrees to pay for all court costs and administrative expenses involved in collecting past due amounts including attorney's fees and collection costs of forty (40%) percent of the balance turned over to any attorney or collection agency. In addition to the terms of the Application, the Undersigned agrees to be bound by the Ordinances, Resolutions, and Regulations (enacted or adopted by Perry City) applicable to the City's utility system and the provisions of the Application.

12.07.030 Regulations Including Prohibited Actions

12.07.030.1 Turning On Water After Being Turned Off: Prohibited
12.07.030.2 Separate Connections
12.07.030.3 Maintenance On Service Connections
12.07.030.4 Control Of Water Resources
12.07.030.5 Waste Of Water
12.07.030.6 Non-Liability For Damages
12.07.030.7 Access To Places Supplied With Water
12.07.030.8 Cross-Connections Prohibited

12.07.030.1 Turning On Water After Being Turned Off: Prohibited

It shall be unlawful for any person, after the water has been turned off from any premises for nonpayment of water and sewer charges or other violation of the rules and regulations pertaining to the water system, to turn on or allow the water to be turned on or used without authority. A $500.00 fine will be charged to the owner, occupant or any person tampering with the meter, i.e. turning on water, re-connection, etc. Fine amount may be changed by resolution.

12.07.030.2 Separate Connections

Each dwelling, business, multiple dwelling building, church, school, or other user shall have a separate meter and service connection to the Perry City Water System unless permission has been granted, by the City Council in writing, after a recommendation of approval by the Planning Commission and a finding that the interests of the City can be protected and the applicant signs an appropriate agreement with the City. It shall be unlawful for any user to attach or to permit to be attached to his service connection any pipe or connection to any other user or property.

12.07.030.3 Maintenance On Service Connections

All users of water services shall keep their service lines and connections in good repair and protected from damage, deterioration, or pollution. All pipes, fittings, valves, or other devises shall be of such material, quality and specifications as the City Council shall provide by Resolution and shall be installed as specified by regulations duly adopted by the City Council and shall be installed only after first obtaining approval and permit therefore from the Water Superintendent.

12.07.030.4 Control Of Water Resources

The following regarding the control of water resources:

1. It shall be unlawful for any water user to waste water, or to allow it to be wasted, by defective stops, taps, valves, leaky joints or lines or to allow tanks or troughs to leak or overflow or to wastefully run water from hydrants, faucets or stops, or to use the water for purposes other than for those which he has paid, or to use the water in violation of the rules and regulations adopted by the City for controlling the water supply.
2. The City Council may at any time fix by Resolution the time of day culinary water may be used for lawn sprinkling or other irrigation purposes, and may divide the City into districts for that purpose if in the judgment of the City Council it may be necessary due to an emergency situation. In time of scarcity of water the City Council may at its sole discretion, limit the use of water as it deems appropriate.

12.07.030.5 Waste Of Water

The following regarding waste of water:

1. Users of the municipal water system shall not permit water to run wastefully and shall exercise reasonable efforts to conserve the supply. If, in the judgment of the Water Superintendent or of any other officer of the municipality, the users of municipal water engages, in practices which result in the needless waste of water and continues to do so after reasonable notice to correct the waste has been given, the Superintendent or any officer may refer the matter to the City Council.
2. The City Council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five (5) days prior to the meeting of the governing body at which termination of water services is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of said termination.

3. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.
4. After due hearing, the City Council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him of the decision and of the period during which the service will remain discontinued.

12.07.030.6 Non-Liability For Damages

Perry City shall not be held liable for any damage to any water user by reason of stoppage or interruption of water supply caused by delinquency of account, the scarcity of water, accidents, fires, or as the result of water system maintenance or extension operations, or from any other unavoidable natural or unnatural cause.

12.07.030.7 Access To Places Supplied With Water

Free access shall at all ordinary hours be allowed to the Superintendent of waterworks, or other authorized persons, to all places supplied with water to examine the apparatus, the amount used and the manner of using the water or to cut off the same. (For state law as to right of entry on premises of water user, see U.S.A., 1953, Section 10-7-13).

12.07.030.8 Cross-Connections Prohibited

It is unlawful for the owner or occupant of any premises using water supplied by the utility to cross-connect such water supply with an irrigation or other foreign source of water (that does not meet the purification standards maintained for the City water supply) with any appliance, appurtenance, sprinkling system, hose, pipe or other fixture in such manner that there is a possibility that water from such foreign source may flow, be siphoned or be pumped into the City water system. (See also Cross Connection Ordinance 91-01).

12.07.040 Installation

12.07.040.1 Permit For Installations
12.07.040.2 Damage To Waterworks Property
12.07.040.3 Opening Or Closing Fire Hydrant
12.07.040.4 When Cost Of Installing Service Pipe To Be Paid By Applicant: Credit Upon Account

12.07.040.1 Permit For Installations

It shall be unlawful for any person to engage in the connection or altering the connection of any water line to the culinary water system of the City without first having received a construction permit from the office of the City Recorder or from the Water Superintendent. Permits shall be issued only to qualified plumbers and only after compliance with the Ordinance and applicable resolutions and regulations.

12.07.040.2 Damage To Waterworks Property

Any person who shall willfully and without authority from the Superintendent of waterworks removes or damages any meters, back flow valves, covers, distribution lines, or other culinary water system device of the waterworks system, constructed or maintained for the purpose of supplying culinary water to the inhabitants of the City shall be deemed guilty of a misdemeanor.

12.07.040.3 Opening Or Closing Fire Hydrant

It shall be unlawful for any person to open or close any fire hydrant within the corporate limits of the City or to attempt to open or close, by the use of any wrench or other device any such hydrant without first having obtained from the Mayor and Council or the Superintendent of waterworks permission to do so; provided, that this section shall not apply to any volunteer fireman of the City.

12.07.040.4 When Cost Of Installing Service Pipe To Be Paid By Applicant: Credit Upon Account

The following regarding the cost of installing a service pipe when paid by applicant:

1. Definitions:
    a. Private Property Owner: A person wishing to extend water or sewer services to his own home or building. Not a developer or commercial business.
    b. Developer: A person, firm or corporation wishing to extend water or sewer services to two or more residents or buildings on his property.
    c. Street: A Perry City Street defined such by dedication or right of use.
2. Where any private property is not served by a service water pipe inc. front of or adjacent to such property and the owner desires a water service connection, such water service connection shall be furnished only on the condition that the owner pay all costs of installing the pipeline, the back filling and repairing of the streets through such property and in addition thereto pay for the meter installation as required by ordinance; provided that the applicant shall be required to lay the size of pipe which in the opinion of the City, may be necessary or needful to serve other potential water users in the future along such street, in which event the City shall pay the difference in cost between the size of pipe needed by the applicant and that specified by the Water Superintendent; provided further, that all costs of installation, fronting on an existing street, to pipe to the place of the applicant, which has been paid by the applicant, shall be entered as a credit upon the account of the applicant and all water bills thereafter charges against such account for a period of not more than ten (10) years or until the costs of installation have been paid in full, at which time the service line shall be considered the property of the City. Receipts for all materials paid by applicant which qualify for credit must be on file at the City Offices before credit will be given.
3. Thereafter the property owner, or his successor in interest, shall pay the regular charges for water consumed upon the premises, with no credit thereafter being allowed.
4. The Planning Commission may make incentive recommendations, under certain conditions they deem advisable to the City Council, concerning developers extensions of water and sewer service where the City might participate other than with the cost of additional pipe line size.
5. The same arrangement applies with the sewer collection line extension as detailed above for water, with two exceptions. Private property owners will be required to have the sewer extension line engineered and approved by the City Engineer and assume that cost; and in instances where the City's major collector lines are not within 200 feet or where the extension will not work with the present collection system, Perry City will have no responsibility for either extension of the line or associated cost.
6. With the extension of either water or sewer lines, the cost of fire hydrants, gate valves and manholes that are required by the City Engineer will be divided between the property owner and the City, and will not be reimbursed to the property owner.
7. Whenever any intervening property ("off-site") is benefited by the installation of any of the required facility, by a developer, the sub divider shall pay the cost of such facilities to the City, such cost to be determined by the City Engineer. Benefiting intervening property owners shall be charged the fee rates for sewer and water connections in effect at the time such connections are made. Half of such fees shall then be returned to the sub divider to reimburse the costs of the installation of the facilities, up to half of the total costs; such agreement for reimbursement shall extend for a maximum period of five years from initial date of agreement after which time no further reimbursement shall be made to the sub divider. The City may also elect to reimburse the sub divider for such "off-site" facilities in full or in part after the sub divider has furnished the City with acceptable evidence tat an agreed number of housing units are occupied. No interest shall accrue or become payable on such reimbursement. Engineering drawings showing benefited property shall be prepared by the City Engineer and copies forwarded to the sewer, water, and streets departments of the City.

12.07.050 Jurisdiction Of City Outside City Limits

12.07.050.1 Prevention Of Pollution Or Contamination Outside Of The City
12.07.050.2 Supply Of Water Services To Persons Outside City Limits
12.07.050.3 Perry City Water User's Agreement For Surplus Water

12.07.050.1 Prevention Of Pollution Or Contamination Outside Of The City

The following regarding the prevention of pollution and/or contamination outside of Perry City:

1. It shall be unlawful for any person, firm, corporation or entity to maintain or erect any buildings, closet, privy, outhouse or urinal, or any buildings, pens or stalls in which shall be kept any horses, cattle, sheep, swine or other animals or to permit any of such animals to be corralled, bedded or run at large within fifteen hundred (1,500) feet of any stream, reservoir, canal, ditch, pipe, drain, spring, or other source of water from which water for the waterworks system of the City shall be taken, within fifteen miles above the point where the water of such stream, reservoir, canal, ditch, pipe, drain, spring or other source of water is taken into the waterworks system.
2. It shall be unlawful for any person, firm, corporation, or entity to pollute or cause to be polluted, either directly or indirectly, any reservoir, stream, canal, ditch, pipe, drain, spring or other source of water from which water for the waterworks systems of this City shall be taken. Before any person shall be allowed to bring animals onto property or to construct any building or improvements which may or which could be construed to cause pollution or contamination of water sources of Perry City within fifteen hundred (1,500) feet of any, reservoir, canal, ditch, pipe, drain, spring and/or other sources of water of the waterworks shall be taken, they shall first make application to the building inspector of Perry City and the Box Elder County Health Department and shall provide evidence that such building or other improvement shall not cause pollution or contamination of water sources of Perry City.
3. It shall be unlawful for any person to maintain any camp or any other facility or source within one-half mile of any reservoir, stream, canal, ditch, pipe, drain, spring, or other source of water of source through which water is carried to the waterworks system of this City or to permit any refuse matter of any kind or character to be deposited in or near a reservoir, stream, canal, ditch, pipe, spring, or other source of water which is used in connection with the waterworks system of this City. (For state law as to extra-territorial jurisdiction of City, see Utah Code Annotated, 1953, Section 10-8-15).

12.07.050.2 Supply Of Water Services To Persons Outside City Limits

The following regarding the supply of water services to persons outside of Perry City limits:

1. Perry City may furnish water from its water system to persons outside its corporate limits in accordance with the provisions of the following sections.
2. Any person located outside the City Limits desiring to be supplied with water services from the City water system and being willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending the water main from its present location to the City limits, may make application to the City Council by petition containing:
    a. A description of the proposed extension.
    b. A map showing the location thereof.
    c. An offer to pay the whole expense incurred by the City in providing such extension and to advance such expense as said expense shall be certified by the Water Superintendent. The City and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the costs of installing such extension may be refunded.
3. An acknowledgement that the City in granting said petition engages to supply only such water to the petitioner from which time to time the City Council deems excess to the requirements of water users within the City Limits.
4. An acknowledgement that such water line extension shall be the property of and subject to the control of Perry City and appropriate easements are granted to the City.
5. When an extension supplying more than one house or user outside the City Limits is connected to City water mains, the Water Superintendent may require a master meter to be installed near the point where the connection is to be made to the City Main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.
6. A person, firm or corporation desiring water services outside the Perry City limits (and after date of this ordinance any person currently receiving water services) shall sign an agreement in substantially the following form and by doing so agree to be bound said agreement.

12.07.050.3 Perry City Water User's Agreement For Surplus Water

The following is the form for the Perry City Water Users Agreement for Surplus Water:

PERRY CITY WATER USERS AGREEMENT FOR SURPLUS WATER

This agreement made and entered into this_____ day of _____, 20___, by and between PERRY CITY, a municipal corporation in the State of Utah, hereafter referred to as CITY, and _____, persons desiring to be furnished Perry City culinary water outside the corporate limits of Perry City, hereinafter referred to as Water User (who is the Property Owner of said property).

WITNESSETH

That for and in consideration of the mutual covenants, promises and conditions herein agreed to be kept by each party hereto, it is agreed that CITY shall, from water excess to the needs of City and its inhabitants, furnish to water user, Perry City culinary water through a _____ inch line and tap, subject however to the following conditions:

1. City finding and determining that it has water excess to the needs of City and its inhabitants, and in any event, no sale of Perry City water or Water Rights is intended nor by these presents made.
2. Water User shall sign an Application for a Perry City water hookup, pay the required fees, charges, and assessments, plus all cost of materials and labor in running the line from City mains to Water User's point of delivery, and shall thereafter pay to Perry City promptly when due the monthly water charges or assessments as now or hereafter to be fixed by Perry City.
3. That Water User by the execution of this agreement grants to Perry City and its agents the easement or right to come upon and cross over Water User's property in Box Elder County, Utah for the purpose of installing, repairing, replacing, removing, maintaining, reading, shutting off the water meter and accessories, or for such other purposes as may be necessary or incidental to the enforcement or supervision of this contract.
4. Water User's point of delivery and location of the water meter to be installed shall be _____(location).
5. That no hookup to the Perry City water system shall be made except by written permit from Perry City and subject to the supervision, inspection and approval by Perry City of the hookup lines, meters, fittings and incidental items.
6. This agreement shall be limited to the following defined location and no additional use shall be made without the express written consent of Perry City.
7. That this agreement may be immediately terminated by Perry City at any time City makes a determination that is has no culinary water excess to the needs of the City or its inhabitants, or a determination that because of the water distribution system, Water User can no longer be supplied with Perry City culinary water, or for the failure of Water User to pay promptly when due all water charges, assessments or fees to City.
8. In addition thereto without making any such determination that surplus water is or is not available, Perry City may, upon sixty (60) days advance notice, terminate this agreement for any reason it may so desire. The Water User fully understands and consents that Perry City grants no rights or usage to Water User by this agreement.
9. The Water User declares that he/she:

a. Is the Property Owner; and
b. Shall comply with Perry City Ordinances; and Shall concurrently sign an Application for Services, as per Perry Municipal Code 12.07.020.1.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first above written. PERRY CITY, a municipal corporation of the State of Utah
BY _____
Mayor
ATTEST:_____
City Recorder

_____
Property Owner Signature Date Property Owner Signature Date
State of Utah) §
County of Box Elder)

Subscribed and sworn to before me on this _____ day of _____, in the year 2_____,
DAY MONTH YEAR

By_____and _____
NAME OF DOCUMENT SIGNER NAME OF SECOND DOCUMENT SIGNER (IF ANY)

_____
NOTARY PUBLIC SEAL

12.07.060 Water Source Protection

12.07.060.1 Short Title And Purpose
12.07.060.2 Definitions
12.07.060.3 Establishment Of Wellhead Protection Zone
12.07.060.4 Permitted Uses
12.07.060.5 Prohibited Uses
12.07.060.6 Administration

12.07.060.1 Short Title And Purpose

1. This ordinance shall be known at the "Wellhead Protection Ordinance."
2. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the surrounding the wellheads for all wells which are the supply sources for the City water system and by the designation and maintained within such zones.

12.07.060.2 Definitions

When used in this ordinance the following words and phrases shall have the meanings given in this Section:

1. Hazardous waste or material – any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:
    a. Cause or significantly contribute to an increase in incapacitating reversible illness; or;
    b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
2. Sanitary landfill – A disposal site where solid wastes, including putrescrible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
3. Wellhead – the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

12.07.060.3 Establishment Of Wellhead Protection Zone

There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle the center of which is the center of any city water supply wellhead and the radius of which is 1500 feet.

12.07.060.4 Permitted Uses

The following uses shall be permitted within wellhead protection zones:

1. Any use permitted within existing agricultural or single family residential districts, except that the minimum residential lot size for a lot any portion of which lies within the wellhead protection zone shall not be less than one acre; and
2. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

12.07.060.5 Prohibited Uses

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 12.07.060.4. Of this ordinance:

1. Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
2. Septic tanks or drain fields appurtenant thereto;
3. Impervious surfaces other than roofs of building, and streets, driveways and walks serving buildings permitted under Section 12.07.060.4 of this ordinance;
4. Sanitary landfills;
5. Hazardous waste disposal sites;
6. Storm water infiltration basins;
7. Underground storage tanks;
8. Sanitary sewer lines within 150 feet of a wellhead;

12.07.060.6 Administration

The policies and procedures for administration of any wellhead protection zone established under this ordinance, including without limitation those applicable to non-conforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zones ordinance for the City of Perry, as the same is presently enacted or may from time to time be amended.

12.07.070 Water Conservation Plan

12.07.070.1 Introduction
12.07.070.2 Description Of Perry City And Its Water System
12.07.070.3 Inventory Of Water Resources
12.07.070.4 Present Water Use And Future Water Needs
12.07.070.5 Overview Of Water Problems And Goals
12.07.070.6 Current Conservation Practices
12.07.070.7 Current Water Rates
12.07.070.8 Cost Analysis

12.07.070.1 Introduction

The citizens of Perry are concerned about water use and the careful preservation of this valuable resource in our community. The City is growing rapidly in residential and commercial areas. The potential for growth and development is increasing and we realize that along with that growth will be increased use of the City's water system. This plan is written to help address these concerns and promote the wise use of the water resources available to facilitate desired economic growth and support residential and commercial/industrial areas in the future. Perry City is committed to supporting the State of Utah in its efforts to conserve water by observing the Water Conservation Plan Act.

12.07.070.2 Description Of Perry City And Its Water System

Perry City is located in the southeast part of Box Elder County. The City's boundary is shown in Appendix B. The culinary water system, providing water to most homes, was put into operation in 1911. There were approximately 50 families living in Perry at that time. With the completion of the Pineview Canal, hundreds of acres of arid land could be irrigated making agriculture and dairy farming the leading industries. Perry is famous for the quality and variety fruit (especially peaches) produced here. In 2003, an area of commercial property west of I-15 and at approximately 1100 South was annexed into the City. Culinary and secondary water lines have been installed to the area to provide water for the development.

12.07.070.3 Inventory Of Water Resources

Perry City has been withdrawing approximately 650 acre-feet of water annually from an underlying aquifer through wells and one spring. These sources supply all of the water required for our culinary system. A portion of the residents have secondary water connections for outdoor watering from a pressurized system administered by Pineview Irrigation. Pineview Irrigation is planning for the expansion of their irrigation system to include all of the incorporated boundaries of Perry City.

There are also numerous private wells used in commercial, agricultural, and residential applications. Some of the water for future residents will come from additional usage of the existing wells, as well as from the reduction of outdoor irrigation and the use of Pineview Irrigation in lieu of culinary water. The majority of shares in irrigation companies (Perry Irrigation Company and Three Mile Creek Irrigation Company) are owned by individual share holders, not Perry City.

The City remains an agricultural community with fields, orchards and pasture being irrigated with these private water shares. As development occurs, the developer is required to provide secondary water access to the residential lots and each lot buyer must purchase a connection for his property. Shares of irrigation companies are relinquished to Pineview Irrigation when agricultural land is developed to provide the connections to the pressurized system for the residential lots.

TABLE 1 - City owned shares of Irrigation Companies

NAME	Acre/Feet
Perry Irrigation Co.	n/a
Three Mile Creek Irrigation	31.26
Pineview Irrigation	n/a

The shares of Three Mile Creek Irrigation owned by Perry City are not part of the culinary water system. They are strictly secondary water for outdoor watering but are not being used at this time. The City does use the pressurized Pineview Irrigation system for watering of parks, office landscaping, and City landscaping along Highway 89.

Contacts for Secondary Water systems:
Pineview Irrigation: Dale Valcarce 1-800-750-6553
Three Mile Creek Irrigation: Paul Nelson 435 - 723-6461
Perry Irrigation Co.: Boyd Hirschi 435 - 723-5532

TABLE 2 - City-owned Water Rights

Source #	NAME	Water Right #	CFS*	AF**
1	Well #1	29-162	0.55	
2	Well #2	29-707	0.43	
3	Anderson Well (Well #3)	29-1192 29-1017	0.89 0.957	
4	Stokes Springs	29-2869 29-3571	0.29 0.50	
5	East Bench Well (Well #4)	29-3728	3.00	
6	Nielson Well (Well #5)	29-1297	1.783	
	Walker Springs	29-3774		7.0
	Basin Springs	29-3570	0.50	

* Cubic Feet Per Second
** Acre/Feet

12.07.070.4 Present Water Use And Future Water Needs

Perry City currently supplies culinary water to approximately 1425 connections. These include 1385 Residential, 1 Industrial, 35 Commercial, and 4 Institutional connections. The

annual report of water delivered to these connections is approximately 187,375,000 gallons (150,000,000 gallons for Residential; 1,094,000 gallons for Industrial; 35,398,000 gallons for Commercial; and 883,000 gallons for Institutional). This would calculate to 131 gpcd (gallons per capita per day) of water use for the culinary system.

The majority of the water used within the City is supplied by four wells and one developed spring. The City has a fifth well that is currently not needed but can be put into use in the future. There are three storage reservoirs in our system with the completion of a new 1,000,000 gallon reservoir in 1999. Our water storage capacity now is approximately 1,650,000 gallons.

The City is planning to acquire additional water rights and to expand its culinary water system in the future. A new reservoir is planned for the south end of the City. The City plans to purchase at least one irrigation well from one of the local irrigation companies. The City updated its Culinary Water Master Plan (Capital Facilities Plan) and Impact Fee Ordinances in 2007, which plan and ordinances identify other planned system upgrades.

There are three sources of secondary water available to residents within Perry City. Pineview Irrigation water, administered by the Weber/Box Elder Conservation District, built a reservoir in Perry in 2002. A pressurized distribution system is now in place serving 85% of residences, with water for lawns and gardens.

Two irrigation companies have existed for many years and provide for agricultural irrigation. They are the Three Mile Creek Irrigation and the Perry Irrigation Company. The City continues to protect the access to the ditches (and assists in preventing storm water encroachment and safety problems) for both of these companies when making planning decisions.

Perry City is growing rapidly and the water connections have doubled in number over the last seven years. Population according to the 2000 Census was 2,383. It is estimated that the current population (December, 2009/ January, 2010) is around 4750. This would be close to an average increase of 250 per year. Thus, the projected population in five years (December, 2014/ January, 2015) is 6000.

Apartment complexes, condominiums and cluster housing developments have been approved and built in some areas of the City. A few years of local accelerated growth has been recently followed by a nationwide trend in low construction rates, but it is anticipated that residential growth will start dramatically increasing again by January, 2011.

The majority of the land is still used in agriculture production, but the orchards and fields are slowly disappearing as more and more land owners are selling property to developers. Future water needs will be easily met by pumping larger quantities from existing wells and also putting other existing wells into service that are not being used at this time.

Highway 89 and Interstate I-15 run through the entire length of Perry City thus providing a large potential for population growth and economic development. Mostly undeveloped area fronts both sides of Interstate I-15 at this time. Three phases of one subdivision have been approved and partially developed for commercial development in the area (identified as “Pointe Perry”), which was annexed to Perry City in 2003.

The Pointe Perry area and the commercial property along the north boundary of the City west of Highway 89 will make up the land to be used for a much of the commercial development in the near future. One such “north boundary” area (south of 1100 South, identified as “Upland Square”), partially within Perry City and partially within Brigham City, will be at least partially developed within the next five years.

12.07.070.5 Overview Of Water Problems And Goals

Water Problems Identified

Several problems have been noted by the City Administration. A Committee needs to be formed to prioritize and identify any additional problems with our water system and recommend goals for addressing these problems.

- Citizens lack awareness of conservation measures including xeroscaping, low water usage landscaping, water needs of various plants, and creative ways to minimize water use in the Summer months.
- Billing and meter reading errors occasionally occur. The costs of doing manual meter reading and computer entry of data could be reduced.
- Power Outages significantly affect the City’s ability to deliver water into the system because the well pumps require electricity.
- Some portions of the water system are aging and need replacement or upgrading and/or maintenance of distribution lines and hydrants.

These problems present opportunities to increase the efficiency of the operation of the Perry City Water System and create awareness of the residents to water conservation issues. The City Newsletter can be used as a monthly reminder and educational tool to give residents information about ways to conserve and protect our water resources. Automatic meter reading and computer systems need to be acquired and installed to improve efficiency. Standby generators for each of the wells need to be purchased, installed and be available in case of power outages. At the present time, there is only one well that has a standby generator. A schedule of water system upgrading, replacement and maintenance needs to be developed and implemented.

Water Conservation Goals

In pursuit of solutions to the problems identified previously, and in the light of the variety of conservation measures available to solve these problems, the following goals have been identified:

- GOAL #1
  Continue to Reduce the City’s per capita water use rate, especially by using a “Water Conservation Committee.” The rate is currently 131 gpcd (gallon per capita per day), and was 126 gpcd five years ago, representing a 3.7 % rate reduction over this time frame. This is only 50.4 % of the 260 gpcd State average. The goal for the next five years is to have at least another 2.5 % rate reduction (0.5 % per year).

  These rate reductions have occurred (and will continue to occur) through education, reminders in the City Newsletter, charging for “overages,” and alternatives to water-intensive landscaping. A “Water Conservation Committee” will be formed to conduct research into xeroscaping, low water use landscaping, creative conservation ideas, and find ways to make the public aware and encouraged to conserve water.

- GOAL #2
  Increase the financial viability of the Perry City Water System, Especially by Transitioning to a “100 Per Cent Radio Read” and “Monthly Meter Read” System. Meeting this goal would include installation of automatic reading meters on all remaining connections. The City is in the process of achieving this goal within the next three years. The computer system for entering the meter data automatically has dramatically increased efficiency and saved money. Once all meters are “radio read,” monthly meter reads will actually be less labor intensive, will save money, and will allow the city to more efficiently identify necessary improvements in the culinary water system.

  At this time, it is unknown if water is leaking from the system due to aging distribution lines or lack of maintenance, but developing a schedule of regular upgrading of lines, replacements and maintenance would increase the system efficiency and ensure that water in the lines is not being wasted. Reading the meters more frequently would help identify any leakage that could be occurring.

- GOAL #3

Continue to Replace Aging Water Lines.
The City's 2007 Capital Facilities Plan identifies several projects which can be completed with impact fees. The City recently worked with UDOT and used over $400,000 in impact fees to upgrade 50 to 65 year old water lines along Highway 89 (which is essentially Perry City's "Main Street"). Another mile of aging water lines along Highway 89 will be replaced over the next three years.

- GOAL #4
  Maintain or improve the landscaping of City Property and develop a policy for planting these areas with low water use landscaping. The City itself should be mindful of conservation measures and set an example for the residents, with beautiful public areas that are prudently watered and planted with landscaping that will conserve water.

12.07.070.6 Current Conservation Practices

Perry City has not had the problem of dealing with water shortages. Although there have been drought conditions in the area, our wells have continued to produce adequate water supplies and have the capability of providing adequate water for the projected growth. Perry City owns two wells that are not currently in use. In the winter, the system only requires the operation of one well.

Over the last few years, Perry City has implemented conservation practices in order to maintain the adequate supply of culinary water for the future and ensure that our system will be able to meet the need for additional water as the City's population increases. The following Conservation practices have been implemented since submission of our original Water Management Conservation Plan adopted December 11, 1997:

- Completion and state acceptance of the Water Source Protection Plans for each well and spring in our system.
- Replacement of many of the water meters in our system with the automatic reading type.
- Completion of a new reservoir and a pressurized delivery system for secondary water to 85% of the residents. All new subdivisions are now required to provide connections to this system for every lot thus saving the culinary water that was previously used for outside watering.
- As of June 1, 2001, the water rates changed to provide an incentive for residents to connect to the secondary water system and conserve culinary water. Previously the rate was $.75 per 1000 gallons for the amount over 15,000 gallons per month. The new rate that has been in effect now for eight years is $.95 per 1000 gallons for the amount over 10,000 gallons per month.
- During 2006 and 2007, aging water lines were replaced on 900 West and on Highway 89, a new emergency water connection is now in place with Brigham City which allows Perry to connect to and use Brigham City water in the event of an emergency.

With the adoption of this Water Conservation Plan, the following practices will be established (or re-established) for the Perry City Water System:

1. Water Conservation Contingency Plan
   This Plan will be implemented in the event of water supply shortages due to drought, equipment failure, political problems or natural disaster:
   a. Level 1 - Normal Years (as defined by the drainage of the Bear River or Weber Basin)
      i. Eliminate watering on City property after 10:00 a.m and before 6:00 p.m.
      ii. Initiate voluntary public conservation measures.
      iii. Issue information to all customers on conservation procedures which can be implemented around their own property and within their own homes.
   b. Level 2 - 75% of Normal
      i. Eliminate watering of City Property.
      ii. Educate the public on the water supply reductions.
      iii. Initiate mandatory public conservation measures.
      iv. Enforce outside watering restrictions including watering times and quantities.
   c. Level 3 - 50% of Normal
      i. Strictly enforce all conservation policies with significant fines for non-compliance
      ii. Physically restrict water supplies to (in order of priority):
         (1) All outside irrigation systems
         (2) Park properties and other non-essential support facilities
         (3) Commercial businesses, restricting largest users first
         (4) Residential areas Chapter 12.07 2010 Perry Municipal Code
         (5) Any other " non-life support" areas, ensuring that water supplies to hospitals and other health care facilities are maintained.
2. Water Education Program
   The following information on efficient outdoor and indoor water use is available to the residents of Perry City through occasional flyers delivered by Boy Scouts or Youth Council Members. In the future, this information will be included with the City water statement sent out on June 1st of each year with a reminder that the water meters are read at the end of June and conservation is encouraged.
   a. Outdoor Water Use
      The following are suggestions for this specific area:
      i. Water landscape only as much as required by the type of landscape, and the specific weather patterns of your area, including cutting back on watering times in the Spring and Fall.
      ii. Do not water on hot, sunny, and /or windy days. You may actually end up doing more harm than good to your landscape, as well as wasting a significant amount of water.
      iii. Sweep sidewalks and driveways instead of using the hose to clean them off.
      iv. Wash your car from a bucket of soapy (biodegradable) water and rinse while parked on or near the grass or landscape so that all the water running off goes to beneficial use instead of running down the gutter to waste.
      v. Check for and repair leaks in all pipes, faucets, hoses, couplings, valves, etc.

      Verify there are no leaks by turning everything off and checking your water meter to see if it is still running. Some underground leaks may not be visible due to draining off into storm drains, ditches, or traveling outside your property.
      i. Use mulch around trees and shrubs, as well as in your garden to retain as much moisture as possible. Areas with drip systems will use much less water, particularly when hot, dry or windy conditions exist.
      ii. Keep your lawn well trimmed and all other landscaped areas free of weeds to reduce overall water needs of your yard.
   b. Indoor Water Use
      About two-thirds of the total water used in a household is used in the bathroom. Concentrate on reducing your bathroom water use. The following are suggestions

for this specific area:

i. Do not use your toilet as a wastebasket. Put all tissues, wrappers, diapers, cigarette butts, etc. in the trash can.
ii. Check the toilet for leaks and see if the water level is too high. Put a few drops of food coloring in the tank. If the bowl becomes colored without flushing, there is a Chapter 12.07 2010 Perry Municipal Code leak.
iii. If you do not have a low volume flush toilet, put a plastic bottle full of sand and water to reduce the amount of water per flush. However, be careful not to conserve to the point of having to flush twice to make the toilet work. Be sure the container you are using does not interfere with the flushing mechanism.
iv. Take short showers with the water turned up only as much as necessary. Turn the shower off while soaping up or shampooing. Install low flow shower heads and /or other flow restriction devices.
v. Do not let the water run while shaving or brushing your teeth (instead, fill the sink or use a glass).
vi. When doing laundry, make sure you always wash a full load or adjust the water level appropriately if your machine will do that. Most machines use 40 gallons or more for each load, whether it is two socks or a week's worth of clothes.
vii. Repair any leak within the household. Even a minor slow drip can waste up to 15 or 20 gallons of water a day.
viii. Know the location of your main water valve and be sure that it works. Shutting the water off yourself in the event of a pipe breakage or leak will not only save water, but will eliminate or minimize damage to your personal property.
ix. Keep a bottle of water in the refrigerator for a cold drink instead of running water from the tap until it gets cold. You are putting several glasses of water down the drain for one cold drink.
x. Plug the sink when rinsing vegetables, dishes or anything else; use only a sink full of water instead of continually running the water down the drain.

12.07.070.7 Current Water Rates

Determining appropriate water rates is a complex task. In 2001, the Perry City Council adopted a new rate schedule as a conservation measure. The majority of the City could be on a pressurized, secondary water system to provide for outside watering. The costs of delivering the service were estimated according to the past capital and operating expenses. A survey was done of water rates for surrounding communities to be sure our City rates were to too much different. The revenue requirements were estimated by the City Water Department and it was found that the rate change was necessary for efficient operation of the City water system as well as to encourage conservation and to use of the secondary system for outside watering.

TABLE 3 - City Water Rates

CURRENT WATER RATES (Since June 2001)
Base Charge: $15.00 / Month
Base Allocation: 10,000 Gallons / Month
Over 10,000 gal.: $.95 / Kgal

Additional Conservation Measures

1. COMPREHENSIVE WATER CONSERVATION PLAN This plan has been developed for water management and conservation as required by law. The plan was adopted by the Perry City Council. The plan will be updated every five (5) years. The plan outlines conservation practices to be implemented during various stages of water shortage and contains specific goals that will reduce water use and encourage conservation.
2. UNIVERSAL METERING Perry City will continue to work on completing the installation of automatic reading meters on all residential, commercial, institutional and industrial water connections. Meters are read three times per year, at the end of March, June and September. A maintenance and replacement program will be established for the existing meters. Upon completion of installation of automatic readers on all connections, the meters will be read every month to insure accuracy and detection of water leaks or problems.
3. WATER CONSERVATION ORDINANCES Ordinances that follow the Best Management Practices (BMPs) that are being considered for adoption by the City Council include: time of day watering restrictions in hot weather, requirements for water efficient landscaping of commercial developments, and prohibition of "cross-connections" (with secondary water) and general waste of water.
4. SYSTEM WATER AUDITS, LEAK DETECTION AND REPAIR Standards for annual water system accounting that will quantify any system losses are being considered for adoption. These standards need to be set and specific goals need to be determined for the detection of leakage and the repair and/or replacement of any faulty parts in the system. More frequent reading of meters as stated in Number 2, will aid in leak detection.
5. OTHER BMP'S (Best Management Procedures) Applicable to Perry City Water System Perry City could benefit from the adoption of other measures that would ensure the continuation of adequate water resources: A. Large landscape conservation programs & incentives B. Water survey programs for residential customers C. Public information programs / school education programs D. Adoption of Plumbing standards

12.07.070.8 Cost Analysis

Perry City will strive to reach all goals of this plan as well as implement the Best Management Practices herein discussed as far as possible and practical with the small water system we have. Perry City does not have to purchase any water in order to fulfill the culinary water requirements of its residents. The basic cost savings would be in the improvement of efficiency of operation to save labor cost of repairs or replacements in the system. It is difficult to estimate these savings of costs. The residents are the ones who will directly benefit in cost savings by using less water. The City could potentially lose revenue as each resident reduces their use of water. Perry City already has a low amount of per capita usage due to the extensive availability of secondary water for outside watering.

Cost of Reaching GOAL #1
Costs would be minimal for reaching this goal. The City Newsletter is already being sent to all residents. The cost would only include the paper and the labor to write the material and make copies. Any committee formed to do research would serve on a volunteer basis but could utilize a small budget for the dissemination of information gathered. The water system will require funds for upgrading, maintenance, and replacements of lines and equipment, along with labor to do the inspection and installation of the replacements. These costs are unknown. It is also unknown to what extent there is a problem with leakage or faulty equipment.

Cost of Reaching GOAL #2

There are approximately 500 households needing replacement of water meters to the automatic reading type. These meters cost approximately $120.00 which would be $60,000. The cost of labor to do the change would be approximately $20.00 to $25.00 per meter. This would equal between $10,000 and $12,500. The computer software has already been purchased which will save extensive labor costs to enter the data into the computer. The labor cost saved by the significant reduction in the time it will take to read the meters should also be included but is unknown. The advantage of changing the meters would be in the efficiency of the system which will make it more cost effective. The accuracy of the readings and data entry would greatly improve with the automated system thus contributing to efficiency.

Cost of Reaching GOAL #3
As mentioned above, the water system will require funds for upgrading, maintenance, and replacements of lines and equipment, along with labor to do the inspection and installation of the replacements. These costs are unknown. It is also unknown to what extent there is a problem with leakage or faulty equipment.

Cost of Reaching GOAL #4
The landscaping of City areas will not be changed to meet this goal. But, in the future, as the City develops new public areas, the City maintenance department will only plant landscaping that will conserve water utilizing the benefit of information from the committee formed in Goal #1. The Perry City administration will instruct maintenance personnel in the Best Management Practices and supervise the personnel properly to see that these practices are implemented for the maximum conservation of water. These measures would not significantly increase costs of operating the system but would result in water savings.

Perry City's plan for reaching each of these goals involves mostly minimal costs to the City (but with some expensive system upgrades), while at the same time conserving water. It is difficult to determine any avoided costs, capital costs or annual costs for the accomplishment of any of these goals. The net benefit is also very difficult to measure in terms of money. There certainly will be tangible benefits for the saving of water but the exact amount is unknown.

12.07.080 Power To Adopt Additional Regulations: Penalties

12.07.080.1 Power To Adopt Additional Regulations
12.07.080.2 Penalties

12.07.080.1 Power To Adopt Additional Regulations

The City Council shall have power and retains the right to adopt additional regulations controlling the manner and circumstances under which the water system may be used in addition to the regulatory provisions set forth expressly in this Ordinance. Such regulatory provisions may include regulations relating to the manner in which excavations shall be made for purposes of making the connections or repairs to the water service lines which may necessitate excavations on or near and under sidewalks and public ways.

12.07.080.2 Penalties

Any person violating any of the provisions of this Ordinance for which a penalty is not otherwise specifically prescribed, shall be deemed guilty of a misdemeanor and may be punished by a fine in an amount of no more than $299.00.

12.09 Wastewater

12.09.010 General Provisions
12.09.020 Discharge
12.09.030 Connections
12.09.040 Requirements
12.09.050 Regulations
12.09.060 Inspections
12.09.070 Pretreatment
12.09.080 Backflow And Cross-connections
12.09.090 Fees, Rates, And Penalties

12.09.010 General Provisions

The following general provisions apply:

1. City survey. The council has caused a survey to be made of sanitary conditions within the city, including the geological aspects in relation to industrial, business and residential establishments as the same affect the health and welfare of the inhabitants of the city, and has determined and does hereby determine and require that is necessary for the protection of the public health that owners of improved property within the city be required to connect their industrial, business and residential establishments to the sewer system and to cease to use all other methods of sewage disposal, if such establishments are capable of being served by and through the municipal sewer system.
2. Governing law. For state law as to powers of cities with respect to sewers, see Utah Code Annotated, 1953, Section 10-8-38.
3. Superintendent. The following regarding the position of superintendent:
    a. The entire sewer system shall be under the immediate care, supervision, and control of the Superintendent of Sewers who shall be appointed by the mayor and confirmed by the city council.
    b. The superintendent of sewers is hereby charged with the duty of enforcing this chapter.
4. Laterals. Property owners are responsible for maintenance from the connection on the main line to point of usage. The City may accept responsibility for pipe breakage or other unusual circumstances but is not responsible for repair or maintenance from clogs or any other repairs or damage whatsoever. The city will not be held liable for damage to shrubs, lawns, driveways, sidewalks, etc. in repair of maintenance of a sewer line. All users of the sewer services shall keep their service pipes, connections, and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the sewer superintendent, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.
5. Manholes. Only individuals authorized by the sewer superintendent shall access any manhole in the city. It shall be unlawful for any unauthorized person to open any sewer manhole without the direct permission of the superintendent of sewers.

12.09.020 Discharge

No discharge shall be made into the public sewers of any waters or wastes having:

1. A five (5) day biochemical oxygen demand (B.O.D.) greater than three hundred (300) parts per million by weight; or
2. Containing more than three hundred fifty (350) parts per million by weight of suspended solids; or
3. Containing any quantity of substances having the characteristics prescribed in this Section or having an average daily flow greater than two percent (2%) of the average daily flow of the main outfall sewer line serving area, shall subject the owner or applicant for sewer service to the following conditions before receiving approval of the city council:
    a. Where necessary in the opinion of the city council, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the B.O.D. to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million, by weight, or reduce objectionable characteristics of constituents to within the maximum limits provided for in this section, or control, within acceptable limitations above-prescribed, the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the city council and of the water pollution control commission of the state, and no construction of such facilities shall be commenced until such approvals are obtained in writing.
    b. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner, at his expense.
    c. Where the strength of any waters or waste exceeds three hundred (300) parts per million by weight of B.O.D. of three hundred fifty parts per million by weight of suspended solids or one hundred parts per million by weight of other extractable matter, a daily fee shall be charged for each one hundred pounds of such excess, or fractional part thereof, in the amount fixed by the city council from time to time by resolution. Such fee shall be paid by the owner monthly until such time as the city council is notified that preliminary treatment facilities have been provided by the owner, or that other proper steps to insure compliance with this section that have been established. At that time the city council or its authorized representative shall inspect facilities and cause to have new samples tested at owner's expense to determine the extent of effectiveness, at which time charges to comply with the condition of such wastes will then be made.
    d. When required by the city council, the owner of any property served by a building sewer lateral carrying industrial wastes shall install a suitable control manhole in the building sewer lateral to facilitate observation, sampling and measurement of wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city council. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
    e. All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in any of the foregoing sections shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage" and shall be determined at the control manhole samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
    f. The city council or other duly authorized employees of this city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurements, sampling and testing, in accordance with the provisions of this section.

12.09.030 Connections

1. Connection generally. The following regarding permits for sewer connections:
    a. It shall be unlawful for any person to commence or carry on the work of laying, repairing, altering or connecting any sewer pipe with the public sewer without first having a permit to do so from the Superintendent of Sewers. Such permit must be on the premises during the whole time the work is in progress and must be exhibited, upon a request, to the Superintendent or his authorized agent.
    b. It shall be unlawful for any person to connect or attach any private drain or house connection directly or indirectly with the public sewer without having first received the regular permit from the Superintendent of Sewers.
2. Application. The application for a permit for a sewer connection must be made in writing by the owner of the premises or his authorized agent and must be accompanied

by plans showing the cause of the connection, its size and the size and location of all branches to be connected. The application and plans together with the connection fee as hereinafter provided for, shall be deposited with the city treasurer and when approved by the superintendent of sewers and/or the city engineer shall be granted, subject to the provisions of this chapter.

3. Grading. All sewer connections shall be put into line on grades designated by the superintendent of sewers or the city engineer, who shall prepare a plat of each connection and file such plat in the office of the superintendent.
4. Inspections. All house connections to the sewer shall be inspected by the sewer inspector and work not approved by him shall be rectified without delay before the backfilling shall be done. No certificate of inspection shall be issued until the work is entirely satisfactory.
5. Permits. No permit shall be issued for nor shall any connection be made with what is known as the intercepting sewer where the fixtures in the house or the property so to be connected to such sewer are lower than the present elevation of the sewer in which the connection is to be made. Individual home pumping stations would be acceptable.
6. Permit issuance. The following regarding to whom permits for sewer connections are issued:
    a. All permits for sewer connections shall be issued to the state licensed contractor who is qualified under state license law to do the work.
    b. The superintendent of sewers may at any time revoke a permit for a sewer connection on account of defective work or material.
7. Plumbing required. Permits to connect with the public sewer shall not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of all ordinances of the city relating thereto.
8. Separate connections required. Each separate building or premises shall have a separate connection to the main line sewer, except only in cases where it is impracticable, and then only on special permission granted by the council upon the recommendation of the sewer superintendent. No special permission shall be granted by the council unless and until the owner of each building or premises to be thus connected shall grant to and receive from every other owner perpetual easements and rights of way which shall be properly recorded across and upon each of the premises involved for the purpose of constructing and maintaining each separate connection, and shall covenant and agree as a part of such right of way or easement, so that the same shall be a covenant appurtenant to and running with the land, that each owner will bear and pay his proportionate share for the maintenance and repair of the connection whether the expenditure, maintenance or repair becomes necessary upon his own premises or the premises with which he is connected.
9. Drain requirements. Unless otherwise directed in the permit, all private sewer or house drains must be connected with junction pipes, slants or wyes, laid in the sewer during construction. The connection point with the sewer must first be located before opening the trench for the rest of the work. All trenches must be of sufficient width and opened in such a manner as to admit of easy inspection and all connections with the public sewer must be made in the presence of the inspector. In all cases where there is one junction piece, slant or wye in the sewer at the point where connection is to be made, the opening of the sewer and the making of such connection must be in strict accordance with the permit and under the supervision of the Superintendent of Sewers.
10. 300 foot requirement. It is hereby expressly provided that it shall be unlawful for the owner or other person having charge of or occupying any property upon which a building shall have been or is being constructed for residential, commercial or industrial use, any part of which building is within three hundred (300') feet of any sewer then in existence and used in the city, to construct or permit to be constructed or to use or permit to be used any privy vault, septic tank or cesspool connected with such building. Each such owner or other person shall, within ninety days after having been given notice by the city that an accepted a public sewer is ready to receive connections therewith, cause such building to be connected with such sewer and it shall thereafter be unlawful for such owner or other person to have the plumbing in such building remain unconnected to the public sewer or to maintain or use or cause or permit to exist any privy vault, septic tank or cesspool to which such building is connected or which is used by the occupant thereof. Whenever an accepted public sewer is available to receive connections therewith, the superintendent of sewers shall cause appropriate notice to be served upon the owner, agent or other person having charge of or occupying all property coming within the scope of this section that such public sewer is ready to receive connections therewith and that all plumbing must be connected with such sewer.
11. Ownership. Unless provision is expressly made for ownership of mains or lines by owner of the adjacent property by means of a written agreement, all lines and mains connecting the sewer system to a land owner or resident's premises which are situated on the public way between the main and the property line shall be deemed to be the property of the municipality and subject to its absolute control and supervision even though actual installation may have been performed by the owner or resident of the premises.
12. Construction. Construction of all sewers shall be in accordance with standards and specifications of the city and as follows:
    a. All drains connected with the public sewer must be left smooth and perfectly clean on the inside and all dead ends must be securely stopped by brick and cement or other watertight and imperishable materials.
    b. All sewer connections shall be backfilled around and over the pipe for a depth of two feet with fine material carefully tamped. The remainder of the backfilling shall be completed with good material, well tamped or settled with water as may be directed.

12.09.040 Requirements

12.09.040.1 Settling Tanks
12.09.040.2 Pipe Requirements
12.09.040.3 Changes In Direction
12.09.040.4 Manner Of Making Excavations
12.09.040.5 Variation From Provisions Of This Chapter

12.09.040.1 Settling Tanks

The discharge of contents of waste pipes from water filters, gas engines, soda water fountains, air compressors, vacuum or dry cleaners, garages, stores or warehouses containing inflammable oils, car barns, carriage houses, laundries, buildings for the stabling and keeping of horses, cows or other animals, and all similar establishments shall not be made into or connected with a public sanitary sewer, unless such contents are discharged into a settling tank properly trapped and vented. Such tanks shall be of construction approved by the Superintendent of Sewers and to be at all times subject to his inspection and condemnation.

12.09.040.2 Pipe Requirements

The following pipe requirements:

1. Joints: Any private drain with the public sewer of the City except upon full compliance with the provisions of this chapter.
2. All drain pipes shall not be less than four (4") nor more than six (6") inches internal diameter and from the house or building to a point five (5') feet outside the wall or foundation thereof shall be of cast iron or PVC and from that point to the main sewer connection may be either cast iron, PVC, or concrete pipe, at the option of the owner of the premises with which the sewer connection is to be made.
3. The cast-iron or PVC pipe shall be sound, free from holes or cracks and without traps, valves or other obstructions which might prevent or retard the free passage of air or sewage.
4. Four (4") inch diameter standard cast-iron soil pipe will be acceptable. Larger or heavier pipe may be used or required when conditions warrant its use.
5. In the use of five or six iron pipe the corresponding standards may be used and all fittings used in connection with any of the above sizes shall correspond with it in weight and quality.
6. All joints shall be rubber gasket sealed unless otherwise approved by the Superintendent of Sewers.
7. All pipe shall be laid in a firm bed, true to the line and grades by the City Engineer, on a uniform grade not less than 1.8 feet per one hundred feet for four inch pipe and not less than 0.8 feet per one hundred feet of six inch pipe. Variation from these grades must be approved by the Superintendent of Sewers and/or the City Engineer.

12.09.040.3 Changes In Direction

All changes in direction must be made by the use of appropriate fittings approved by the Superintendent of Sewers.

12.09.040.4 Manner Of Making Excavations

In excavating the sewer trench, bell holes must be dug under all bell ends of the pipe so that all joints can be easily made and examined. All work that may be necessary shall be done to keep the trench and sewer free from surface or ground water during the process of the work. In wet trenches, a channel shall be kept open on one side to conduct the water to a pump, where it shall be pumped or drained off, and no water shall be allowed to enter the sewer any time during the construction. Whenever necessary, the trench shall be properly timbered to prevent the sides from caving in. No tunneling shall be allowed except where absolutely necessary and then only by permission of the Superintendent of Sewers. All gas and water pipes and other conduits encountered shall be carefully supported and protected from injury until the backfilling is completed. If the sewer trenches pass through any cesspool or other pit, the pipe shall be satisfactorily supported. No paved street or other improved surface shall be disturbed until a deposit shall have been made with the City Treasurer to cover the cost of repairing the same. All portions of the street excavated shall be put in as good condition as before. Sewer excavations must also meet the requirements of Perry City Standard Works.

12.09.040.5 Variation From Provisions Of This Chapter

Any variation from the provisions of this chapter shall be made only upon the written order of the Sewer Superintendent.

12.09.050 Regulations

12.09.050.1 Injuring Sewer Appliance Or Appurtenance
12.09.050.2 Prohibited Substances In Sewers
12.09.050.3 Discharge Of Dangerous Or Harmful Substances Into Public Sewers: Enumeration Of Restricted Substances
12.09.050.4 Discharging Rain Water, Etc Into Sanitary Sewer: Overflow From Blow-off Boilers
12.09.050.5 Distance Of Other Pipes From Sewer
12.09.050.6 Construction Of Drain Under Council Regulations
12.09.050.7 Destruction

12.09.050.1 Injuring Sewer Appliance Or Appurtenance

The following regarding sewer appliances and appurtenances:

1. It shall be unlawful for any person to willfully injure, break or remove any part or portion of any sewer appliance or appurtenance.
2. It shall be unlawful for any person to maintain or allow to grow any tree, shrub or bush on his property within such proximity of the City sewer lines that the root thereof enter into or displace such sewer line. Each day such condition is allowed to exist after notice has been given to the owner thereof shall be a separate offense. The maintenance of or the allowing to grow of such trees, shrub or bush is hereby declared to be a nuisance and the City shall have the right to abate the same by the removal or destruction of said tree, shrub, or bush.

12.09.050.2 Prohibited Substances In Sewers

It shall be unlawful for any person to empty or discharge into the public sewer any garbage, refuse or other similar matter or anything likely to obstruct the sewer system or to discharge into the sewer any inflammable gas, gasoline, oil or petroleum by-products or any calcium carbide or residue there from or any other matter which, by chemical reaction, shall become dangerous to health, life or property or any liquid or other material or substance which will evolve an inflammable gas when in contact with water, sewage or fire. Oil separators installed in any buildings where volatile fluids are used must not be connected directly with the sewer.

12.09.050.3 Discharge Of Dangerous Or Harmful Substances Into Public Sewers: Enumeration Of Restricted Substances

Except as hereinafter provided, no person or owner or applicant for sewer service shall discharge or cause to be discharged any of the following described waters, or waste to any public sewers:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit.
2. Any water or waste which may contain more than one hundred parts per million, by weight, of fat, oil or grease.
3. Any garbage that has not been properly shredded.
4. Any ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works and sewage treatment plant.
5. Any waters or wastes having a pH lower than five point five or higher than nine point zero, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works or sewage treatment plant.
6. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant.
7. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
8. Any noxious or malodorous gas or substance capable of creating a public nuisance.

12.09.050.4 Discharging Rain Water, Etc Into Sanitary Sewer: Overflow From Blow-off Boilers

It shall be unlawful for any person to connect with a public sanitary sewer any drain or pipe which discharges rain water, ground water, cellar or surface water or the contents of any spring, flowing well, creek, ditch or other from blow-off boilers or heating plants shall not be permitted to enter a sewer at a temperature above one hundred and twenty degrees Fahrenheit.

12.09.050.5 Distance Of Other Pipes From Sewer

It shall be unlawful for any person to lay any gas or water pipe or other conduit vertically above a public sewer, in the trench in which such sewer has been laid, or within three feet horizontally from such sewer or from the trench in which it has been laid.

12.09.050.6 Construction Of Drain Under Council Regulations

It shall be unlawful for any person to construct any private drain connection with the public sewer, of any length except under such regulations and restrictions, as may be prescribed by the Council in each instance.

12.09.050.7 Destruction

It shall be unlawful for any person to destroy, deface, injure, or interfere with the operation of nay part or appurtenance of the sewer service. Persons found guilty of such destruction shall be deem guilty of a misdemeanor.

12.09.060 Inspections

12.09.060.1 Inspection
12.09.060.2 Work Done Without Inspection
12.09.060.3 Failure To Remedy Defective Work
12.09.060.4 Use Of Licensed Plumber's Name

12.09.060.1 Inspection

The following regarding sewer inspections:

1. The inspection of sewer connections between the main sewer and five (5') feet outside of the building line shall be under the direction of the Superintendent of Sewers. He shall be notified at least four hours in advance by the plumber that the connection is complete and ready for inspection. The entire length of the sewer connection, including to wye at the main sewer, if there be one, shall be fully exposed.
2. No backfilling shall be done until the inspection is made and the work is accepted. If any portion of the work is not done in accordance with this chapter and the instructions of the Superintendent of Sewers, or his inspector, it shall be rectified promptly.

12.09.060.2 Work Done Without Inspection

Work done without notice to inspect or without inspection shall be treated as defective work and shall be condemned and uncovered and re-laid, if necessary, to the grade given by the Sewer Superintendent and inspected by the proper officer upon the proper permits being taken out by a duly licensed plumber, the expense for the same to be borne by the property owner. The license of the plumber or drain layer of such defective work shall be revoked.

12.09.060.3 Failure To Remedy Defective Work

No permit shall be issued to any licensed plumber or contractor during the time that he shall fail to remedy any defective work, after he has been notified that he has been held responsible therefore under this chapter.

12.09.060.4 Use Of Licensed Plumber's Name

No licensed plumber shall allow his name to be used by any person or party, directly or indirectly, either for the purpose of obtaining a permit or to do any work under his license.

12.09.070 Pretreatment

12.09.070.1 Preamble
12.09.070.2 Purpose And Policy
12.09.070.3 Administration
12.09.070.4 Definitions
12.09.070.5 Prohibited Discharge Standards
12.09.070.6 Dilution
12.09.070.7 Pretreatment Facilities
12.09.070.8 Accidental Discharge/Slug Control Plans
12.09.070.9 Hauled Wastewater
12.09.070.10 Wastewater Analysis
12.09.070.11 Wastewater Discharge Permit Requirement
12.09.070.12 Wastewater Discharge Permitting: Existing Connections
12.09.070.13 Wastewater Discharge Permitting: New Connections
12.09.070.14 Wastewater Discharge Permit Application Contents
12.09.070.15 Application Signatories And Certification
12.09.070.16 Wastewater Discharge Permit Decisions
12.09.070.17 Wastewater Discharge Permit Duration
12.09.070.18 Wastewater Discharge Permit Contents
12.09.070.19 Wastewater Discharge Permit Appeals
12.09.070.20 Wastewater Discharge Permit Modification Or Revocation
12.09.070.21 Wastewater Discharge Permit Transfer
12.09.070.22 Wastewater Discharge Permit Reissuance
12.09.070.23 Right Of Entry: Inspection And Sampling
12.09.070.24 Confidential Information
12.09.070.25 Notification Of Violation
12.09.070.26 Consent Orders
12.09.070.27 Show Cause Hearing
12.09.070.28 Compliance Orders
12.09.070.29 Cease And Desist Orders
12.09.070.30 Administrative Fines
12.09.070.31 Emergency Suspensions
12.09.070.32 Termination Of Discharge
12.09.070.33 Injunctive Relief
12.09.070.34 Remedies Nonexclusive
12.09.070.35 Severability

12.09.070.1 Preamble

The following preamble for this Chapter:

1. The City Council of Perry City, a municipal corporation of the State of Utah, has determined that the health, welfare, and safety of the City require the adoption of a pretreatment ordinance to regulate the discharge of wastewater into the City's Sewer System.
2. The City is authorized under the Utah Municipal Code (Title 10 of the Utah Code Annotated) to construct and regulate sewage works, waterworks, and water treatment plants for the benefit of the residents of the City.

12.09.070.2 Purpose And Policy

The objectives of this Ordinance are:

1. To prevent the introduction of pollutants into the City's Sewer System that will interfere with its operation;
2. To prevent the introduction of pollutants into the City's Sewer System that will pass through the City's Sewer System, inadequately treated into receiving waters, or otherwise be incompatible with the City's Sewer System;
3. To protect both City's personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
4. To promote reuse and recycling of industrial wastewater and sludge from the City's Sewer System; and
5. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the City's Sewer System.

This pretreatment ordinance applies to all users of the City's Sewer System. This pretreatment ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this pretreatment ordinance.

12.09.070.3 Administration

Except as otherwise provided in this pretreatment ordinance, the Wastewater Facility Manager (also referred to as "Facility Manager") will administer and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Facility Manager may be delegated by the Facility Manager to other City personnel.

12.09.070.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, have the following meanings.

1. Authorized Representative of the User.
    a. If the user is a corporation: the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
    b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
    c. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
    d. The individuals described in paragraphs a through c above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the user, and the written authorization is submitted to the City.
2. City: Perry City, Utah.
3. Indirect Discharge or Discharge: The introduction of pollutants into the City's Sewer System from any nondomestic source.
4. Interference: A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the City's Sewer System, its treatment processes or operations or its sludge processes, use or disposal.
5. Medical Waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
6. Pass Through: A discharge which exits the City's Sewer System into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of this ordinance.
7. Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns.
8. pH: A measure of the acidity or alkalinity of a solution, expressed in standard units.
9. Pollutant: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, toxicity, or odor).
10. Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the City's Sewer System. This reduction or alteration may be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
11. City's Sewer System: Any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
12. Septic Tank Waste: Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
13. Sewage: Human excrement and gray water (household showers, dishwashing operations, etc.).
14. Slug Load or Slug: Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 12.09.070.5 of this Ordinance.
15. Storm Water: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
16. Suspended Solids: The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
17. User or Industrial User: A source of indirect discharge.
18. Wastewater: Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the City's Wastewater System.
19. Wastewater Treatment Plant or Treatment Plant: That portion of the City's Wastewater System which is designed to provide treatment of municipal sewage and industrial waste.

12.09.070.5 Prohibited Discharge Standards

The following prohibited discharge standards and definitions:

1. General Prohibition: No user may introduce or cause to be introduced into the City's Sewer System any pollutant or wastewater which causes pass through or interference. This general prohibition applies to all users of the City's Sewer System whether or not the user is subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
2. Specific Prohibitions: No user may introduce or cause to be introduced into the City's Sewer System the following pollutants, substances, or wastewater:
3. Pollutants which create a fire or explosive hazard in the City's Sewer System, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit using the test methods specified in 40 CFR 261.21;
4. Wastewater having a pH less than 6.0 or more than 9.0 or otherwise causing corrosive structural damage to the City's Sewer System or equipment;
5. Solid or viscous substances in amounts which may cause obstruction of the flow in the City's Sewer System resulting in interference, but in no case solids greater than 0.5 inches in any dimension;
6. Pollutants, including oxygen-demanding pollutants, released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other

pollutants, will cause interference with the City's Sewer System;
7. Wastewater having a temperature greater than 150 degrees Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit;
8. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that may cause interference or pass through;
9. Pollutants which may result in the presence of toxic gases, vapors, or fumes within the City's Sewer System in a quantity that may cause acute worker health and safety problems;
10. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
    a. Wastewater which imparts color which cannot be removed by the treatment process;
    b. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
11. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Facility Manager.
12. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
13. Medical wastes, except as specifically authorized by the Facility Manager in a wastewater discharge permit;
14. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
15. Detergents, surface-active agents, or other substances which may cause excessive foaming in the City's Sewer System; or
16. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L.
17. Pollutants, substances, or wastewater prohibited by this section may not be processed or stored in a manner that they could be discharged into the City's Sewer System.

12.09.070.6 Dilution

No user may ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by the Facility Manager.

12.09.070.7 Pretreatment Facilities

Each user must provide wastewater treatment as necessary to comply with this ordinance. Any facilities necessary for compliance will be provided, operated, and maintained at the user's sole expense. Detailed plans describing pretreatment facilities and operating procedures must be submitted to the Facility Manager for review, and must be acceptable to the Facility Manager before the facilities are constructed. The review of plans and operating procedures will in no way relieve the user from the responsibility of modifying a facility as necessary to produce a discharge acceptable to the City under the provisions of this ordinance.

12.09.070.8 Accidental Discharge/Slug Control Plans

At least once every two (2) years, Perry City will evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Facility Manager may require any user to develop, submit for approval, and implement an accidental discharge/slug control plan. Alternatively, the Facility Manager may develop a plan for any user. An accidental discharge/slug control plan must address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying appropriate officials of any accidental or slug discharge; and
4. Procedures to prevent adverse impact from any accidental or slug discharge, including but not limited to: inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

12.09.070.9 Hauled Wastewater

The following regarding hauled wastewater:

1. Septic tank waste may be introduced into the City's Sewer System only at times and locations designated by the City. The City may require septic tank waste haulers to obtain a wastewater discharge permit.
2. The City shall require haulers of industrial waste to obtain wastewater discharge permits. The City shall require generators of hauled industrial waste to obtain wastewater discharge permits. The City also may prohibit the disposal of hauled wastewater.
3. Wastewater haulers may discharge loads only at locations designated by the City. No load may be discharged without prior consent of the City. The City may collect samples of each hauled load to ensure compliance with this ordinance. The City may require the industrial waste hauler to provide a waste analysis of any load prior to discharge. Industrial waste haulers must provide a wastetracking form for every load. That form must include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form must identify the type of industry, known or suspected waste constituents, and whether any wastes are hazardous wastes.

12.09.070.10 Wastewater Analysis

When requested by the City, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Facility Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

12.09.070.11 Wastewater Discharge Permit Requirement

The following regarding wastewater discharge permit requirements:

1. No significant industrial user may discharge wastewater into the City's Sewer System without first obtaining a wastewater discharge permit from the City, except that a significant industrial user that has filed a timely application pursuant to Section 12.09.070.12 of this Ordinance may continue to discharge for the time period specified.
2. The City may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit will constitute a violation of this Ordinance.

12.09.070.12 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the City's Sewer System prior to the effective date of this ordinance and who wishes to continue discharging in the future, must, within sixty (60) days after the effective date of this ordinance date, apply to the Facility Manager for a wastewater discharge permit in accordance with Section 12.09.070.14 of this ordinance, and may not cause or allow discharges to the City's Sewer System to continue more than thirty (30) days after the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the City.

12.09.070.13 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the City's Sewer System must obtain a permit prior to the beginning or recommencing of discharge. An application for this wastewater discharge permit, in accordance with Section 12.09.070.14 of this ordinance, must be filed at least thirty (30) days before the date upon which any discharge will begin or recommence.

12.09.070.14 Wastewater Discharge Permit Application Contents

Each user required to obtain a wastewater discharge permit must submit a permit application. The City may require all users to submit as part of an application the following information:

1. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the City's Sewer System;
2. Number and type of employees, hours of operation, and proposed or actual hours of Operation;
3. Each product produced by type, amount, process or processes, and rate of production;
4. Type and amount of raw materials processed (average and maximum per day);
5. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
6. Time and duration of discharges; and
7. Any other information as may be deemed necessary by the Facility Manager to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

12.09.070.15 Application Signatories And Certification

Each wastewater discharge permit application and user report must be signed by an authorized representative of the user.

12.09.070.16 Wastewater Discharge Permit Decisions

The Facility Manager will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the City will determine whether or not to issue a wastewater discharge permit. The Facility Manager may deny any application for a wastewater discharge permit.

12.09.070.17 Wastewater Discharge Permit Duration

A wastewater discharge permit will be issued for a specified time period, at the City's discretion, but in no event will the permit be effective for more than five years from the effective date of the permit. Each wastewater discharge permit will indicate a specific date upon which it will expire.

12.09.070.18 Wastewater Discharge Permit Contents

A wastewater discharge permit may include such conditions as are deemed reasonably necessary by the City to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the City's Sewer System.

12.09.070.19 Wastewater Discharge Permit Appeals

The City will provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the City to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance. The following regarding this Section:

1. Failure to submit a timely petition for review will constitute a waiver of the administrative appeal.
2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
3. The effectiveness of the wastewater discharge permit will not be stayed pending the appeal.
4. If the City fails to act within sixty (60) days, a request for reconsideration will be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit are considered final administrative actions for purposes of judicial review.
5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the First Judicial District Court for Box Elder County, Utah.

12.09.070.20 Wastewater Discharge Permit Modification Or Revocation

The City may modify or revoke a wastewater discharge permit for good cause.

12.09.070.21 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the current permit holder gives at least sixty (60) days advance notice to the City and the City approves the wastewater discharge permit transfer. The notice to the City must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

12.09.070.22 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit must apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 12.09.070.14 of this ordinance, a minimum of ninety (90) days before the expiration of the user's existing wastewater discharge permit.

12.09.070.23 Right Of Entry: Inspection And Sampling

The City has the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit. Users must allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. The following is also included:

1. If a user has security measures in force which require proper identification and clearance before entry into its premises, the user must make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City will be permitted to enter without delay for the purposes of performing specific

responsibilities.

2. The City has the right to set up on the user's property, or require installation of, devices that are necessary to conduct sampling and metering of the user's operations.
3. The City may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment will be maintained at all times in a safe and proper operating condition by the user at its own expense.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled must be promptly removed by the user at the written or verbal request of the City and must not be replaced. The costs of clearing access will be born by the user.
5. Unreasonable delays in allowing the City access to the user's premises constitute a violation of this ordinance.

12.09.070.24 Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City's inspection and sampling activities, will be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes will not be made available for inspection by the general public.

12.09.070.25 Notification Of Violation

When the City finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may serve upon that user a written Notice of Violation. Within 20 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, must be submitted by the user to the City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section limits the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

12.09.070.26 Consent Orders

The City may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance.

12.09.070.27 Show Cause Hearing

The City may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or any other pretreatment requirement, to appear before the City and show cause why the proposed enforcement action should not be taken. Notice will be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting will be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days before the hearing. A show cause hearing is not be a bar against, or prerequisite for, taking any other action against the user.

12.09.070.28 Compliance Orders

When the City finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit any other pretreatment requirement, the City may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order does not relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order is not a bar against, or a prerequisite for, taking any other action against the user.

12.09.070.29 Cease And Desist Orders

When the City finds that a user has violated, or continues to violate, any provision of this ordinance or a wastewater discharge, the City may issue an order to the user directing it to cease and desist violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

12.09.070.30 Administrative Fines

The following regarding administrative fines:

1. Notwithstanding any other section of this ordinance, any user found to have violated any provision of this ordinance or a wastewater discharge permit may be fined up to one thousand ($1,000) dollars per day per violation.
2. Assessments may be added to the user's next scheduled sewer service charge and the City has other collection remedies as may be available for other service charges and fees.
3. Unpaid charges, fines, and penalties will, after sixty calendar days, be assessed an additional penalty of ten (10%) percent of the unpaid balance and interest will accrue thereafter at a rate of one (1%) percent per month. A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.
4. Users desiring to dispute any fines under this ordinance must file a written request for the City to reconsider the fine along with full payment of the fine amount within thirty days of being notified of the fine. Where a request has merit, the City will convene a hearing on the matter within fourteen days of receiving the request from the user. In the event the user's appeal is successful the payment with any accrued interest will be returned to the user.
5. Issuance of an administrative fine is not a prerequisite for taking any other action against the user.

12.09.070.31 Emergency Suspensions

The following regarding emergency suspensions:

1. The City may immediately suspend a user's discharge, after informal notice to the user, whenever suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the City's Sewer System, or which presents, or may present, an endangerment to the environment.
2. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user's failure to immediately comply voluntarily with the suspension order, the City may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the City's Sewer System, its receiving stream, or endangerment to any individuals. The City may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed.

3. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City prior to the date of any show cause or termination hearing.
4. Nothing in this section may be interpreted as requiring a hearing prior to any emergency suspension under this section.

12.09.070.32 Termination Of Discharge

Any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge; or
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

12.09.070.33 Injunctive Relief

When the City finds that a user has violated, or continues to violate, any provision of this ordinance or a wastewater discharge permit, the City may petition the First Judicial District Court for Box Elder County, Utah through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The City may also seek such other action as is appropriate for legal or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief is not a bar against, or a prerequisite for, taking any other action against a user.

12.09.070.34 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant user.

12.09.070.35 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions will not be effected and will continue in full force and effect.

12.09.080 Backflow And Cross-connections

12.09.080.1 Purpose
12.09.080.2 Definitions
12.09.080.3 City Responsibility
12.09.080.4 Consumer's Responsibility
12.09.080.5 Plumbing Official Or Building Inspector Responsibility
12.09.080.6 Certified Backflow Assembly Technicians, Surveyors Or Repair Person's Responsibilities
12.09.080.7 Inspection And Maintenance Requirements
12.09.080.8 Violation: Discontinuance Of Service

12.09.080.1 Purpose

The following is the purpose of this Chapter:

1. To protect the safe drinking water supply of the city from the possibility of contamination or pollution by requiring compliance with state and local plumbing codes, health regulations, OSHA and other applicable industry standards for water system safety within the consumer's internal distribution system(s) or private water system(s). Compliance with these minimum safety codes will be considered reasonable vigilance for prevention of contaminants or pollutants which could backflow into the public drinking water systems; and
2. To promote reasonable elimination or control of cross-connections in the plumbing fixtures and industrial piping system(s) of the consumer, as required by state and local plumbing codes, health regulations, OSHA and other applicable industry standards to assure water system safety; and
3. To provide for the administration of a continuing program of backflow prevention which will systematically and effectively prevent the contamination or pollution of all drinking water systems.

12.09.080.2 Definitions

The following definitions as used in this Chapter:

1. Appropriate Time Suspense: An "appropriate time suspense" will be determined with the degree of hazard and time set by the water surveyor or building inspector.
2. Approved Backflow Assembly: This term means a backflow assembly that has been accepted by the Utah Department of Health, Bureau of Drinking Water/Sanitation, as meeting an applicable specification or as suitable for the proposed use.
3. Auxiliary Water Supply: Any water supply on or available to the premises other than the purveyor's public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s) such as well, spring, river, stream, harbor, etc., or "used waters" or industrial fluids." These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have authority for sanitary control.
4. Backflow: The reversal of the normal flow of water caused by either back-pressure or backsiphonage.
5. Backflow Prevention Assembly: An assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained with the Utah Plumbing Code, Chapter 10, (Appendix J), and the Cross-Connection Control Program for Utah.
6. Back-pressure: The flow of water or other liquids, mixtures, or substances under pressure into the feeding distribution pipes of a potable water supply system for any source(s) other than the intended source.
7. Back-siphonage: The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply system from any source(s) other than the intended source, caused by the reduction of pressure in the potable water supply system.
8. Contamination: Any degradation of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials.
9. 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 in contact with potable water inside a distribution system. This would include any temporary connections, such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multiport tubes or other plumbing arrangements.
10. Cross-connection Containment: The installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or, it means the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection (isolation).

11. Cross-Connection, Controlled: “Controlled cross-connection” means a connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.
12. Water Surveyor: The person designated to be in charge of the water department of the city, is invested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this chapter.

12.09.080.3 City Responsibility

The following regarding the City’s responsibility and this Chapter:

1. The City shall be responsible for the protection of the drinking water distribution system from foreseeable conditions leading to the possible contamination or pollution of the drinking water system due to the backflow of contaminants or pollutants into the drinking water supply.
2. Drinking water system surveys/inspections of the consumer’s water distribution system(s) shall be conducted or caused to be conducted by individuals deemed qualified by and representing the city. Surveys shall be conducted as per this Chapter according to degree of hazard records shall indicate compliance with the aforementioned health and safety standards. All such records shall be maintained by the City.
3. The City shall notify in writing whether in the regular monthly billing or by individual notice, all consumers of the need for the periodic system survey to insure compliance with existing applicable minimum health and safety standards.
4. Selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey.

12.09.080.4 Consumer’s Responsibility

The following regarding the consumer’s responsibility:

1. To comply with this chapter as a term and condition of supply and consumer’s acceptance of service is admittance of his/her awareness.
2. It shall be the responsibility of the consumer to purchase, install, test and maintain any backflow prevention device/assembly outside of the meter box on the owner’s property that is required to comply with this chapter.

12.09.080.5 Plumbing Official Or Building Inspector Responsibility

The following regarding the plumbing official’s and/or building inspector’s responsibilities:

1. The plumbing official’s or building inspector’s responsibility to enforce the applicable sections of the plumbing code begins at the point of service (downstream or consumer side of the meter) and continues throughout the developed length of the consumer’s water system.
2. The plumbing official or building inspector will review all plans and/or make site inspections if necessary to ensure that unprotected cross-connections are not an integral part of the consumer’s water system. If excavation must be done in order to verify a cross-connection, this cost will be passed on to the consumer. If a cross-connection cannot be eliminated, it must be protected by the installation of an air gap or an approved backflow prevention device/assembly, in accordance with the Utah Plumbing Code.
3. Water vacating the drinking water supply must do so via an approved air gap or approved mechanical backflow prevention assembly, properly installed and in accordance with the Utah Plumbing Code.

12.09.080.6 Certified Backflow Assembly Technicians, Surveyors Or Repair Person’s Responsibilities

The following regarding the responsibilities of certified backflow assembly technicians, surveyors, and/or repair persons:

1. Whether employed by the consumer or a utility to survey, test, repair, or maintain backflow prevention assemblies the state-certified backflow technicians, surveyors, or repair persons will have the following responsibilities:
    a. Ensuring acceptable testing equipment and procedures are used for testing.
    b. Repairing or overhauling backflow prevention assemblies. The City is not responsible for the accuracy or validity of the testing or equipment used.
    c. Make reports of such testing and/or repair to the consumer, water purveyor, and the Bureau of Drinking Water/Sanitation on forms approved for such use by the Bureau of Drinking Water/Sanitation, and within the time frames prescribed by the Bureau of Drinking Water/Sanitation.
    d. The report shall include the list of materials or replacement parts used.
    e. Insuring replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired.
    f. Not changing the design, material or operational characteristics of the assembly during testing, repair or maintenance.
    g. A certified technician shall perform all tests of the mechanical devices/assemblies and be responsible for the competence and accuracy of all tests and reports.
    h. Insuring his state license is current, the testing equipment being used is acceptable to the state, and is in proper operating condition.
    i. Be equipped with, and be competent to use, all necessary tools, gauges, and other equipment necessary to properly test, and maintain backflow prevention assemblies.
    j. The certified technician conducting the test must tag each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and high hazard air gap, showing the serial number, date tested and by whom. The technician’s license number must also be on this tag.
2. In the case of a consumer requiring a commercially available technician, any certified technician is authorized to make the test and report the results of that test to the consumer, water purveyor and the Bureau of Drinking Water/Sanitation. If such a commercially tested assembly is in need of repair, the Plumber’s Law of Utah, Section 58-A-2-5-(3), requires a licensed plumber make the actual repair.

12.09.080.7 Inspection And Maintenance Requirements

The following regarding inspection and maintenance requirements:

1. No water service connection to any premises shall be installed or maintained by the public water purveyor unless the water supply is protected as required by state laws, regulations, codes, and this chapter. Service of water to a consumer found to be in violation of this chapter shall be discontinued by the water purveyor after due process of written notification of violation and an appropriate time suspense for voluntary compliance, if:
    a. A backflow prevention assembly required by this chapter for control of backflow and crossconnections is not installed, tested and maintained; or
    b. If it is found that a backflow prevention assembly has been removed or by-passed; or
    c. If an unprotected cross-connection as determined by the water surveyor, plumbing official or building inspector exists on the premises; or
    d. If the periodic system survey has not been conducted.
    e. Service will not be restored until such conditions or defects are corrected.
2. The customer’s system(s) shall be open for inspection at all reasonable times to authorized representatives of the water purveyor to determine whether cross-connections or other structural or sanitary hazards, including violation of this chapter exist and to audit the results of the required survey (Section 12.09.080.3(a)).
3. Whenever the public water purveyor deems a service connection’s water usage contributes a sufficient hazard to the water supply, an approved backflow prevention assembly shall be installed on the service line of the identified consumer’s water system, at or near the property line, or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line.

4. The type of protective assembly required under subsection 3 of this section shall depend upon the degree of hazard which exists at the point of cross-connection (whether direct or indirect), applicable to local and state requirements or resulting from the required survey.
5. All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under subsection 6 of this section, be excluded from the requirements of these rules so long as the water purveyor is assured that they will satisfactorily protect the public water system. Whenever the existing assembly is moved from the present location or, requires more than minimum maintenance or, when the water purveyor finds that the operation or maintenance of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the local and state requirements.
6. It shall be the responsibility of the consumer at any premises where backflow prevention high hazard assemblies are installed to have certified surveys/inspections, and operational tests made at least once per year at the consumer's expense. In those instances where the public water purveyor deems the hazard to be great, he may require certified surveys/inspections and tests at a more frequent interval. It shall be the duty of the public water purveyor to see that these tests are made according to the standards set forth by the State Department of Health, Bureau of Drinking Water/Sanitation.
7. All backflow prevention assemblies shall be tested within ten (10) working days of initial installation.
8. No backflow prevention assembly shall be installed so as to create a safety hazard. Example: installed over an electrical panel, steam pipes, boilers, pits, or above ceiling level.
9. The City will purchase and install backflow prevention assemblies for residential users. The cost will be billed on the user's regular monthly billing and may be paid for over a ninety (90) day period. The cost of the device will be as billed to the city. The cost of installation is to be set by resolution and can be changed from time to time as the Council deems necessary.
10. If meter boxes or other changes need to be made in order to install backflow devices, the entire cost of materials will be passed on to consumers.

12.09.080.8 Violation: Discontinuance Of Service

If violations of this Chapter exist or if there has not been any corrective action taken by the consumer within ten (10) days of the written notification of deficiencies noted within the survey, then the public water purveyor shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition(s) in conformance with the state and city statutes relating to plumbing, safe drinking water supplies and the regulations adopted pursuant thereto.

12.09.090 Fees, Rates, And Penalties

12.09.090.1 Sewer And Water Bills
12.09.090.2 Application For Sewer Service And Monthly Fees And Charges
12.09.090.3 Property Outside City Limits
12.09.090.4 Connection Fee: Discontinuance Of Water Service To NonConnected Property
12.09.090.5 Rates
12.09.090.6 Service To Commercial, Industrial And Other Users
12.09.090.7 Special Rates
12.09.090.8 Board Of Equalization, Rates, And Rebates
12.09.090.9 Penalty

12.09.090.1 Sewer And Water Bills

All bills for sewer service shall be rendered monthly at established rates on the same bill with water and/or other city utilities bill. Each bill shall show separately the amount of the sewer service charges but the total thereof shall be considered one charge for the combined use of water, sewer, and other services of the City. The portion of the bill rendered for water service cannot be paid separately from the other portions. All charges for sewer service furnished by the city shall be billed to the user following each one month period of service and payment, therefore, shall be immediately due and payable with late fees, interest, and/or termination of service to be assessed (if required), as per Perry Municipal Code, Section 12.07.020.5, Service, Billings Payment, and Delinquency. Re-establishment of service may be withheld until all delinquent charges due from such party have been paid in full, together with a service charge for reconnection. The service charge for reconnection shall be as set forth in Section 12.07.020 or as determined by resolution of the City Council and may be amended from time to time by the Council.

12.09.090.2 Application For Sewer Service And Monthly Fees And Charges

The Application form, initial deposit, and monthly fees and charges for sewer and other utility services are set forth in Perry Municipal Code, Section 12.07.020, Applications, Fees, and Charges, especially Section 12.07.020.1 and are incorporated herein by reference.

12.09.090.3 Property Outside City Limits

The proper officers of the city are hereby authorized to make and enter into such contracts as may be necessary, convenient or proper with respect to the carriage and treatment of sewage for improved property outside the territorial limits of the city and with respect to the payment of property charges for such service, including, without limiting the generality of the foregoing, connection charges justly related to but not less than the charges hereinabove fixed; provided, that no such contract shall impair the ability of the city to carry and treat properly the sanitary sewage furnished within the territorial limits of the city.

12.09.090.4 Connection Fee: Discontinuance Of Water Service To NonConnected Property

The following regarding connection fees and the discontinuance of water services to non-connected properties:

1. The charges for the connection of any property to the municipal sewer system from the effective date of this ordinance shall be (For current fees, see Chapter 4.09, Fee Schedule) and shall remain the same until changed by resolution of the Perry City Council duly passed and adopted. The above said charges shall be paid to the city prior to the issuance of a permit for or the beginning of any excavation or other work to connect to city sewer lines. The charge for connecting all larger service lines shall be determined from time to time by the City Council by resolution duly passed and adopted.
2. In addition to the service connection fee hereinabove set forth, the contractor or property owner shall pay all the actual expenses of installing the service line from the property to the main sewer line, connecting to the city sewer line subject to the city's inspection and approval, and all other costs including the repairing and restoring of the street in a manner satisfactory to the city.
3. Where property on existing city streets is not served by a sewer line in front of or adjacent to such property and the owner desires a sewer service connection, the abutting property owner, in addition to paying the service connection fee, will be required to run the line at his own expense to the main sewer line, to make the connection at his own expense, subject to the City's inspection and approval, and to restore and repair the street in a manner satisfactory to the city.
4. If any abutting improved property on which is located a residence or business, is not connected to the city sewer lines after the effective date of this ordinance, provided the sewage facilities are available in sewage lines passing in front of or adjacent to such property, the city is to discontinue service of water to such property, and shall not serve such property with water until the connection is made and the connection charge paid, or arranged for, and further in the event any owner of improved property fails or refuses to make such connection prior to such date, such failure or refusal is hereby declared to be a misdemeanor and day that such failure or refusal continues is hereby declared to be a separate offense and punishable as such.
5. All provisions contained in prior ordinances, in conflict with the provisions of this ordinance, are to the extent of such conflicts hereby repealed.

12.09.090.5 Rates

The following schedule of rates which may be revised from time to time as determined by the City Council of Perry City to be necessary or desirable, which rates are hereby found and determined to be just, reasonable and necessary charges for the use of the municipal sanitary sewage system for service rendered by or through such system within the territorial limits of the City is hereby established.

1. SEWAGE RATES For single dwelling units and Other structures/uses	MONTHLY SERVICE CHARGE For current fees, see Perry Municipal Code, Chapter 4.09, Fee Schedule

12.09.090.6 Service To Commercial, Industrial And Other Users

The basic rates for sewage service to all other property and premises not covered by the provisions above shall be based on the amount of water delivered by the Perry City Waterworks Department to the premises served and shall be made in accordance with the following rate schedule. By Resolution, the City Council may, from time to time, change the monthly service charges for any one or more of the above named categories as it may see fit. The rates hereinabove provided for shall be added to the water rates now fixed and determined by Ordinance or Resolution and the total thereof shall be considered as one charge for the combined use of water and the services of the sewage system. All structures that can be served by the sewer when the same is completed and ready for use shall be charged the above rates per month whether or not such structures are connected to the sewer and water service shall be discontinued for nonpayment as herein provided.

12.09.090.7 Special Rates

The City Council may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper for users of the sewer service discharging wastes of unusual characteristics or making use thereof under exceptional circumstances.

12.09.090.8 Board Of Equalization, Rates, And Rebates

The City Council is hereby constituted a board of equalization of sewer rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal, or unjust.

12.09.090.9 Penalty

Persons found guilty of violations of any section of this chapter or ordinance shall be found guilty of a misdemeanor.

12.11 Garbage Collection

12.11.010 Purpose
12.11.020 Billing For Nonpayment
12.11.030 Discontinuance And Reestablishment Of Service
12.11.040 Regular Rates
12.11.050 Special Rates
12.11.060 Board Of Equalization: Corrections Of Rates In Special Circumstances

12.11.010 Purpose

The City adopts the Perry City garbage collection fee ordinance which regulates when and how garbage fees may and can be collected.

12.11.020 Billing For Nonpayment

All bills for garbage service shall be rendered monthly at established rates on the same bill with water, sewer and/or other City utilities. Each bill shall show separately the amount of the garbage service charges but the total thereof shall be considered one charge for the combined use of water, sewer, garbage and other services of the City. The portion of the bill rendered for garbage service cannot be paid separately from the other portions. All charges for garbage service contracted by the City shall be billed to the user on any day of the month following a one-month period of service and payment, therefore, shall be due and payable twenty (20) days after such date of billing and if not paid within sixty (60) days from date of billing, the garbage service may be discontinued with notice as follows:

1. The City Recorder may and is authorized and empowered to institute collection proceedings by all means available to the City, including suit in a court of proper jurisdiction pursuant to which judgment may be sought and obtained to collect all delinquencies and fees that may be due or become due and to seek judgment requiring the defendant to pay all costs of collection.
2. An overdue notice will be sent on or about the twentieth day of each month to those accounts sixty (60) days and over. A notice of shut-off letter will be sent to accounts ninety (90) days and over giving them seven (7) days to respond with payment or written arrangements for payment. If there is a question on the bill, the utility user must request a hearing within the seven-day period. At the end of the seven days, a red tag will be hand delivered to the residence giving an additional twenty-four (24) hours before disconnection.
3. The City Recorder or the Water Superintendent may notify the City Council of the ninety (90) days and over delinquency account and the City Council shall have authority to direct that all services to the premises involved be shut off until payment of the charges have been paid provided proper notice has been made.
4. Interest will be charged on accounts of thirty (30) days and over at the rate of one and one half percent. Fees may be changed by resolution of the City Council.
5. Before water service to said premises shall again be provided all water, sewer and garbage charges due must have been paid to the City office, together with such extra charges for turning on the water as the City Council may have established by resolution. At the date of the ordinance codified in this chapter fifty dollars ($50.00) is the fee adopted.

12.11.030 Discontinuance And Reestablishment Of Service

The City reserves the right to discontinue garbage (and/or other public utility) services on delinquent billing for any of the services billed on the monthly statement (including garbage) if proper notice has been given. Reestablishment of service may be withheld until all delinquent charges due from such part have been paid in full, together with a service charge for reconnection, which shall be determined by resolution of the City Council and may be amended from time to time by the Council.

12.11.040 Regular Rates

There shall be adopted (by resolution) a schedule of rates and fees for garbage collection which may be revised from time to time (by resolution) as determined by the City Council to be necessary or desirable, which rates are found and determined to be just, reasonable and necessary charges for the garbage collection within the territorial limits of the City. Said fee schedule shall be codified as part of Chapter 4.09.

12.11.050 Special Rates

The City Council may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper for users of garbage collection under special or exceptional circumstances.

12.11.060 Board Of Equalization: Corrections Of Rates In Special Circumstances

The City Council is constituted as a board of equalization of garbage collection rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal or unjust.

13 Comprehensive Planning

13.01 General Plan
13.02 Moderate Income Housing Plan
13.03 Parks, Trails, And Critical Lands Master Plan
13.05 Storm Drain Capital Facilities Plan
13.07 Transportation Master Plan
13.09 Culinary Water Capital Facilities Plan
13.11 Wastewater Capital Facilities Plan
13.13 Emergency Management Plan
13.15 Public Safety Capital Facilities Plan

13.01 General Plan

View Perry City's General Plan by selecting the link below.

Adopted by Ord. General Plan on 10/27/2005

13.02 Moderate Income Housing Plan

13.02.010 General Provisions
13.02.020 Moderate Income Housing Plan 2010-2011 Biannual Update Report

13.02.010 General Provisions

1. Purpose.
    a. The Purpose of this Title is to provide an implementing mechanism for portions of the Moderate Income Housing Plan, as updated by the City, and utilize certain options allowed in Utah Code Annotated 10-9-307, as amended.
2. Definitions.
    a. "City" means the incorporated municipality of Perry City, Utah, and all annexations made thereto.
    b. "Moderate income housing" means 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.
    c. "Plan" or "moderate income housing plan" or "MIHP" means a written document, including any biannual report, adopted by a municipal legislative body as provided in Utah Code §10-9a-408.
    d. "Resident" for the purposes limited to this Title means any person who has lived in Perry City at least two (2) of the last (5) years, or the immediate son, daughter, or grandchild of such person.
3. Incorporation as part of general plan.
    a. This Title (MIHP) is hereby adopted by the legislative body and is incorporated herein as part of the General Plan of the City.
4. Biannual reports.
    a. After adoption of the initial MIHP, the legislative body shall prepare shall biennially review the plan implementation prepare a report as provided in Utah Code §10-9a-408, as amended.
5. Moderate income housing plan findings.
    a. The legislative body makes the following finding:
        i. That the City has an interest in providing for moderate income housing for its residents.
        ii. That the City may provide economic incentives in order to help provide home ownership for moderate income families.
        iii. That the City has an interest in supporting residents who want to live near their family members or relatives in the City.
        iv. That the City has an interest in supporting residents who seek to maintain social and organizational connections within the city.
        v. That the moderate income housing plan can be implemented without jeopardizing open space and agriculture operations.
        vi. That the City should avoid locating moderate income housing in areas that may be geological hazards or identified as sensitive lands.
6. Moderate income housing program.
    a. Staff is hereby authorized to develop a moderate income housing program that includes:
        i. Down payment assistance utilizing federal funds as administered by the Bear River Association of Governments or other housing authority recognized by the legislative body for moderate income households.
        ii. Provide information to moderate income persons on federal or state tax incentives for moderate income households.
        iii. To cooperate and coordinate moderate income housing programs offered by the Utah Housing Finance Agency or similar agency recognized by the legislative body.
        iv. To create and maintain programs that integrate moderate income development as part of the community, including, but not limited to:
            (1) Requiring developments provide adequate parks and open space areas.
            (2) Providing adequate utilities, infrastructure, and conservation measures.
            (3) Limiting development around geological hazards and sensitive lands.
            (4) Utilize programs that reduce social stigmatism toward moderate income housing.
            (5) Coordinate with local housing authorities, other governments, and non-profit agencies on common policies and objectives.
            (6) Facilitate housing rehabilitation programs offered by governmental agencies or non-profit organizations.

13.02.020 Moderate Income Housing Plan 2010-2011 Biannual Update Report

1. Introduction.
    a. This Moderate Income Housing Plan and 2011 Biannual Report is prepared in compliance with Utah Code Annotated §10-9a-408. This state statute provides that the City Council, acting in its capacity as the legislative body of the Perry City, Utah (City), is to make a Biannual Report (Report) on its Moderate Income Housing Plan (MIHP). On September 26, 2002, the City adopted the "Affordable Housing Component" which is the equivalent of a Moderate Income Housing Plan (MIHP) as an element of the General Plan. This Report is an updates to that MIHP.
    b. The MIHP is required as an element of the General Plan as provided in Utah Code Annotated §10-9a-403. The purpose of the MIHP is to address the need for the development of additional moderate income housing within the City, and to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur. Utah Code Annotated §10-9a-103 defines "moderate income housing" 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 for households of the same size in the county in which the city is located."
    c. The biannual review of the MIHP provides the opportunity to give this Report on the implementation of the MIHP along with the City's findings made during the review. The primary objective of the City's MIHP is to promote home-ownership opportunities for moderate income households. It also seeks to allow households of moderate income to benefit from and fully participate in all aspects of neighborhood and community life. To accomplish this, the MIHP makes projections of housing needs and factors that may affect housing for households of moderate income. This Report is made based upon the requirements of state law set forth in Utah Code Annotated §10-9a-408.
2. Biannual Reporting Requirement.
    a. According to Utah Code Annotated §10-9a-408, the legislative body shall biannually update its Moderate Income Housing Plan, as follows:
        i. Review the moderate income housing plan element of its general plan and its implementation; and,
        ii. Prepare a report setting forth the findings of the review.
    b. According to state statute, this Report addresses the following:

i. Efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing.
ii. Actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing.
iii. Progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing.
iv. Efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities.

As required by state law, a copy of this Report is also sent by the City to the Utah Department of Community and Culture. Also, as provided by law, a copy of this Report is to be sent to the Bear River Association of Governments.

3. Community Data.

a. Geography.

i. Perry City is located in Box Elder County, Utah, between Willard City to the south and Brigham City to the north. According to the United States Census Bureau, the City has a total area of 7.7 square miles of land.

b. Demographics.

i. Perry City was incorporated as a municipality in the state of Utah in 1911. According to the 2009 population data there is approximately 3,950 people in the City. 2,007 males and 1,943 females live in the City. The median age in the City is 30.1 years, which is higher than the state median of 27.1 years of age.
ii. The average household size in the City is estimated to be 3.2 people per household. This equates to approximately 1,234 households residing in the City. 86.2% of the households in the City are families. The population density is around 500 per square mile. The cost of living index for the City is 87.9 which is less than the U.S. average.
iii. The racial makeup of the City is 94.8% White, 3.7% Hispanic, and 1.5% from other races.
iv. For the population over 25 years of age, 93.9% have received a highschool education or higher. 26.9% of the population has received a higher education. 70.9% of the population is currently married.
v. The median household income in the City is based on 2008 data that indicates the median household income to be $65,000.00 (rounded to nearest whole number) which is higher than the state median income of $56,633.00. Only 2.2% of the City's residents live at or below the poverty level which is less than the state average of 9.4%.

c. Moderate Income Housing Profile.

i. Moderate income housing is defined by state law 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 for households of the same size in the county in which the city is located. Perry City is located within the Brigham City, Utah, Micropolitan Statistical Area (MSA) as defined by the U.S. Department of Housing and Urban Development (HUD).
ii. HUD tracks the median income for the City's MSA. According to HUD, the 2008 data suggests that the median household income for the City's MSA is approximately $65,000.00, per annum. A moderate income household earns 80% of the median income, or, in this case $52,000.00, per annum.

4. Biannual Report Findings.

a. Efforts made by the City to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing.

i. The City has grown much since the 2000 Census. In the last ten years, the City expended many resources on community planning and land use management. The City implemented a number of land use policies to facilitate development that supports families who want to live in the City. Efforts were made in conjunction with the Utah Department of Transportation to improve Highway 89, the main transportation corridor in the City. In-fill development along this corridor relating to multi-family uses has also been promoted by the City.
ii. The City provides sewer service to its residents. This sewer treatment facilities provided by the City have become over-capacity drawing the attention of state regulators. The City had to make costly sewer upgrades and install a new treatment facility as great expense to the taxpayer. Burdensome state and federal regulations have plagued the ability of the City to keep sewer treatment costs affordable for low and moderate income families. Aggressive population growth and development over the past decade has also pushed municipal services to capacity in many instances.
iii. State regulators have limited further use of the City's sewer lagoon system that has historically been used for sewer collection and disposal. Under the leadership of Mayor Jerry Nelson, and the City Council, the City has been able to overcome this great challenge resulting from over development by constructing a new sewer treatment facility in conjunction with Willard City. This new sewer facility will provide more capacity and reduce, mitigate, or eliminate local regulatory barriers to future moderate income housing. Unfortunately, the recession continues to take a serious toll on the City. Many residents of Box Elder County where the City is located were employees by ATK Company, a supplier of aerospace and defense products. This employer, along with many other companies within the area have laid-off numerous employees across the region. The City's revenues that had traditionally be supported by general taxes and development have declined during the recession requiring the City to make lay-offs of municipal employees or leave positions unfilled.
iv. The City's should continue its efforts in completing the new sewer treatments facility and provide adequate operation of the same to ensure that housing for future moderate income households is not limited by state regulatory barriers. The City desires to implement an ordinance in conjunction with this MIHP. The City should also continue its current land use policies in an efforts to maintain the current cost of living index and quality of life. Some areas that the City may consider for further land use policies are in limiting development on sensitive lands. Sensitive lands include the flood plain, geologically unstable areas, and areas incompatible with development based upon a known or unknown hazards. Placement of moderate income household in sensitive land areas can be burdensome on a city, the taxpayer, and create unnecessary financial problems for a family. Also, the City seeks to avoid potential zoning discrimination that may arise by housing moderate and low income families in or near sensitive land areas.
v. It should also be noted that there are many more elements that involve the housing market beyond the City. These elements include predatory lending, sub-prime mortgage default, inflation, interest rates, unemployment, and similar elements. These elements may negatively affect moderate income housing opportunities notwithstanding all the efforts made by the City to encourage the same. The City finds that moderate income housing barriers from predatory lending practices and sub-prime loans are more significant than regulatory barriers. The City is only a small part of a greater whole in the housing market.

b. Actions taken by the City to encourage preservation of existing moderate income housing and development of new moderate income housing.

i. In order to adequately review the MIHP and make this Report, the City reviews the existing owner-occupied housing stock, and determines the capability of a moderate income household to qualify for a mortgage for a home. Taking that amount and comparing it to the valuation breakdown of the total housing stock in the City determines the number of homes that would be available to a moderate income household. According to Box Elder County, there are an estimated total of 1,331 dwelling units in the City.
ii. The Box Elder County Assessor's Office projects the value of these 1,331 dwelling units within the specified price ranges as set forth in the following table:

# of Units	Price Range	# of Units	Price Range
106	Up to $75,000	103	$200,001 to $225,000
174	$75,001 to $100,000	85	$225,001 to $250,000

199	$100,001 to $125,000	52	$250,001 to $275,000
193	$125,001 to $150,000	33	$275,001 to $300,000
188	$150,001 to $175,000	40	$300,001 to $350,000
136	$175,001 to $200,000	22	$350,001 and more

Total Dwelling Units: 1,331

iii. To determine the stock of moderate income housing, this Report determines the estimated number of houses in the city. Next, the this Report determines the amount that a moderate income household would likely qualify for a mortgage. This Report will only use data from a conventional 30-year mortgage with the standard 10% down payment. This Report will not address unconventional financing, interest only loans, ARMs, and other similar controversial financing that has contributed to the recession.

iv. According to Fall 2010 data provided by America First Credit Union, one of the large lenders in the area, a moderate household would qualify to purchase a house valued at or below $219,742. In the event that a moderate income household can provide a 35% down payment (such as using proceeds from the sale of an existing home) the moderate income household could borrow for a home valued at $336,695. For the purposes of this Report, the percent of moderate income housing available in the City is based upon borrowing for homes valued approximately at or below $219,742.

v. There are approximately 1,331 dwelling units in the City. Of these dwelling units, 1,047 an estimated are within the price range of a moderate income household. This represents 78% of the total housing stock in Perry City being available to a moderate income household

vi. Perry City estimates the number of rental units in the City at 40 units. This represents .03% of the housing stock. No data is available on the average rental costs in the City beyond census data.

c. Progress made within the City to provide moderate income housing, as measured by permits issued for new units of moderate income housing.

i. In the last two years there have been 14 new owner-occupied dwelling unit constructed. Of the 14 dwelling units constructed within the last two years, 5 were within the price range of a moderate income household. This represents 36% of the new construction over the past two years as within the price range of a moderate income household.

d. Efforts made by the City to coordinate moderate income housing plans and actions with neighboring municipalities.

i. The City provides a copy of this Report to adjoining cities in an effort to coordinate the MIHP with neighboring municipalities. The City specifically consulted with other municipalities in preparing this Report. The City is willing to discuss this Report and assist other cities in addressing moderate income housing issues.

ii. A copy of this Report is also made available to the Department of Community and Culture and the WFRC, the association of governments in which the City is located, at the following address:

Utah Department of Community and Culture
324 South State Street, Suite 500
Salt Lake City, UT 84111

Bear River Association of Governments
Perry Office
2535 S. Highway 89
Perry, Utah 84302

5. Conclusion.

a. The current median household income for the City is $65,000.00, per annum, making the current moderate household income $52,000.00 (80% of median income). The City has 1,331 owner-occupied dwelling units, and 40 rental units. This Report concludes that 78% the owner-occupied dwelling units qualify as housing within the range of a moderate income household. The City finds that its current efforts and policies are preserving the moderate income housing stock. Regarding new housing within the last two years, 14 owner-occupied units have been constructed and 36% of these units are within the range of a moderate income household. Additional moderate income housing units are planned for the future, but are also limited by construction activity in relation to the state of the economy.

b. The City Council reviewed its MIHP policies and made its findings in this Report on issues relating to the reduction, mitigation, or elimination of barriers to moderate income households. The City coordinates its moderate income housing planning with other municipalities and forwards this Report to the appropriate agencies.

c. The City should continue to evaluate trends and development in making its Report on future moderate income housing needs.

6. Appendices (Supporting Documentation).

a. SOCDS Census Data.
b. City Data.
c. America First Lending Information.

13.03 Parks, Trails, And Critical Lands Master Plan

13.03.010 Introduction
13.03.020 Community Character
13.03.030 Definitions And Types Of Service
13.03.040 Definitions And Standard Guidelines For Park, Trail, And Critical Land Types
13.03.050 Critical Land Definition And Types
13.03.060 Needs Analysis

13.03.010 Introduction

1. Plan Purpose.

   The following regarding the purpose of this Ordinance:

   a. The Perry City Parks, Trails, and Critical Lands Master Plan stems from the community's desire to enjoy enhanced outdoor recreational opportunities. The plan and maps are intended to provide a proactive "road map" which will make the use of parks, trails, and critical lands an integral part of daily life in Perry. Parks and trails provide recreational opportunities, revitalize neighborhoods, build healthy communities, encourage economic development, and create a sense of place for citizens to meet. Preservation of the critical lands helps ensure the natural environment and habitats are protected against development.
   b. A Parks, Trails, and Open Space Committee met September – December of 2006 to plan and prepare this Master Plan. The committee consisted of city officials, staff, and a few residents. Four workshops were held to discuss, map, and plan the needs and desires for the future of the community.
   c. Like many communities throughout the U.S., Perry City desires more recreational opportunities, open space, and a preservation of important environmental habitats. The residents also have a strong desire for community beautification improvements and outdoor learning opportunities.
   d. With the revision of Perry City's General Plan in 2004, the citizens' committee expressed a desire to seek development of "public amenities" that enhance the quality of life for its residents. These could include neighborhood or outdoor facilities to promote recreation, education, and other community activities. The following also regarding community facilities for Perry City:

      i. Community facilities could include a recreation center or a sports complex.
      ii. Perry City seeks to provide trail linkages to public open space areas and regional trails.
      iii. The City is considering street tree programs to improve neighborhood aesthetics.
      d. Perry City is considering the process to develop a local cemetery.

   e. They were especially concerned that new parks and open spaces keep pace with growth and development of these facilities provides adequate recreational amenities as well as trails for recreation and commuting purposes.

2. Intent.

   The Perry City Parks, Trails, and Critical Lands Master Plan has been prepared to:

   a. Give direction and offer a framework to guide future planning, design, and implementation decisions;
   b. Establish goals, policies, and standards which provide direction in future development of parks, trails, recreational facilities, and open space preservation;
   c. Determine types of service standards and whether they are project improvements or system improvements;
   d. Introduce standards that will serve as a basis for calculation and assessment of parks and recreation impact fees;
   e. Give Perry City the choice to accept or reject park land dedications offered by developers as a credit against impact fees based on how the project contributes to the level of service and overall park system and whether the improvement relates to the goals, policies, and standards set by the Master Plan;
   f. Additionally, this Plan is intended to provide a foundation for developing Perry City's Capital Improvements Plan and a Parks and Trails Impact-Fee program. It is designed to be an appendix of and have a strong working relationship with the Perry City General Plan.

3. Mission Statements.

   The following are the mission statements for the community and the Parks and Trails Master Plan Vision:

   a. Community Mission Statement: "Build upon the rich heritage of our community as a great place to live, and provide services, business opportunities and technology that improve the lives of our residents."
   b. Parks and Trails Master Plan Vision Statement:"Develop a park and trail system that offers access to outdoor recreation, preserves open space and environmental habitats, allows for family recreational activities, and develops public amenities that enhance the quality of life and encourages interaction of its citizens."

Adopted by Ord. Park, Trails, and Critical Lands Master Plan on 3/29/2007

13.03.020 Community Character

1. Location.

   a. Perry City is located in eastern Box Elder County, directly south of Brigham City. The Bear River Valley, in which Perry is located, is one of the prime agricultural areas of northern Utah. Perry is bordered on the east by the Wasatch Mountains and on the west by the shoreline of the Bear River Migratory Bird Refuge. The town consists of about nine square miles with a population of 3,989.

2. History.

   The following describing the history of Perry City:

   a. In 1851, the same year that Box Elder (now Brigham City) was being settled, Orrin Porter Rockwell and his brother Merritt laid claim to some land lying about 2.5 miles southwest of the center of Box Elder settlement. It was adjacent to a large spring known to this day as Porter Spring. The Rockwells made no improvements on their land, although they claimed it for a number of years. One reason they never occupied the land may have been the danger of Indian raids; Porter Springs was a great camping place for both emigrants and Indians in those days.
   b. Early in the spring of 1853, Mormon pioneers began to settle in the area. William Plummer Tippetts and his family, along with Lorenzo and May Wray Perry and Gustavus Perry and his family, laid claim to land in what became the center of town. Thomas C. Young Sr., Robert Henderson, and Alexander Perry settled to the north of the Tippetts and Perrys.
   c. Three Mile Creek was the name given to early-day Perry, as it was just three miles from the center of Box Elder to the small stream which furnished water for the settlers.
   d. While surrounding communities were building forts to protect themselves from the Indians, the residents of Three Mile Creek made friends with the Indians, who

would bring wild game and trade for what was called "white face bread." They taught the settlers to cure and tan deer hides to make coverings for their feet.

e. There was a small settlement of Welsh immigrants' midway between Three Mile Creek and Brigham City. Among the first settlers of the area were Benjamin Jones, Kidwalendar Owens, David Peters, Thomas Mathias, and John Roberts. They chose to meet each week over the years, with those living in Box Elder until 1868. Then the two communities joined together and organized a Sunday school.
f. The first brick school in Box Elder County was built in Perry in 1874. It was constructed supposedly for a meetinghouse but the community used it for school purposes. In 1899, a new two-story meetinghouse was constructed. It was 32 by 60 feet with a tower and large double doors on the west. Bishop James Nelson directed construction of the building at a cost of $5,000. This building had several subsequent additions. When a new LDS meetinghouse was built in 1974-75, it was sold to a theatrical group and is now home to the Heritage Theater. Live productions delight people throughout northern Utah each month.
g. From the beginning, lack of water hindered growth of Three Mile Creek, as there was much more land than water available to irrigate it. In the fall of 1894, a reservoir was partially completed at the head of Three Mile Creek Canyon. Before the project was finished, however, frost stopped the work and winter set in. The next year no work was done to finish the dam but, because it was a low water year, nothing happened.
h. In June 1896, a rainstorm before all the snow melted caused a heavy flow of water into the reservoir, which resulted in a terrible flood. Homes were lost and farms were covered with mud, gravel, and debris, but no fatalities. In 1923, a series of cloudbursts caused a second flood; however, damage was not quite as great.
i. When the railroad passed through the western part of Three Mile Creek in 1868-69, it brought much-needed revenue to the residents who hauled timber and telegraph poles from the canyon. Some men made as much as thirty dollars a day. The railroad also paid high prices for goods. Hay sold for fifty dollars a ton, and grain, eggs, and butter were also very much in demand.
j. In May 1898, the name of Three Mile Creek was changed to Perry in honor of O.A. Perry, who had served as an LDS bishop for almost twenty years. Population of the town at the turn of the century was 261 (50 families).
k. In the spring of 1905, residents of Perry built their own electric company, with Vinson F. Davis as president. They erected their own poles and strung the wires. The company was purchased by the town in 1912 and later sold to Utah Power and Light Company in 1950.
l. Water, or the lack of it, continued to be a major problem. In 1902, the Three Mile Creek Irrigation Company decided to pipe water from the mouth of the canyon to the settlement for irrigation purposes. When the Pine View Canal was later built from Ogden to Brigham City, farmers were able to increase their orchards, plant row crops, and reclaim hundreds of acres of arid land. A culinary water system, put into operation in 1911 provided water to each home in Perry. The water came from mountain springs and later from wells. The town was incorporated in 1911.
m. Agriculture, consisting primarily of family dairies and fruit orchards, lead the industry in Perry. A creamery was built at the Barnard White farm and in 1910. Residents established a cannery to can local peas, tomatoes, carrots, and beets. They also set up facilities to ship the excellent fruit grown in the region to all parts of the United States. This provided work for those in the community and surrounding areas.
n. Residents later established a nursery on forty acres in the southwest part of Perry, growing and grafting to make a better variety of fruit trees. In 1909, the number of trees in the nursery reached a half million, supplying trees for many orchards in the area.
o. The population in 1958 was 500. At that time, Perry City's growth began to increase, with orchards giving way to housing areas. Dairy farms became fewer in number. The character of the town changed from a rural to a suburban community with residents commuting to Ogden, Brigham City, Thiokol, and other areas for employment. Due to this growth, the small three-room schoolhouse, built in about 1910, was enlarged in 1961. Six added classrooms, along with a multipurpose room and kitchen, helped make it a modern school.
p. Perry is home to Maddox Ranch House, which is known throughout Utah for its fried chicken and steak dinners.
q. History information was taken from Utah History Encyclopedia web site written by Lois J. Nelson in 1970

3. Population.

The following regarding the population of Perry City:

a. According to the U.S Census data, Perry City's population in the year 2000 was 2,383. Based on projections by the Utah State Office of Planning and Budget, it is expected to grow to 6,223 by 2050. However, the current growth rate of ten (10%) percent over one year shows Perry growing much faster than anticipated. With the current population at 3,989 as of 2006, it is probable Perry City could meet its estimated build-out population of 18,383* by the year 2035. This is much earlier than projections by the Office of Planning and Budget in 2000. *(Build-out population based on Sunrise Engineering Sewer Study build-out populations 2006 and the current percentage of growth which is taking place currently.) The continual growth of surrounding cities, location and availability of land, and increased employment opportunities at ATK have all contributed to the quicker growth of Perry City. The characteristics of a community's population are often a good indicator of the type and level of services they require. Information provided by the 2000 Census revealed the following: Perry's population is primarily Caucasian (98%), with 2% identified as other races. The average age of Perry residents (30.1 yrs) is 5 years younger than the national average age of 35. The age category representing the largest percentage in Perry is 35-44 year olds. Perry has typical percentage of residents 65 years of age and over, at 10.2%, which is slightly higher than the state average of 8.5% and slightly lower than the national average of 12.4%. The average household size in Perry is 3.19 persons with 789 households as of the 2000 Census. Perry shows a median household income of $52,500, which is considerably higher than the state average ($45,726) and much higher than the national average ($41,994). About 93.9% of Perry's residents over 25 years of age are high school graduates (statewide is 87.7%), and the number of college graduates over 25 years of age (26.6%) is slightly higher than the average for the state (26.1%). There are 1,096 people 16 years of age or over employed in Perry. Only 1.2% of Perry residents live in poverty compared to 9.4% statewide and 12.4% nationally This information tells us, on average Perry has a young, highly-educated and medium-income population base compared to the rest of the nation and state.

Adopted by Ord. Park, Trails, and Critical Lands Master Plan on 3/29/2007

13.03.030 Definitions And Types Of Service

1. Purpose of Definitions.

a. The definitions will provide the City with descriptions, classifications, and characterizations of the types of services and standards to be used within this document. It will allow for clarity as each type of service is discussed, giving everyone the ability to be on the same page. Definitions will also serve as important tools for development of impact fees and capital improvement plans.

2. Park and Recreation Goals and Objectives.

a. Several issues emerge as development continues to shape the goals and objectives of this plan. With time, new community concerns may appear that have not yet been considered. It is important this plan be revisited every few years to identify and evaluate developing issues and make adjustments to the goals and objectives of this plan.

3. Goals and Objectives.

The following regarding the goals and objectives of Perry City:

a. Increase facility planning and development to support the growing community's recreational needs.
b. Beautify and enhance the entrances into the community.
c. Preserve the natural beauty and environment of the community.
d. Document important habitats and critical lands to be left within the community in order to perform their natural function.
e. Develop a sense of place for community gatherings and events.

f. Adopt standards for development of parks within the community.
g. Support property values and community growth by providing areas for leisure, recreation, and open space.
h. Implement a trail system linking important areas of the community, i.e. parks, schools, transportation hubs, etc.
i. Develop a working parks system, which implements improvements that benefit the whole community including sports facilities, natural areas, trail destinations, exercise facilities, and leisure areas for sitting and picnicking.
j. Develop a plan which addresses the City's actual level of service, future needs, proposed capital improvements and associated costs, and funding sources available to the City.
k. Maintain communication between administration, public officials, and residents to ensure recreational facilities and programs continue to meet the needs of the community.

4. Definition of Project Improvements and System Improvements.

The City will use the following definitions and descriptions as benchmarks in determining how the City will define its parks system. These definitions are based on the National Recreation and Parks Association standards and have been tailored to the specific needs of Perry City.

a. Project Improvements:

i. Project improvements include facilities that benefit a small area and are generally of little benefit to the community as a whole. They also include private facilities that would limit access to the general public. In this analysis, mini-parks under one acre and private club areas (i.e. swimming pools, tennis courts, open space, etc.) are considered project improvements, as are parks dedicated to the City in return for increased density within certain zoning classes (Cluster Residential Overlay, Mixed-Use, Planned Residential Urban Development, and Group Dwellings). Project improvements cannot be funded through impact fees, receive credit for costs against impact fees, or be considered in the impact fee level of service.

b. System Improvements:

i. System improvements are intended to benefit the community as a whole and can be funded through impact fees. Generally, these improvements are located outside specific developments unless the improvement is provided in addition to the park needed for the developer to receive full density.

Adopted by Ord. Park, Trails, and Critical Lands Master Plan on 3/29/2007

13.03.040 Definitions And Standard Guidelines For Park, Trail, And Critical Land Types

1. Mini-park.

a. A specialized facility that serves a concentrated or limited population or specific group, such as tots or senior citizens. This facility should be located within neighborhoods and in close proximity to apartment complexes, townhouse developments, or housing for the elderly. When used for detention of storm water, mini-parks must maintain a minimum 75% of dry area (i.e. not used for detention). Mini-parks less than one acre are not customarily included in the impact fee level of service for the City's parks because they are usually considered project improvements of a new development. In order for a park less than one acre to be considered in the impact fee level, it must be developed by the City and not as part of a new development. The following regarding mini-parks:

i. Typical Park Size: 5,445 sq. ft – 2.99 acres.
ii. Site Characteristics: Centrally located in neighborhoods and higher-density residential. The walking distance should not exceed one-quarter mile nor require the crossing of busy streets. Appropriate facilities include children's playground equipment, grassy play areas, picnic tables and shelters, and benches.

2. Neighborhood Parks.

a. Areas designed for intense recreational activities such as field games, court games, crafts, playground apparatus, skating, picnicking, wading pools, etc. Neighborhood park sites should be suited for intense development, easily accessible to neighborhood populations, and geographically located for safe walking and bicycle access (service radius of one-half mile). A minimum twenty (20%) percent of the site area should be dry (i.e. not used for detention). These parks are included in the City's level of service and considered system improvements. The following regarding neighborhood parks:

i. Typical Park Size: 3.0 – 12.99 acres.
ii. Site Characteristics: Centrally located to provide direct and safe walking/biking access. Appropriate facilities include open play areas for softball, soccer, youth baseball, Frisbee, etc., as well as restrooms, parking facilities, picnic areas, shelters, and a children's playground with seating nearby. Sites should be relatively visible from adjoining streets.

3. Community Parks.

a. Areas of diverse recreational value including intense recreational facilities, such as athletic complexes and pools, as well as more passive uses such as picnicking, viewing, nature studying, and other types of recreational development. The size and amenities contained within each community park should be based on the planned population to be served. A minimum twenty (20%) percent of the site area should be dry (for a 10-year storm event). Community parks should serve the majority of residential areas with overlapping service area coverage. These parks are included in the City's level of service and are considered system improvements.

i. Typical Park Size: 13.0 – 50.0 acres.
ii. Site Characteristics: Comprises both active and passive recreational activities with support facilities such as off-street parking and restrooms. Appropriate facilities include fields for formal baseball-softball, soccer, etc., along with picnic facilities, trail/pathway systems, and children's playgrounds. The park should be located on an arterial or collector street and have landscaped setbacks to buffer active use areas from residential areas as needed.

4. Regional Park/Park Preserve.

a. Areas of natural or ornamental quality for outdoor recreation such as picnicking, boating, fishing, swimming, camping, and trail uses, with much of the land reserved for conservation and natural resource management. While they sometimes contain traditional park facilities, like playground structures or tennis courts, regional parks are usually dedicated to one particular use, such as golf. The location of these parks usually takes advantage of the area's unique, natural, or cultural features. These parks are included in the City's level of service and are considered system improvements.

i. Typical Park Size: 50.0- 100.0 acres.
ii. Site Characteristics: Comprises both active and passive recreational activities used to service the needs of the entire region.

5. Special Use Areas.

a. Miscellaneous public recreation lands or land occupied by a specialized facility. Typical uses of these areas include small or special uses, specialty landscaped areas, cemeteries, community gardens, streetscapes, viewpoints, or historic sites. Special use areas are not considered in the impact fee level of service.

6. Open Space: Definition and Types.

a. The definitions for open space facilities provide guidance in the determination of appropriate amenities for the community. Open space can be categorized into two

types: passive and natural. The following definitions are provided to guide the appropriate location and components for a mix of open space that enhances the quality of life for existing and future Perry City residents. Open space can include Sensitive Areas within the City such as wetlands or parcels having slopes of thirty cent or greater. The following definitions and types:

i. Passive Open Space:

(1) Areas that have had minor, if any, improvements and are set aside, dedicated, designated, or reserved for public or private use. Passive open spaces typically accommodate activities such as picnicking, hiking, bicycling, equestrian, walking, dog park or "offleash" running areas, neighborhood electric vehicle areas, gardening, agriculture, and aesthetics, etc. Passive open spaces include plazas, greenbelts, buffers, landscaped parkways, peripheral landscape tracts, water or lake features, and entrances into the City or other similar areas. Subject to City Council approval, passive open space may be utilized for a secondary purpose of satisfying storm water retention requirements. Passive open space is property that is not considered Sensitive Lands.

ii. Natural Open Space:

(1) Unimproved areas in their natural state and set aside, dedicated, designated, or reserved for public or private use. Minimal improvements are allowed in natural open spaces for trails, natural interpretive areas, and limited re-vegetation or landform alterations for trail maintenance, aesthetics, visual relief, and environmental, public safety, and or emergency purposes so long as the areas disturbed are restored to their natural appearance. Natural open spaces shall not be used for improved drainage purposes. Natural open spaces include water features, washes, riverbanks, desert lands, and other similar areas

7. Trails.
   a. The following regarding trails:
      i. Linear parks are open spaces, landscaped areas, and or trail systems that follow stream corridors, abandoned railroads, power line easements or other elongated features. Linear parks and trails usually consist of open spaces with limited development. Typical features of linear parks and trails include trailheads, trail systems, education signage, benches, and picnic tables. A standard 0.5 miles per 0 residents is included as the target l of service for linear trails.
      ii. Natural pedestrian trails are not paved. They are primitive paths intended for pedestrians and mountain bike use, created in open, natural areas not following roadways. Paved bike/pedestrian paths are developed with a hard surface of pavement or concrete. The trails are intended for use by both bicyclists and pedestrians. They should be built to the American Association of State Highway and Transportation Officials (AASHTO) Standards for a Class 1 bike path.
      iii. Bike lanes and routes utilize vehicle roadways for bicyclists only to access local facilities and connect to other trails. These lanes and routes should be developed according to AASHTO bikeway standards:

(1) Class II Bike Lanes: Striped lanes adjacent to the curb on a roadway.
(2) Class III Bike Routes: An existing street with signage for on-street bicycle use.

8. Trailheads.
   a. Trailheads are an important link to trails as they provide areas for walkers and bikers to park, rest, picnic, and further enjoy the trail system. Currently, the City has one trailhead which is park called Dale Young Nature Park.

Adopted by Ord. Park, Trails, and Critical Lands Master Plan on 3/29/2007

13.03.050 Critical Land Definition And Types

1. Critical Land Definition.
   a. The following information comes from the Governor's Office of Planning and Budget (GOPB) Critical Lands Toolbox:
      i. The GOPB web site allows access to maps and information for planning an documenting critical lands within the communities in Utah. This toolbox will be used to define and map the areas within Perry City.
      ii. Defining 'critical lands' is difficult; however, defining the word 'critical' is considerably easier. The word "critical" implies that something is essential or indispensable and is characterized by risk or uncertainty. Perhaps it can then be inferred that "critical lands" are those lands which are essential, indispensable, and at risk.
      iii. Critical lands are defined as areas lands that help ensure the health, safety, and welfare of Utah and its residents. They provide the clean air and water, the food, and the fiber Utah needs, while protecting residents from floods, landslides, and other natural hazards. Critical lands are also important economically for the state in that they often generate tourism dollars, may produce tax revenues, and frequently protect development from costs associated with natural disasters. Critical lands also play a vital role in defining the character of a community and providing for the quality of life of its residents.
      iv. Lands exhibiting these important attributes are often held in public trust by a state or federal land management agency but are frequently owned by private citizens as well. It is these private lands that are under the greatest pressure for use and development. Care must be taken to protect the rights of landowners while balancing them with demonstrable needs of the community."
2. Critical Land Types.
   a. The following definitions and information were taken from the Utah Governor's Office of Planning Budget Critical Lands Toolbox and are the types of critical land defined and documented within this plan.
3. Groundwater.
   a. Groundwater is the water below the earth's surface. More specifically, it is the water from rain and snow melt found underground in the spaces and cracks in soil, rock, and sands. Groundwater is stored in aquifers, or underground geologic formations of rock, sand, soil, or gravel. It comes to the surface naturally through springs or is released into lakes and streams. It may also be extracted through wells drilled into the aquifer.
4. Lakes, Streams, and Riparian Areas.
   a. Water is the most important substance on Earth because all life is dependent on water for survival. Lakes, streams, and riparian areas provide not only water, but the food, irrigation and transportation needed for development. Their attractiveness for development, however, also threatens the health of these areas. Lakes are large bodies of normally fresh water, which may be formed by river drainage, surface water runoff, glaciers, or ground water seepage. Lakes provide important habitat for fish, wildlife, and migratory birds. They are also valuable areas for recreational activities such as water sports, fishing, and hunting.
5. Wetlands.
   a. Wetlands are transition areas between dry land and open water where the water table is usually at or near the surface, or the land is covered by shallow water all or part of the year. All wetlands have three common characteristics:

i. Wetlands are sometimes or always covered with water.
ii. Wetland soils are hydric, meaning they are poorly drained and contain little or no oxygen.
iii. Wetlands contain plants called hydrophytes or "water-lovers." These plants can survive with little or no oxygen (Lock 1993).
iv. Wetlands play a vital role in a healthy ecosystem. They control flooding, store floodwater, provide a home to a diverse population of wildlife, filter pollutants from runoff, and provide many recreational opportunities.

6. Wildlife Habitat.

a. A habitat is a place where an animal (or plant) lives and finds water, food, shelter, and room to grow and reproduce. A habitat can be a wetland, an alfalfa field, or even a park (Urban Wildlife Habitat). As the population of Utah grows, so does the demand for houses, schools, stores, and roads. This growth puts pressure on critical habitats and increases the chance for conflict with wildlife. The amount of wildlife habitat statewide has been in decline in recent years. Some of the most significant reasons for this decline are the loss of open space to urbanization and agricultural conversion, draining of wetlands, and other development patterns which often fragment habitat (Wilmer 2000).

7. Steep Slopes.

a. The following regarding steep slopes:

i. Steep slopes are generally defined as land with a slope angle of twenty percent or greater for a minimum of thirty (30') feet horizontally. These slopes are becoming increasingly popular for home sites as the valleys and flat lands in Utah are lost to development. These steep slopes may make for dramatic home sites, but they also pose problems. Steep slopes are prone to natural disasters, often expensive to build on, and expensive to maintain. Most likely, they are of aesthetic value to the community below as well (City of Nanaimo, 3 Dec. 2004).
ii. Slope failures, erosion, or avalanches may not be as spectacular as tornadoes or earthquakes, but they are usually more widespread. Financial losses from these mass movements of earth and snow are costly. They include not only the direct costs associated with property damage but also indirect costs such as loss of tax revenues, reduced real estate values, and degraded water quality (Gray 1996). Also, development on steep slopes is often susceptible to wildfire and may be expensive to defend when necessary.
iii. Construction on steep slopes is costly. The costs associated with the cut and fill, earthwork, retaining walls, erosion prevention, etc., is often prohibitive. In cases where cost is not an issue, the maintenance of roads and utilities must still be addressed. Cities and towns may be left holding the bill for maintenance costs unless prior arrangements with developers and homeowners have been made.

8. Ridgelines.

a. The following regarding ridgelines:

i. The term ridgeline is used to describe a visually prominent and narrow piece of land that includes the highest points of elevation within a watershed. Ridgelines are characterized by the lack of a topographical backdrop, where the sky is visible beyond the ridge or by a backdrop of a nearby higher topographic feature such as a mountain range. Ridgelines are often considered scenic areas and add to the character and visual quality of the communities they surround (Napa County, 3 Dec 2004).
ii. In times of rapid growth, the scenic views of these ridgelines may be altered by development. Building on a ridgeline or at the crest of a hill interferes with the natural profile of the land and allows buildings to dominate the skyline. Protecting ridgelines by developing below the ridgeline preserves the natural landform and character of the land. Protection of ridgelines can lead to increased property values and preserve a community's distinctiveness while attracting positive growth (Scenic America, 14 Dec. 2004).
iii. The protection of ridgelines may be accomplished in a number of ways. Communities can use overlay zoning, design guidelines, transfer of development rights, and other means to protect ridgelines from development. Zoning laws that limit building heights based on their proximity to scenic areas have proved effective in some areas. Establishing clear design guidelines and design reviews allow communities to decide how development near ridgelines or other scenic areas will look. Transfer of Development Rights, or TDRs, preserve ridgelines by transferring development rights away from sensitive areas, such as ridgelines, to areas better suited to growth (Scenic America, 14 Dec. 2004)

9. Prime Agricultural Land.

a. The following regarding prime agricultural land:

i. Agricultural land or farmland may include cropland, pasture land, rangeland, forestland, and other rural land. According to the Utah Department of Agriculture, farmers and ranchers generate more than $1 billion annually in raw products and employ more than 100,000 people. The effect on the economy is much larger because of its links to a variety of industries. For example, farming requires machinery, seed, feed, fertilizer, labor, financial services, and other inputs to produce crops and livestock. A productive farm or ranch also generates taxes to help local communities. In most cases, when farmers subdivide their land, the resulting sprawl is a tax drain on communities (Utah Department of Agriculture, 3 Dec. 2004).
ii. Agricultural land provides more than simply food production and economic benefits. It also provides open space, wildlife habitat, and water recharge, along with other amenities such as visual quality and landscape diversity. Deer, elk, and many species of birds rely on ranches or farms. Rain and snowmelt seep back into the groundwater in agricultural areas instead of being evaporated on driveways and parking lots.
iii. As Utah's population continues to grow, more and more agricultural land is being lost to development. Fortunately, there are many tools that can be used to protect agricultural land, such as agricultural districts, conservation easements, and transfer of development rights. Agricultural districts permit farmers to form distinctive areas where agriculture is not only protected, but encouraged. Conservation easements are voluntary agreements that allow farmers to retain the right to use their land for ranching and farming while protecting the land from development. Farmers continue to hold title to their properties while receiving fair market compensation. Furthermore, they may restrict public access and sell the property as they desire. Transfer of development rights allows landowners to transfer the right to develop from one parcel of land to another, thereby protecting one parcel and allowing higher density development on the other. Other policies and programs include comprehensive planning and cluster zoning (The American Farmland Trust. "The Farm Protection Toolbox." 13 Dec. 2004).

10. Geological Faults and Earthquakes.

a. The following regarding geological faults and earthquakes:

i. The U.S. Geological Survey defines an earthquake as "both sudden slip on a fault [a crack in the earth's crust caused by the displacement of one side with respect to the other] and the resulting ground shaking and radiated seismic energy caused by the slip, by volcanic or magmatic activity, or other sudden stress changes in the earth." Utah experiences about 700 earthquakes every year, the majority of which are not felt by people and do not cause any damage (Bolt 1986).
ii. There are many hazards associated with earthquakes. These include ground shaking, fault rupture and ground deformation, liquefaction, slope failure and avalanches, flooding, fires, and hazardous material situations. Ground shaking is a result of the seismic vibrations caused by the earthquake. This ground shaking can cause objects to fall and buildings to collapse. Fault rupture and ground deformation happens when the ground at or near the fault is broken and drops, causing damage to buildings on or near the fault. Liquefaction occurs when sandy, water saturated soils temporarily act like a liquid in response to the vibrations caused by the earthquake. Development in valleys bordering the mountain ranges across the State are at risk of being damaged by liquefaction. Slope failures, such as landslides and avalanches, can cause damage to buildings, depending on the magnitude of the earthquake and slope conditions. Dam failures, flooding, fire, and hazardous materials spills may also result with significant consequences from an earthquake (Bolt 1986). Proper planning can do

much to reduce the risks associated with earthquakes. Mapping fault lines and liquefaction zones is an important part of this planning. Re-directing development to avoid fault lines will reduce risk of damage during an earthquake. Engineering buildings to withstand the shaking, liquefaction, and other hazards associated with earthquakes can reduce the costs associated with damage.

11. Wildland Fires.
    a. The following regarding wildland fires:
        i. A wildland fire is a fire occurring on relatively undeveloped and often public land. There are three classes of wildland fire. Surface fires are the most common and burn slowly along the ground, damaging and killing trees. A ground fire is usually started by lightning and burns on or below the forest floor. A crown fire is fueled by trees and burns quickly as it spreads along the tops of the trees (Federal Emergency Management Agency, 3 Dec. 2004).
        ii. There is a trend toward residential development expanding into wildland environments throughout the West. This trend is creating an expansion of the wildland/urban interface where structures are located near large amounts of vegetation. Development in these areas is vulnerable to destruction if a wildland fire should occur in the surrounding area. Further, if a fire does occur and development is spared, it is still prone to damage from landslides, mudflows, and flooding that often follow fire (National Wildland/Urban Interface Fire Protection Program, 13 Dec. 2004).
        iii. Defending development from wildland fires is not only costly, but risky as well. The best mitigation for structural damage by wildland fire is to keep development away from fuels such as stands of trees and undergrowth. In areas where this is impossible or impractical, steps may be taken to reduce the risks to property and lives. Steps include removing dead limbs and leaves from around developments, maintaining an irrigated greenbelt, mowing dry grasses and weeds, and reducing the density of surrounding vegetation (Colorado State Forest Service, 1 Dec. 2004).
12. Landslides.
    a. The following regarding landslides:
        i. The term “landslide” describes a wide variety of processes that result in the downward and outward movement of slope forming materials such as rock, soil, artificial fill, etc. The materials may move by sliding, spreading, toppling, flowing, or falling (United States Geological Survey, 3 Dec. 2004). Landslides can move slowly and cause damage over time, or they may move quickly, destroying property and taking lives. There are many causes of landslides, but most common are water, earthquakes, and volcanic activity. Intense rainfall or snowmelts are the primary causes of landslides. Often, a landslide happens simultaneously with flooding or after a fire has removed the vegetation from a slope. The occurrence of earthquakes increases the chance of landslides in areas with steep slopes already prone to failure (United States Geological Survey).
        ii. Each year, landslides kill between 25 and 50 people and cause $3.5 billion in damages. Landslides are capable of destroying homes, washing away cars, roads, and bridges, wiping out utility lines, and obstructing streams and roadways (United States Geological Survey). Municipalities usually the pick up the tab when it comes to damages caused by landslides.
        iii. The effects of landslides can be reduced by mitigation. Perhaps the most important step in the mitigation process is mapping areas of landslide potential. The most obvious measure to prevent damage from landslides is to prohibit or restrict development in potentially hazardous areas. If development is to occur in a hazardous area, the landslide potential should be disclosed to the consumer. Having disclosed the potential for landslides, the consumer then assumes the cost for any damages that occur.
13. Floodplains.
    a. The following regarding floodplains:
        i. A floodplain is a low-lying area adjacent to a river that is made-up primarily of river sediment and is subject to flooding. Flooding can be fast or slow, but usually develops over a period of days. Development often occurs in floodplains because of their rich, fertile soils. Some of the most desirable agricultural lands in the United States are in floodplains. In the past, flooding was not as catastrophic as it is today because smaller populations lived in the floodplains and runoff was kept in check by vegetation. As the population in floodplains increased, so did the damage caused by flooding (Glimer 1995).
        ii. Every year, billions of dollars are spent across the United States to clean up damage caused by flooding. Much of this damage occurs in floodplains. Damage can range from water inundating a basement to the complete loss of a structure. Ecological problems are also associated with flooding. Sewers and septic systems can rupture or overflow during a flood event, causing contamination of lakes, streams, and groundwater. Soil erosion is also prevalent as the flood waters recede because of the lack of vegetation in the developed floodplain.
        iii. Proper planning can help communities avoid the damage, devastation, and costs associated with flooding. A comprehensive plan that relates the use of the land to the land’s hazards is important. Hazardous areas, such as floodplains, may be reserved as parks, greenways, or other open spaces. Zoning ordinances give teeth to a land use plan and can restrict development in floodplains.

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13.03.060 Needs Analysis

1. Park and Trail Needs Analysis.
    a. A Park Needs Analysis typically looks at existing acreages of park land compared to current and projected populations. In determining the need for parks and park facilities, the National Recreation and Park Association (NRPA) previously recommended the population ratio method (acres of park land and miles of trail per 1,000 residents) modified to accommodate local preferences. In the past, NRPA has changed guidelines to suggest a total park system should represent more acres of developed open space per 1000 population. Yet, in recent years, NRPA has found that such a guideline is not always appropriate and now recommends a detailed analysis of the community to determine its specific needs.2 Perry City has done their analysis and determined the ratio of 6 acres per 1000 residents is a sufficient standard in terms of park system investment along with .5 miles of trail per 1000 citizens.
2. Needs Determination.
    a. With the development of this Parks and Trails Master Plan, the decision to maintain a goal of approximately 6 acres of park land and .5 miles of trail per 1000 population has been determined with the Perry City Parks and Trails Citizen Committee. Through this committee an analysis was done to determine needs of the community by the following:
        i. a series of five community workshops to determine the goals and needs of this plan
        ii. an analysis of the recreational and leisure needs of the community
        iii. cost and availability of land
        iv. the anticipation of programs and events for the present and future
        v. evaluating the regional facilities being developed and paid for by a regional fund (such as a regional recreational center, regional softball and soccer complexes, and other regionally-run recreational programs)
        vi. examining critical lands, wetlands, and other environmentally sensitive areas that necessitate important open space
        vii. considering current ordinances and zoning requirement
3. City Population Projections.
    a. The demand for park and recreation facilities is driven solely by residential land uses and population; therefore, the standards for park infrastructure are expressed

in terms of facilities per 1,000 residents. Perry City showed a population increase of 1,600 from the Census 2000 to fall 2006. The following is an estimated population projection for Perry City through buildout in 2035. The following table is baseline city projection:

Year	Population
2000 Census	2,383
2006	3,989
2010	5,832
2020	12,006
2030	17,257
2035 Buildout	18,383

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13.05 Storm Drain Capital Facilities Plan

13.05.010 Overview Of The Perry City Storm Drain System Capital Facilities Plan
13.05.020 Existing System Evaluation
13.05.030 Future System Evaluation
13.05.040 Finance Element: Funding Of Future Storm Drainage Facilities
13.05.050 Appendices

13.05.010 Overview Of The Perry City Storm Drain System Capital Facilities Plan

1. Purpose of a Capital Facilities Plan.
    a. The purpose of this Capital Facilities Plan (CFP) is to identify existing system deficiencies (if any), the increased demands placed upon the City's existing storm drain facilities by future development and to evaluate how these deficiencies and future demands will be met by the City. The CFP is also intended to outline improvements which may be funded through impact fees.
2. Need for a Capital Facilities Plan.
    a. According to the Impact Fees Act, local political subdivisions with populations or serving populations of more than 5,000 as of the last federal census must prepare a Capital Facilities Plan. Although Perry had a population of less than 5,000 as of the 2000 Federal Census, the City has elected to prepare this comprehensive capital facilities plan for culinary water infrastructure to ensure adequate planning for future growth. Local governments must pay strict attention to the required elements of the Capital Facilities Plan which are enumerated in the Impact Fees Act. The following elements must be discussed in the CFP before a local political subdivision can legally commence public notice and adopt the CFP.
3. Demand Analysis.
    a. The CFP must consider the level of service which is provided to a community's existing residents and ensure that future facilities meet these standards. The unit of measurement varies depending on which public facility is discussed. For example, the demand on culinary water improvements may be measured in terms of ERUs demanded. The CFP is also required to be constructed or acquired to meet the future demand.
4. Financing Options.
    a. The CFP must also include a consideration of all revenue sources, including impact fees, which may be used to finance system improvements. In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.
5. Noticing and Adoption Requirements – 11-36-202.
    a. The Impact Fees Act requires that any entity within a first- or second-class county provide written notice of its intent to prepare or modify any CFP. Because Box Elder County is classified as a second-class County, Perry must meet this requirement.
    b. If an entity prepares an independent CFP rather than include a capital facilities element in the general plan, the actual CFP must be adopted by enactment. Before the CFP can be adopted, a reasonable notice of the public hearing must be published in a local newspaper at least 14 days before the actual hearing. A copy of the proposed CFP must be made available to the public during the 14-day noticing period for public review and inspection. Copies must be posted in at least three designated public places which may include the City offices and each public library within the City's jurisdiction.
    c. Following the 14-day noticing period, a public hearing will be held, after which the City Council may adopt, amend and adopt, or reject the proposed CFP. Following the adoption, Utah Code Section 10-3-711 and 712 requires that a summary of the enactment be published in order for the enactment to become effective.
6. System Overview.
    a. The Perry City Storm Drain System serves the inhabitants and businesses within Perry City limits. The Perry system is bounded on the south by the Willard City system, on the north by the Brigham City system, on the east by the Ogden-Brigham canal and mountains, and on the west by the great salt lake wetlands, thus, expansion of the system beyond current city boundaries is not anticipated. Furthermore, extension of the system east of the Ogden-Brigham canal is not anticipated except for a handful of residential developments in the northeast corner of the city. Some minor interaction exists between the storm drain systems in Brigham City and Willard. Some small, localized areas in Perry drain to Brigham City or Willard. Further information about the modeling process, data sources, and assumptions made are included in an appendix. Individual elements of the system are as follows:
7. Detention facilities.
    a. Perry's storm drain system consists of two types of detention facilities; local detention for subdivisions and larger regional detention basins. For example, there is a regional detention basin at 2450 South and 1200 West. Residential developments have been required to provide detention facilities in the past. City officials have decided to consolidate future detention into city-built regional basins and no longer require small individual detention basins for each subdivision. The costs for the new regional detention basins will be offset by impact fees collected from new developments. Commercial, industrial, and institutional developments will still be required to provide on-site detention.
8. Conveyance System.
    a. The storm drain conveyance system consists of streets, curb and gutter, inlet boxes, pipes, and ditches or channels. The most common conveyance pipe in the system is 15" diameter reinforced concrete pipe. The conveyance system generally routes stormwater from east to west to an outfall point. Currently there are few well-defined outfalls in the system. This is due in part to the fact that large portions of the lower lying ground on the west side are undeveloped. It is unreasonable to expect a subdivision on the east bench of the City to run a storm drain pipe several thousand feet beyond the limits of the development to an outfall near I-15. The City will build such lines to designated outfall points and the master plan provides guidance as to the size and location of these conveyance facilities.
9. Other Facilities.
    a. The Box Elder County and Perry Flood Control District own two groups of facilities crossing through Perry City. The first consists of debris basins at the mouth of Matthias, Evans, and Perry canyons. A pipe connects the basin at Matthias Canyon to the one at Evans Canyon and then routes the stormwater west down 1850 South and under Highway 89. The second group is a debris basin and outlet pipe on Three Mile Creek at the mouth of Perry Canyon. The pipe routes Three Mile Creek's flow southwest down from the bench, under Highway 89, to the south side of the Cherry Ridge subdivision, under I-15, and discharges to marsh areas. Perry City's storm drain system ties into both of these facilities at several points. For example, stormwater from the Cherry Ridge subdivision flows into a detention basin on the Three Mile Creek drainage.

13.05.020 Existing System Evaluation

1. Existing Detention and Conveyance System.

a. The existing storm conveyance system is mostly comprised of 15" reinforced concrete pipes with inlet boxes that collect drainage from the curb and gutter. The storm drainage conveyed in these existing pipes has a variety of outfalls; some are adequate, others are not. Several areas exist where stormwater is conveyed to an open field, or from a detention basin into a box that overflows onto Highway 89. Most of the existing system deficiencies are related to runoff not being adequately conveyed across Highway 89. The existing deficiencies are grouped into projects and listed below. Cost estimates for these projects are included in the Appendix.

2. Project 1.

   a. This project addresses the section along Highway 89 from 2100 S. to 2000 S. Currently there are no storm drain facilities to convey storm water from the east to west side of the highway. As a result storm water flows across the highway. Proposed 24", 30", and 36" pipes solves this issue.

3. Project 2.

   a. This project solves several issues in the area of 2500 S. and Highway 89. Existing detention basins at 2550 S. and 2600 S. along Highway 89 discharge to curb and gutter and cause flooding along the highway. A proposed 15" and 27" pipe installed along the highway convey these flows west to an existing pipe in 2450 S.
   b. The model indicates the detention basin at 2450 S. and 700 W. is inadequate. A pipe installed in 2400 S. and along Highway 89 to an existing pipe at 2450 S. west of 89 solves the issue. A section of 18" pipe along the highway would be replaced. Piping a section of 750 W. near 2650 S. eliminating a "bubble-up" box would also improve the drainage in the area.

4. Project 3.

   a. This project is designed to convey flows from existing detention basins at 2820 S. and 2700 S. along Highway 89 to existing pipes rather that into a vacant lot and field. The project includes new pipes along Highway 89, west along 2700 S. and north along 1200 W. The existing pipes along 1200 W. would be replaced with larger diameter pipes. A connection to existing pipes at 2450 S and 1200 W would be made, just above the existing regional detention basin. This project will also accommodate future development in the area south of 2700 S. and east of 1200 W.

5. Project 4.

   a. Near 2300 S. and Highway 89 a detention basin discharges to curb and gutter. This problem is similar to the issue associated with Project 2 above. A pipe would route the flow west across the highway and tie into an existing pipe in 2300 S.
   b. Several other minor issues within the existing storm drain system are present. Generally speaking these areas involve issues that can be remedied as development occurs nearby.
   c. The existing detention facilities are adequate for the existing development. Several regional detention basins are proposed are will need to be constructed as the area draining to those basins develops.

13.05.030 Future System Evaluation

1. Future Detention and Conveyance System.

   a. Future deficiencies are also identified. These are situations where the existing conveyance system is currently adequate, but will not be at a future date when additional runoff is created by new developments. Costs to remedy these future deficiencies can be offset by impact fees collected. The list of future deficiencies is not a complete list of pipes that will eventually be installed. Additional pipes will be installed as part of the future conveyance system. This plan will provide guidance to ensure that future storm drain lines installed will have adequate capacity for both the development under consideration and the contributing areas upstream.
   b. The locations of proposed regional detention basins were selected to coincide with park locations identified in the Parks Master Plan where possible. The accompanying figure and tables provide location and cost information for these basins. The peak flow rates shown in the tables in the Appendix were generated with the detention basins in place.
   c. The future deficiencies are grouped into projects and listed below. There are several pipes that need to be installed for future flows that are near identified existing deficiency projects. These future pipes are included in those projects due to proximity and reduced costs of installing the pipes while a construction crew is on site. The cost for the portion of the project that is intended to convey future flows is not included in the existing deficiency project cost but is included in the impact fee cost analysis. Cost estimates for these projects are included in the Appendix.

2. Project 1.

   a. This project addresses the runoff that will be generated by currently undeveloped land east of 2000 S. The flow from this area will most likely be directed down 2000 S. A proposed pipe in 2000 S. routes this flow to existing pipes. Some of the existing pipes in 2000 S. near the highway will need to be replaced to accommodate the additional flow.

3. Project 2.

   a. This project is very similar to the project listed above. It concerns the undeveloped area above 2100 S. It involves replacing existing pipes to accommodate the increased runoff from future development.

13.05.040 Finance Element: Funding Of Future Storm Drainage Facilities

1. Impact Fee Revenues.

   a. Impact fees have become an ideal mechanism for funding growth-related infrastructure. Impact fees are charged to ensure that new growth pays its proportionate share of the costs for the development of public infrastructure. Impact fee revenues can also be attributed to the future expansion of public infrastructure if the revenues are used to maintain an existing level of service. Increases to an existing level of service cannot be funded with impact fee revenues.
   b. The main source of revenue for the storm water capital projects will be from impact fees. Since 100 percent of the future capital projects are growth related, 100 percent of the costs are qualified to be funded through impact fees. The timing and costs of the future storm water capital projects will have an influence on whether or not the City will be required to issues bonds to cover the initial costs. Table 4.1 shows the timing and the costs of all the capital projects scheduled during the respective years. The bond that is recommended for the City is found in Table 4.2. All bond financing costs will be covered by the revenues received from impact fees for storm water.

      TABLE 4.1: STORM WATER CAPITAL PROJECT COSTS AND TIMING:

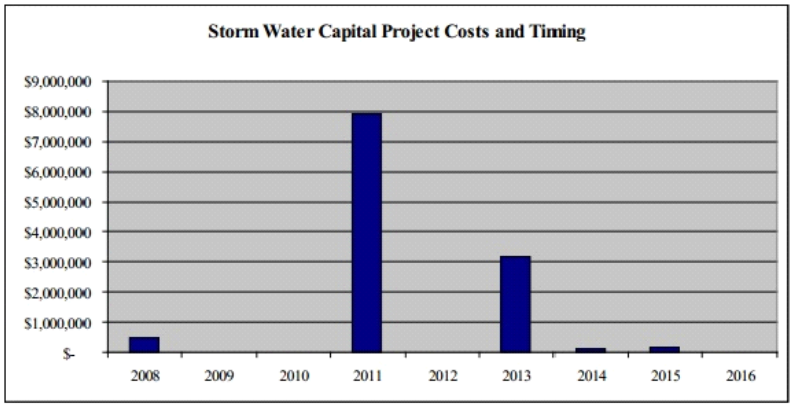


TABLE 4.2: SERIES 2011 STORM WATER BOND:

Principle	10,695,529
Rate	5.0%

Year	Payment	Interest	Principle	Remaining Principle
2012	($858,236.93)	$ 534,776	$ 323,460	$ 10,372,069
2013	($858,236.93)	518,603	339,633	10,032,435
2014	($858,236.93)	501,622	356,615	9,675,820
2015	($858,236.93)	483,791	374,446	9,301,374
2016	($858,236.93)	465,069	393,168	8,908,206
2017	($858,236.93)	445,410	412,827	8,495,379
2018	($858,236.93)	424,769	433,468	8,061,911
2019	($858,236.93)	403,096	455,141	7,606,770
2020	($858,236.93)	380,338	477,898	7,128,871
2021	($858,236.93)	356,444	501,793	6,627,078
2022	($858,236.93)	331,354	526,883	6,100,195
2023	($858,236.93)	305,010	553,227	5,546,968
2024	($858,236.93)	277,348	580,889	4,966,079
2025	($858,236.93)	248,304	609,933	4,356,146
2026	($858,236.93)	217,807	640,430	3,715,717
2027	($858,236.93)	185,786	672,451	3,043,266
2028	($858,236.93)	152,163	706,074	2,337,192
2029	($858,236.93)	116,860	741,377	1,595,815
2030	($858,236.93)	79,791	778,446	817,369
2031	($858,236.93)	40,868	817,369	0

2. Impact Fee Credits.

    a. Impact Fee Credits are handled between the City and developers to "allow a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities: a) are identified in the Capital Facilities Plan and b) are required by the local political subdivision as a condition of approving the development activity." Credits are handled on a case-by-case basis and will not be included in the analysis, although the Proportionate Share Analysis of the impact fee analysis will identify the extent to which specific developers are entitled to a credit.

13.05.050 Appendices

1. Appendix A: Cost Estimates and Tables.

    a. A cost estimate was prepared with the estimated prices being based on prices from recent storm drain projects plus a contingency. A per foot quantity of imported materials and asphalt were associated with each pipe size. The final unit price of any particular size of pipe included the pipe, associated imported materials, asphalt, and 10% for engineering and administration.

        i. A unit price was estimated for catch basins and manholes. These costs were included in the cost of any particular reach of pipe assuming a manhole every 400 feet and two catch basins every 500 feet.
        ii. A similar process was used to estimate the costs of proposed detention basins.
        iii. Following are Capital Facilities Plan tables by basin that lists pipe length, slope, capacity, flow, and cost along with similar information for detention facilities.
        iv. Finally, a figure illustrating the conceptual plan for the future storm drain system is provided. Pipes are classified as existing, existing to be replaced, or future.

2. Appendix B: General Information and Assumptions.

    a. The city was divided into drainage areas which were further divided into sub-basins to be modeled. Each drainage area generally has a separate discharge point from the city's facilities and extends from east to west. Drainage areas are bounded on the east by the Ogden-Brigham canal except for a small area on the northeast side. An assumption was made that runoff generated east of the canal (except as noted above) would not reach the storm drain system. The drainage areas extend to the western city boundary. However runoff west of 1) 15 was not routed through pipes as these areas were generally considered to consists of wetlands in some form or another.
    b. A computer model was created to simulate runoff in drainage basins and the routing of the resultant flow through the existing pipe network as well as a conceptual future pipe network. XP Software's XP-SWMM v10.5 was the storm runoff and routing model used to create this master plan. The software is a fully dynamic computational model routing flow by the dynamic wave method and has the ability to model complex storm drain scenarios using overflows, weirs, orifices, and many other structures.

c. The proposed pipe sizes in this master plan were determined using an assumed pipe slope. When using this plan, the required capacity of a pipe and the slope at which the pipe will actually be constructed dictate the actual required pipe size.
d. The pipes in the model were assumed to parallel the surface grade in most cases unless there were record drawings available on existing or design drawings on proposed facilities. The proposed pipe sizes in the plan were determined using an assumed pipe slope. Considerations for future pipe size should include required pipe capacity for proposed pipes rather than just pipe sizes from this master plan because the actual grades at which a pipe is eventually installed will most likely be different than what was assumed in preparing the model.
e. A rainfall storm with a cumulative depth of 1" in a one-hour period was used in the storm water model with a distribution appropriate for the geographical area (given below).

% Storm Duration	% Depth	Time (min.)	Incremental Depth	Cumulative Depth
0	0	0	0	0
5	18.3	3	0.183	0.183
10	36.5	6	0.182	0.365
15	51	9	0.145	.0510
20	61.5	12	0.105	0.615
25	70	15	0.085	0.700
30	76.5	18	0.065	0.765
35	80.6	21	0.041	0.806
40	83.9	24	0.033	0.839
45	86.2	27	0.023	0.862
50	88	30	0.018	0.880
55	89.5	33	0.015	0.895
60	90.8	36	0.013	0.908
65	92	39	0.012	0.920
70	93.2	42	0.012	0.932
75	94.4	45	0.012	0.944
80	95.6	48	0.012	0.956
85	96.8	51	0.012	0.968
90	98	54	0.012	0.980
95	99	57	0.010	0.990
100	100	60	0.010	1.000

f. Roughness coefficients assumed were 0.013 for concrete pipes with other appropriate values used for other pipe materials. All proposed storm drain pipe was assumed to be reinforced concrete pipe with a minimum diameter of 15".
g. Elevation information was obtained from the State of Utah Automated Geographic Reference Center (AGRC) in the form of digital terrain models, and from improvement drawings from subdivisions and public works projects. Parcel information was purchased from Box Elder County in GIS format. An aerial photograph was used to approximate percent impervious values for drainage basins in the existing model. A land use figure was used to approximate percent impervious percentages for undeveloped basins in the future model. Typical percent impervious values were 45% for residential areas, and 50% or higher for commercial areas.
h. City personnel provided specific information and confirmed or corrected the construction of facilities shown on subdivision improvement drawings.
i. Facilities owned by the Box Elder County and Perry Flood Control District cross from east to west through Perry City. On the north is the pipe from debris basins at the mouth of both Evans and Matthias canyons. On the south end of the city is the pipe conveying flow from the Three Mile Creek debris basin. Both of these facilities were modeled with a constant background flow representing roughly one-half the capacity of the pipe.

13.07 Transportation Master Plan

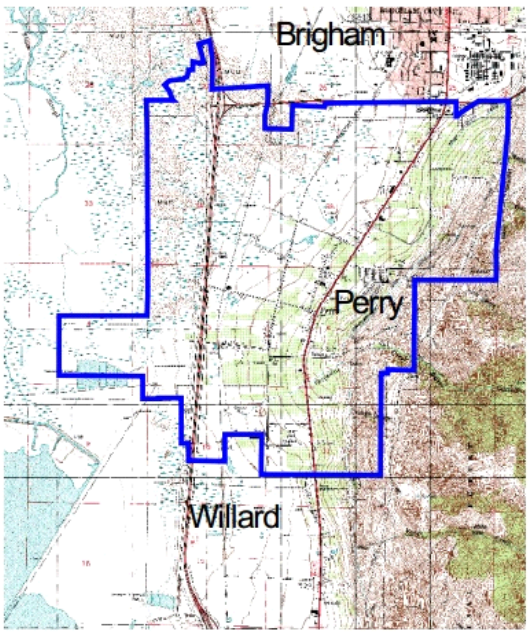
13.07.010 Introduction
13.07.020 Roadways And Traffic Conditions
13.07.030 Future Conditions Analysis
13.07.040 Capital Improvement Program
13.07.050 Conclusion And Recommendations
13.07.060 Appendices

13.07.010 Introduction

1. Historical Analysis, Demographics, and Intent.
    a. The following introduction pertaining to Perry City and this Ordinance:
        i. Perry City is a small growing city, located 25 miles north of Ogden adjacent to I-15, immediately south of Brigham City along US-91. US-89 also divides the city creating an eastern and western area of the community (Figure 1.1). The population of Perry in 2000 was 3,500 in an area approximately 10 square miles. Current population estimates indicate the population has grown to approximately 4,380. Perry City represents a “crossroads” through which a high level of out of town traffic passes. Internal growth as well as traffic from surrounding areas is creating the need for additional roadway infrastructure improvements.
        ii. Perry shares a southern boundary with Willard City, a northern boundary with Brigham City, its western boundary is constrained by the Bear River Migratory Bird Refuge and the eastern boundary by the Cache National Forest. At the present, Perry has ample undeveloped land and room to grow within its boundaries. At a growth rate of approximately 1.3% per year, in 20 years the population of Perry will approach nearly 18,383.
        iii. Perry faces the challenge of adequately preparing for anticipated population growth within in the next twenty years and beyond. The Perry City General Land Use Plan address future growth as well as a number of transportation-specific issues such as, future transportation network, connectivity, and mobility.
        iv. Historically, roadways in Perry have been funded from a variety of sources. Class C road funds have supported a large portion of road construction and maintenance in Perry. New developments are currently required to construct new roadways with the appropriate typical roadway section for their developments. Normally, these requirements are made as conditions of city approval of the development. Private land owners are sometimes willing to pay for minor street improvements such as curb and gutter and sidewalk.
        v. Impact fees for new development on roadways have never been collected in the past for Perry. This report provides the background information now needed for assigning appropriate impact fees for new development. As a new era of growth approaches, this report will lend support to the City as it assigns appropriate and needed impact fees for roadway construction and improvement projects.
        vi. This Transportation Plan is undertaken to assess the existing condition of the transportation infrastructure in the City and provide a guide for maintaining and updating the transportation system in the future. There are many aspects of a transportation system. These include: roads, vehicle traffic, traffic control devices, intersections, and roadway geometry. All of these aspects must be balanced and maintained for the benefit of the City and its residents.
2. Types of Improvements Needed.
    a. Therefore, this plan has evaluated the condition of and identified the need for improvements to the following facets of transportation:
        i. Roadway Capacity: The ability of the existing roadway facilities to accommodate existing and future traffic needs
        ii. Intersection Level of Service: Measuring the different operating conditions that occur on a roadway or at an intersection when accommodating various traffic volumes. It is a qualitative measure of the effect of traffic flow factors such as speed and travel time, interruptions and delays, freedom to maneuver, and driver comfort and convenience.

            (1) Intersection Signals: Evaluation of existing signalized intersections to meet current and future standards for traffic conveyance.
            (2) This information will facilitate efforts to plan for project funding and to assign appropriate levels of responsibility (in the form of impact fees) for the traffic impacts of new development projects.

Figure 1.1 - Perry City Location Map



13.07.020 Roadways And Traffic Conditions

1. Assessment of Existing Conditions.

    a. Assessment of the existing traffic conditions within the study area is a process built upon collection of data and the evaluation of the information collected. The following existing transportation information has been collected and included in this report:

        i. Roadway functional classification of public city streets;
        ii. Roadway geometrics (lane and shoulder widths, speed, parking, etc.);
        iii. Intersection geometrics (lane uses, traffic control, lane widths, etc.);
        iv. Average daily traffic (ADT) and AM and PM peak hour volumes on key roadways;

2. Transportation Network.

    a. The transportation network is the circulatory system of the City, providing routes for the movement of goods, services, and people. The transportation network provides both access and mobility. The original network for Perry City was laid out with all local roads connecting to US-89, the State Highway. Local roads primarily consisted of single access to properties fronting on US-89. Without a clearly defined transportation network the development that has occurred over the years has not followed a hierarchy of road classifications. Within the City, streets serve different purposes. Accordingly, streets are classified by their function and purpose.

3. Functional Classification.

    a. The functional classification roadways range from a local residential street that provides access to limited access Interstate highway. In a city, the two main classifications that are of concern when dealing with traffic are; arterials, typically having 84 to 110 feet of right-of-way (ROW) with 4 to 7 lanes; and collectors, typically having 66 to 78 feet of ROW with 2 to 4 lanes. Arterials are the main roads in a city that have the function of transporting large numbers of vehicles through an area at a relatively moderate speed (35-45 mph). An example of an arterial roadway in Perry City would be US-89 which functions as such but is classified as a Highway. Local roads are the capillaries of the Perry City transportation network, providing direct access to public facilities, businesses, and private property. All existing functionally classified roadways in Perry are shown in Figure 2.2. Perry's current hierarchy of street classification only exists of local roads and US-89. The federal functional classifications are defined as follows:

4. Interstate.

    a. The interstate freeway system is essentially a specialized principal arterial. The interstate promotes movement of traffic, with limited access high speeds, separated directional lanes, adequate geometrics and grade-separated intersections. I-15 was not considered a key roadway for multiple reasons including: it is unlikely that future traffic volumes will exceed the existing capacity, if such demand were ever generated to exceed the existing capacity, the Utah Department of Transportation would be the lead agency responsible for any improvements. Thus, while I-15 itself was not analyzed for the purposes of this study, its presence strongly influences current and projected future traffic patterns.

    View the City Transportation Circulation Guide.

5. Arterial.

    a. Principal arterials are generally high volume streets and contain the greatest proportion of through or long-distance travel. Access, is typically limited to promote efficient traffic movement; parking is usually prohibited in urban situations. Speeds are generally in the 35 to 45 mph range. Arterials are commonly about a mile apart but may be one-half mile. Although SR-89 is the old state highway, it functions as a principal arterial and certainly has the most capacity of any roadway in the city. Streets that connect principal arterials and collectors are called minor arterials. The predominant function of these streets is to provide movement of through traffic; they also provide considerable access for local traffic that originates or is destined to points along the primary corridors. Often, minor arterials become boundaries to neighborhoods and serve less concentrated developments such as neighborhood shopping centers or schools. Urban speeds are generally around 35 mph.

6. Collector.

    a. Functionally, a collector is intended to assemble and concentrate residential and rural traffic and to direct it to the arterial system. To preserve neighborhoods, collectors are generally spaced about a half mile apart. Direct access to adjoining property is more common and often essential. Operating speeds are in the 25 to 30 mph range. Parking is acceptable but may be limited.

7. Local Streets.

    a. Local roadways serve the primary purpose of providing access to adjacent properties. Local streets contain the majority of the road system within Perry. While local roads serve an important function, for this study, no local roadways are considered key roadways.

8. Key Roadway and Intersections Characteristics.

    a. Field data were collected regarding the key roadways and intersections in Perry. Table 2.1 lists several characteristics for the key roadways that influence traffic flow, capacity and safety.

Table 2.1 - Traffic-Related Characteristics on Key Roadways

Roadway	Number of Travel Lanes	Average Lane/Shoulder Width (ft)	Posted Speed (mph)	Parking allowed?
US-89	2	12/10	55	No
900 West	2	12/6	20	Yes
1200 West	2	12/9	30	Yes
2100 South	2	12/8	20	Yes
2250 South	2	12/8	20	Yes
2300 South	2	12/8	20	Yes
2400 South	2	12/8	20	Yes
2450 South	2	10/4	20	Yes
2600 South	2	12/8	25	Yes
2700 South	2	10/4	25	Yes
3000 South	2	10/4	25	Yes

Intersection	Lane Use	Control
1200 West/2700 South	NB 1200 West 1 lane (LTR) SB 1200 West 1 lane (LTR) EB 2700 South 1 lane (LTR) WB 2700 South 1 lane (LTR)	Two-way stop EB/WB
1200 West/2450 South	NB 1200 West 1 lane (LTR) SB 1200 West 1 lane (LTR) EB 2450 South 1 lane (LTR) WB 2450 South 1 lane (LTR)	Two-way stop EB/WB
1200 West/2250 South	NB 1200 West 1 lane (LTR) SB 1200 West 1 lane (LTR) EB 2250 South 1 lane (LTR) WB 2250 South 1 lane (LTR)	Two-way stop EB/WB
US-89/2250 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) WB 2250 South 1 lane (LTR)	One-way stop WB
US-89/2300 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) EB 2300 South 1 lane (LTR)	One-way stop EB
US-89/2400 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) EB 2400 South 1 lane (LTR)	One-way stop EB
US-89/2450 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) WB 2450 South 1 lane (LTR)	One-way stop WB
US-89/2600 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) EB 2600 South 1 lane (LTR)	One-way stop EB
US-89/2700 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) WB 2700 South 1 lane (LTR)	One-way stop WB
US-89/3000 South	NB US-89 West 1 lane (LTR) SB US-89 West 1 lane (LTR) WB 3000 South 1 lane (LTR)	One-way stop WB

9. Average Daily Traffic Volumes and Intersection Counts.

    a. The following regarding the average daily traffic volumes and intersection counts:

        i. Traffic counts were collected in March 2007 with automatic counters at various locations in the study area as well as AM and PM peak period turning movement counts were manually collected at several intersections discussed later. The average daily traffic volumes counts are provided in Figure 2.3. Average daily traffic counts on SR-89 was provided by the Utah Department of Transportation (UDOT).

        ii. From the traffic counts, correlation between the peak hour and the average daily traffic (ADT) in the study area can be evaluated. Typically, the PM Peak hour ADT is usually used for analysis purposes because it tends to be much higher than the AM Peak. However, both AM and PM peak hour are analyzed for this study.

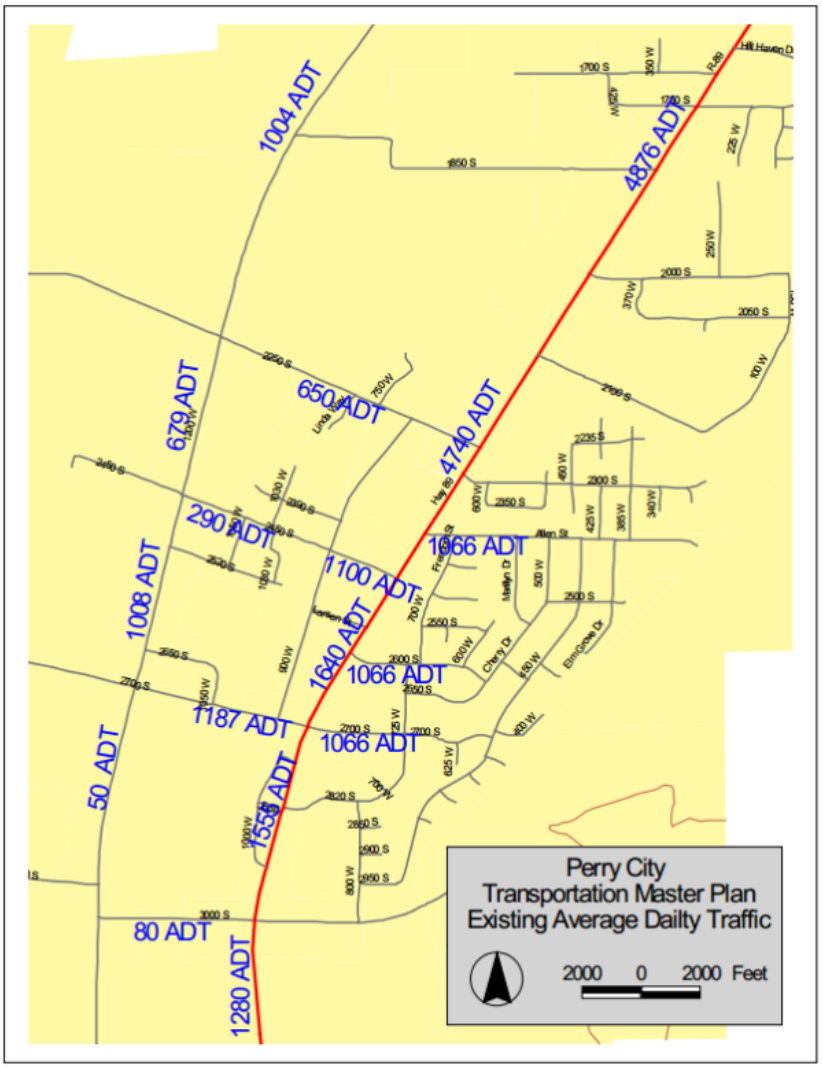


Figure 2.3 – Existing Average Daily Traffic (ADT)

10. Level-of-Service Evaluation Methodology.

    a. The following regarding the level of service evaluation methodology:

        i. Level-of-Service (LOS) is a measure of the performance of an element of transportation infrastructure. An intersection, rural roadway, residential street, arterial, or freeway segment can all be graded, “A” through “F”, on the adequacy of its performance under given traffic conditions.
        ii. Level-of-Service is a description of different operating conditions that occur on a roadway or at an intersection when accommodating various traffic volumes. It is a qualitative measure of the effect of traffic flow factors such as speed and travel time, interruptions and delays, freedom to maneuver, and driver comfort and convenience.
        iii. The determination of Level-of-Service for roadways and intersections is derived as follows:

11. Roadways.

    a. The following regarding roadways:

        i. Roadway and traffic conditions, ranging from "ideal" to "forced" flow, have been divided into six levels of service for qualitative evaluation. Rural roadway level-of-service is defined when the traffic flow is "uninterrupted". In an urban situation the roadways are not uninterrupted. They are constrained by traffic control at intersections, lower speed limits, numerous approaches, and probably parking. The level-of-service for most of the urban roadways will be restricted by the performance of the intersections on the roadway.Roadway levels of service are defined as follows:

            (1) Level A: Free flow, low volumes and densities, high speeds. Drivers can maintain their desired speeds with little or no delay.
            (2) Level B: Stable flow, operating speeds beginning to be restricted somewhat by traffic conditions. Drivers still have reasonable freedom to select their speed. Suitable for rural design standards.
            (3) Level C: Stable flow, but speeds and higher volumes more closely control maneuverability. Suitable for urban design standards.
            (4) Level D: Approaches unstable flows, tolerable operating speeds that are, however, considerably affected by operating conditions. Drivers have little freedom to maneuver.
            (5) Level E: Unstable flow, with yet lower operating speeds and, perhaps, stoppages of momentary duration, volumes at or near capacity.
            (6) Level F: Forced flow, both speed and volumes can drop to zero. Stoppages may occur for short or long periods. These conditions usually result from queues of vehicles backing up from a restriction downstream. *Source: Fundamentals of Traffic Engineering, 9th Ed., by Wolfgang S. Homburger, James H. Kell.

        ii. At lower speeds, below 50 mph, the intersections generally dictate the capacity of an urban roadway section. It is, however, always useful to evaluate an overall urban roadway in simplistic form; at times intersection improvements will not address larger problems of handling through-put vehicle capacity

deficiencies in a corridor. Multi-lane facilities typically need intersection treatments to accommodate demand for specific turning movements. To generally define urban roadway level-of-service in the study process, Table 2.2 has been formulated. Determination of level-of-service for urban roadways is then defined by the average daily traffic volume (ADT) in both directions.

Table 2.2 - Level-of-Service Criteria for Urban Roadways

Facility Type	Both Ways	A	B	C	D	E
State Highways	6 lanes + median	30,000	35,000	40,000	45,000	50,000
	5 lanes + median	27,000	31,500	36,000	40,500	45,000
	4 lanes + median	24,000	28,000	32,000	36,000	40,000
	2 lanes + median	10,000	11,600	13,300	15,000	16,600
	2 lanes w/o median	8,000	9,300	10,600	12,000	13,300
Arterials	4 lanes + median	18,000	21,000	24,000	27,000	30,000
	4 lanes w/o median	16,000	18,500	21,000	23,600	26,250
	2 lanes + median	9,000	10,500	12,000	13,500	15,000
	2 lanes w/o median	7,000	8,200	9,300	10,500	11,600
Collectors	2 lanes + parking	5,250	6,125	7,000	7,875	8,750
	2 lanes + median	9,000	10,500	12,000	13,500	15,000
Industrial		6,000	7,000	8,000	9,000	10,000
Local Street	2 lanes + parking	-	-	2,500	-	-
	2 lanes + parking	-	-	1,200	-	-

The recommended acceptable roadway level of service is LOS C.

12. Intersections.
    a. The following regarding intersections:
        i. Intersections are usually analyzed in the design process by the collection of turning movement volumes and conducting highway capacity analysis using the Highway Capacity Manual method. This is done for short range planning purposes when specific turning movement volumes can be obtained. For intersections the measures of effectiveness (MOE) used is average control delay (seconds) per vehicle. The Highway Capacity Manual LOS criteria for signalized and unsignalized intersections are summarized in Table 3.

Table 3. Level-of-Service (LOS) Criteria for Intersections

Level of Service (LOS)	Average Control Delay (seconds/vehicle)	
	Signalized Intersections	Unsignalized Intersections
A	< =10	< =10
B	>10 - < 20	>10 - < 15
C	>20 - < 35	>15 - < 25
D	>35 - < 55	>25 - < 35
E	>55 - < 80	>35 - < 50
F	>80	>50
Source: *Highway Capacity Manual 2000*, Transportation Research Board, National Research Council, Washington, D.C., 2000.		

        ii. The HCM method is based on the capacity available to service the various movements at a signalized intersection based on the amount of green time provided for each movement, the impacts of any conflicting movements, etc; for unsignalized intersections delay is based on the availability of gaps in the major street to allow minor street movements to occur. Delay results in driver frustration and anxiety, loss of time and increased fuel consumption.
        iii. Generally accepted standards indicate that it must be demonstrated that major intersection approaches for unsignalized intersections can operate at LOS "E" or better, however if a second access point provides access to a signalized intersection LOS "F" may be acceptable. For a signalized intersection, an intersection LOS of "D" is acceptable.

13. Traffic Level of Service Analysis.
    a. The following regarding traffic level-of-service analysis:
        i. For the existing conditions analysis, the 2007 ADT counts on key roadways were compared against the values in Table 3 and roadway characteristics to determine level of service. To determine intersection levels of service, geometric and turning movement volume data were analyzed using the most recent version of Highway Capacity Software (HCS 2000).
        ii. The existing year (2007) analysis demonstrates that most of the roadways and intersection facilities are operating at acceptable traffic levels of service. See existing conditions analysis results for AM and PM Peak hours in Figures 2.4 and 2.5 respectively. The side street left turn at 2300 South and 2450 South currently function at LOS D during the PM Peak hour. During the AM Peak hour the left turn from 2450 South experiences an LOS F.

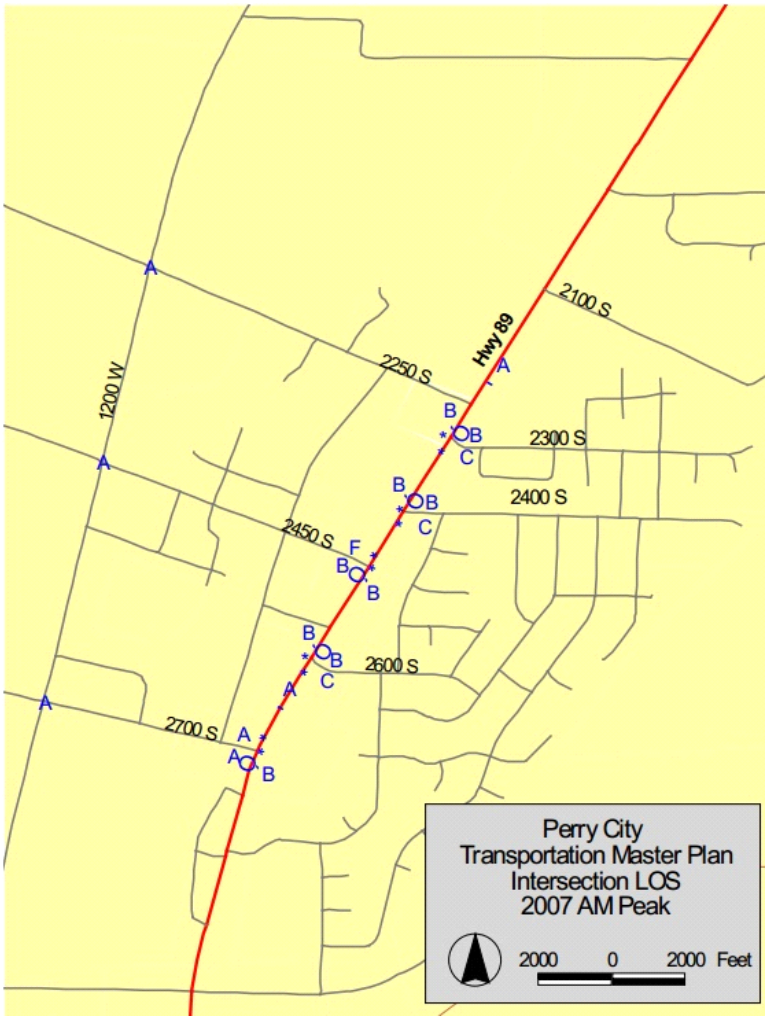


Figure 2.4 – Existing Conditions LOS AM Peak

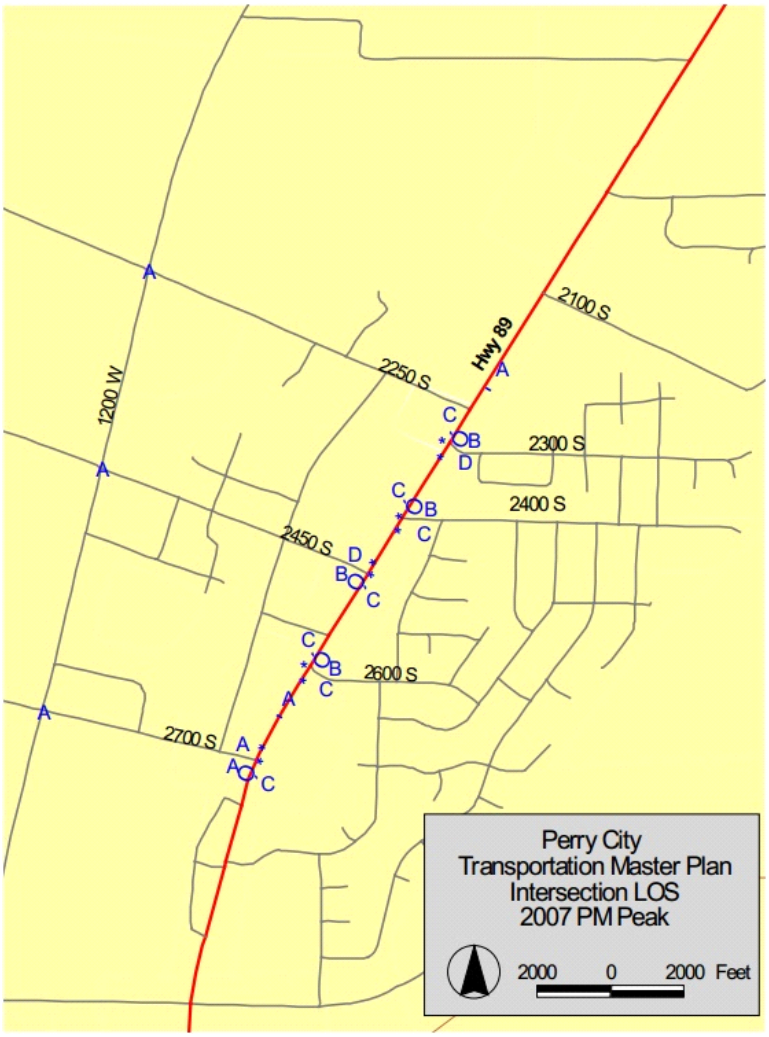


Figure 2.5 – Existing Conditions LOS PM Peak

Amended by Ord. 14-M on 10/1/2014
Amended by Ord. 14-M City Transportation Circulation Guide on 10/1/2014

13.07.030 Future Conditions Analysis

1. Anticipation of Future Conditions Analysis.
    a. The following regarding a future conditions analysis:
        i. In order to assess future roadway conditions and operating characteristics an estimate of anticipated land uses must be determined. An effective transportation system is an essential part of any community. A transportation system provides the means by which people can get to places where they work, shop, go to school, or recreate. Thus the types of land uses welcomed and envisioned by a community will determine the amount of traffic generated in and by the community.
        ii. Future population and commercial growth or intensity of development will typically intensify traffic conditions at some point. This section provides a basis for estimating future population, employment and development growth when the City of Perry is fully developed. From this information an analysis of the potential trip generation characteristics can be performed. The roadway operational characteristics can then be evaluated by assigning total vehicle trips to the roadway network. Roadways and intersections anticipated to function poorly will be identified for future roadway improvements. This type of analysis is called travel demand estimation, and the procedure facilitates the assessment of needed transportation improvements.
        iii. Important in any analysis of future conditions for such a long-range forecast is a full knowledge of assumptions used in the evaluation process. This section will set forth the assumptions used to establish build-out conditions for the traffic analysis.
2. Transportation Analysis Zones.
    a. The following regarding transportation analysis zones:
        i. The General Land Use Plan identifies areas for future development. Although there are areas within the City still being used for agricultural purposes, the Plan identifies residential development for these agricultural areas as well as other residential, commercial, and public use areas within the City. Using this General Plan in conjunction with historic trends, future development data provided by Perry City, was used to estimated build-out conditions. The process began by evaluating the data and creating Transportation Analysis Zones (TAZ), then continued with identification of demographics and population data within each TAZ.
        ii. TAZs represent small sub-areas, within which estimates are made for the volume of traffic generated by various land uses. The total volume of traffic generated by a TAZ is then distributed throughout the study area. Each trip leaving the zone has a corresponding destination in some other zone based on the type of trip (home-to-work, -to-school, etc.). These trips were manually assigned onto the available road network based on the land uses in each TAZ. The study area includes 15 individual TAZs. Each of the TAZs are numbered and identified on Figure 3.1. The following concepts were used as a guide to

delineate the TAZs.

3. Number of Zones.
    a. In general, a large number of zones allow analysis in greater detail for existing and future conditions. The desire for in-depth detail was balanced with the level of effort required to analyze a fewer number of zones.
4. Internal Homogeneity.
    a. The following regarding internal homogeneity:
        i. Generally, each zone is homogenous has an identifiable or prominent land use or activity characteristic. This characteristic differentiates the area within the zone from the area outside. The prominent internal characteristic may include one of the following examples of activities:
            (1) Residential neighborhood;
            (2) Retail business area;
            (3) Recreational destination;
            (4) Transportation terminal or hub;
            (5) Industrial area;
            (6) Agricultural area.
        ii. Future land uses, to the best effort possible based on the General Plan, were estimated for each of the zones. For example, if within a given area there was currently only one prominent land use, the expectation was that it constitutes one zone. However, if it was expected that a part of that zone may alter its land use in the future, two zones were created. An existing average density of 1.5 units per acre, provided by the City was used for the TAZ analysis.
5. Traffic Shed Characteristics.
    a. Most traffic will eventually use an arterial or collector to exit a zone. Conversely, most traffic entering a zone is likely to follow an arterial or collector before dispersing among local streets.
6. Boundaries.
    a. Ideally, boundaries of TAZs do not overlap with boundaries of sub-areas identified by planning agencies, highway boundaries, or census data boundaries. In cases where a roadway formed a clear boundary between land uses and indeed, acted as a barrier to activity, the boundary was located down the center of the roadway.
7. Size of Zone.
    a. There is no strict rule regarding the optimum zone size. The most important consideration is that zone size should be inversely related to the volume of traffic within it. That is, areas with intense traffic and dense land use activities have small zones, and dispersed land use areas are composed of large zones.

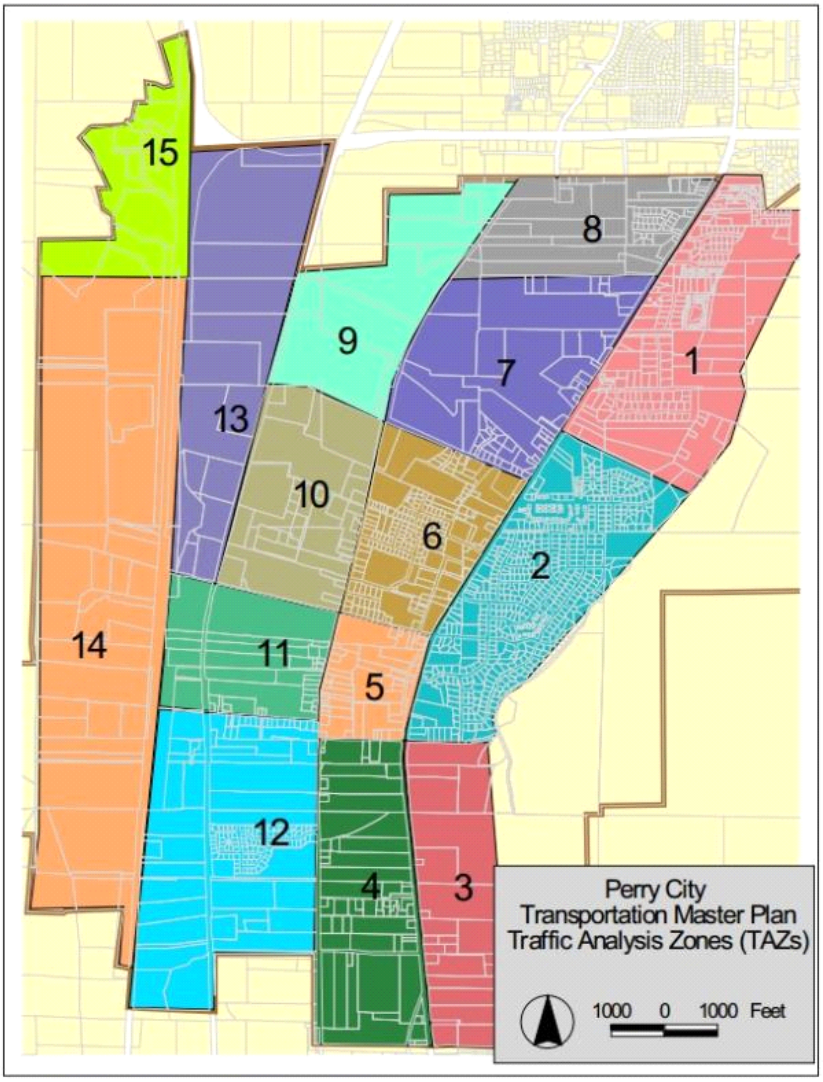


Figure 3.1 – Traffic Analysis Zones (TAZs)

8. Existing and Future Land Use.

   a. The following regarding existing and future land use:

      i. Although population data for Perry City is readily available through the U.S. Census Bureau, square footage of existing retail, office and industrial development is more difficult to acquire. Since a full build-out condition is the scenario under analysis for the present study, a more meaningful approach to land use is to look at the future mix of land uses. As discussed above, the build-out characteristics for the study area are presented in the Perry City General Plan. These land uses are shown in Figure 3.2.

      ii. An estimate of the population of Perry at full-build out begins by multiplying the number of acres of residential land for each of the 4 categories by the average number of households per acre anticipated for the category. The average density of households for the Mixed Use Residential (MU-R) designation is estimated at 4 per acre, average household density for Medium Residential (R-1) is also 4 units per acre, average density for Rural Residential (RE-1/2) is 2 units per acre. Agricultural land use was estimated at a density of 2 units per acre.

      iii. Based on the Governors Office of Planning and Budget (GOPB), it is estimated that Perry City will grow at an annual rate of 1.3% per year. At a growth rate of 1.3% per year Perry's population will reach approximately 18, 383 in 20 years. However, the current population is approximately 4,300 which is the 2030 population projection according to the GOPB estimates. This equates to an average growth rate at approximately 5% per year. This will likely slow in the next few years back to the GOPB growth rate. This average 1.3% growth per year accommodates for the market fluctuations that occur over the years.

      iv. A major assumption for this analysis is that the rate of development for the commercial/business and industrial land uses will be such that it will reach build-out at the same time as the residential land uses.

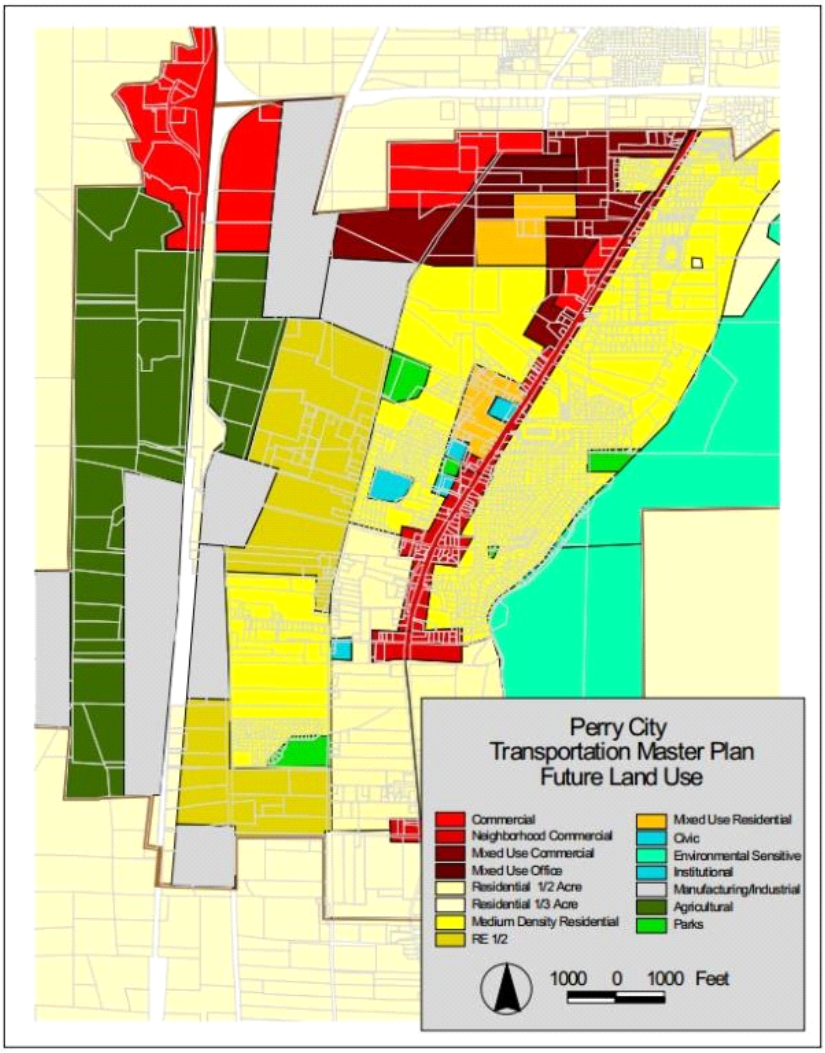


Figure 3.2 – Future Land Use

9. Future Traffic Volumes.

    a. There are two types of trips that will impact the roadway network within Perry City. Trips that start or end in the study area such as trips by those living there or working there are one such type; we will call these trips that either start or end within the study area internal trips. Some of these trips will not be fully contained within the study area, but will venture out to other areas, such as those made by people who live in Perry but who work somewhere in nearby cities such as Brigham City, Ogden, North Ogden,Logan, or in Box Elder, Weber or Cache County. A second type of trip will neither start nor end in Perry but will be a pass-through or external trip; these trips will start or end north or south of the city, go through the City on US-89 to some destination outside the City.

10. Internal Trips.

    a. The following regarding internal trips:

        i. Every type of land use has different trip-making characteristics. Much research has been performed to quantify these characteristics for purposes of estimating trip generation potential of various types of development. The Institute of Traffic Engineers 7th Edition of "Trip Generation" was consulted to determine the number of trips anticipated for each of the land uses called for in the Perry General Plan. "Trip Generation" gives very specific rates for different types of development; rates are provided with varying levels of statistical confidence for weekdays, weekends, morning peak hour and evening peak hour with estimates for inbound and outbound trips. The number of trips can be calculated based on the number of residential units, the number of square feet of commercial/retail/office, the number of employees, etc. For the purposes of this study the average daily trip generation rates for a weekday were used, with the total number of inbound and outbound trips being equal.
        ii. Although the trip generation rates for residential land uses are very similar on a per unit basis, rates for different types of commercial/retail/office and industrial development vary greatly. Ideally a traffic impact analysis is performed with the knowledge of specific development proposal, enabling a more precise level of analysis to be achieved. In order to estimate a trip generation rate for the various commercial land uses that might occur in Perry City, several types of development was assumed. In order to determine the total number of trips generated by the commercial areas an estimate of the square footage of building space needed to be made.
        iii. Build-out land use characteristics for the entire study area are presented in the Perry City General Plan and shown in Figure 3.2. Using appropriate trip generation rates for each land use category, the number of internal trips anticipated for Perry City was calculated and is shown in Table 3.1. The total number of potential trips generated by the land uses envisioned in the General Plan is estimated at nearly 100,720 average weekday trips added to the roadway network. Again this was based on the maximum density allowed for each land use zone. Some areas within the city are constrained due to physical limitations such as slope, high water table, and wetlands.

Table 3.1 - Build-out Land Use and Trip Generation

Land Use Type	ITE Average Weekday Trips	Acreage at Build out	Units at Build out	Number of Trips Generated on Avg. Weekday
RE 1/2 Rural Residential	9.57 per d.u.	387	774 dwelling units	7,407
R-1 Medium Density Residential	9.57 per d.u.	989	3956 dwelling units	37,858
R 1/3 Low Density Residential	9.57 per d.u.	125	250 dwelling units	2,393
R 1/2 Residential 1/2 Acre	9.57 per d.u.	419	838 dwelling units	8,019
MU-R Mixed Use Residential	9.57 per d.u.	84	336 dwelling units	3,215
Agricultural	9.57 per d.u.	540	1176 dwelling units	11,255
Total Residential		2,544	7,330	70,147
C-1 Commercial	42 per 1000 sf	297	646 1000 sf	27,168
MU-C Mixed Use Commercial	42 per 1000 sf	166	361 1000 sf	15,185
NC Neighborhood Commercial	42 per 1000 sf	121	263 1000 sf	11,068
Total Commercial		584	1270	53,421
Industrial	6.97 per 1000 sf	472	499 1000 sf	3,478
Institutional	12.89 per 1000 sf	8	348 1000 sf	4,491
CVC Civic	1.6 per 1000 sf	18	27 1000 sf	1,861
MU-O Mixed Use Office	1.55 per 1000 sf	67	11 1000 sf	17
Total Others		565	885	9,847
TOTAL		3,766		100,720

11. External Trips.
    a. The following regarding external trips:
        i. The second type of trip that must be accounted for in estimating future roadway traffic conditions are external trips or pass-through trips. For the purposes of this study the number of trips having at least one trip end outside the city was estimated by examining the traffic data collected early in the study process.
        ii. Currently, based on census data, approximately 45% of people that live in Box Elder County work in some other nearby county. (This does not necessarily mean that 45% of trips leave the county or the study area, but it is likely to still be a high number due to the proximity of nearby metropolitan shopping and entertainment opportunities and the relative low provision of such amenities in Brigham City and other locations throughout the county.) It is anticipated however, that with future opportunities for shopping and employment in the city that this number will be much smaller. People that live in nearby county areas that travel through Perry to shop in Brigham or Weber County will no longer have to pass through Perry, but may become an internal trip, stopping in Perry for some of their shopping needs.
12. Future Roadway Network.
    a. The following regarding future roadway networks:
        i. Prior to assigning trips to the roadway network, a cursory evaluation of the existing network was made. Two factors will significantly influence traffic patterns given the existing barriers to traffic movement. There is only one major north/south arterial road through Perry that provides access to the US-91/I-15 Interchange and access to destinations to the south in Weber County. This would tend to focus a significant amount of traffic on US-89 even if operational characteristics deteriorate, due to the lack of alternate routes to access different areas of the city.For this reason a second north/south access road as suggested in the General Plan, by extending 1200 West, was assumed in the analysis to more evenly distribute traffic throughout the city.
        ii. Undeveloped areas of the city is assumed be constructed with a network of collector and local roadways. For this purpose a limited roadway network was understood based on locations for future connections as envisioned in the General Plan. This future roadway network represents key roadways, collector roadways as well as important local roadways, but does not attempt to assume full build-out of the local roadway system that would be constructed within each development.
13. Trip Assignment.
    a. The following regarding trip assignments:
        i. The number of trips determined earlier was proportionately divided among the 14 TAZs based on the estimated acreages shown in Table 3.1. This was done using professional judgment assigning some trips to each of several likely routes, while recognizing that not all trips will originate or be destined for the same point within any given zone.
        ii. Pass through trips were also added to the roadway network, assuming that these trips will use the most direct routes on the highest functionally classified roadway possible.
        iii. Once the total number of daily trips are estimated for any given roadway, an estimate of the peak hour trips must also be made because usually traffic operational analysis is performed at the intersection level for the worst hour of a typical weekday. It is anticipated that at 2030 conditions the peak hour will constitute 10% of the daily traffic. For purposes of this analysis, each link was evaluated and the PM peak hour volume for each direction of travel was estimated between 40 and 60% of the peak hour volume based on the position of the link in the network. The total average daily traffic volumes for 2030 conditions are shown in Figure 3.3.

14. Future Traffic Level-of-Service Analysis.

a. The following regarding future traffic level-of-service analysis:

i. A future level of service analysis was performed using the existing lane, intersection geometry and traffic control. Average daily traffic volumes shown in Figure 3.3 were compared to the values for the various types of roadways in Table 2.2 and a corresponding LOS determined. The results of the LOS analysis for key roadways intersections are shown in Figures 3.4 for AM Peak and 3.5 for PM Peak.

ii. As can be seen in Figures 3.4 and 3.5, the roadways with predicted levels of service below LOS C are:

(1) 2600 South/US-89 southbound, northbound and eastbound
(2) 2400 South/US-89 southbound, northbound and eastbound
(3) 2300 South/US-89 southbound, northbound and eastbound
(4) 2450 South/US-89 northbound
(5) 2700 South/US-89 northbound and westbound

iii. The worse conditions occur during the PM Peak hour which is not unusual. Poor conditions also occur during the AM Peak as well primarily for northbound and southbound travel along US-89.

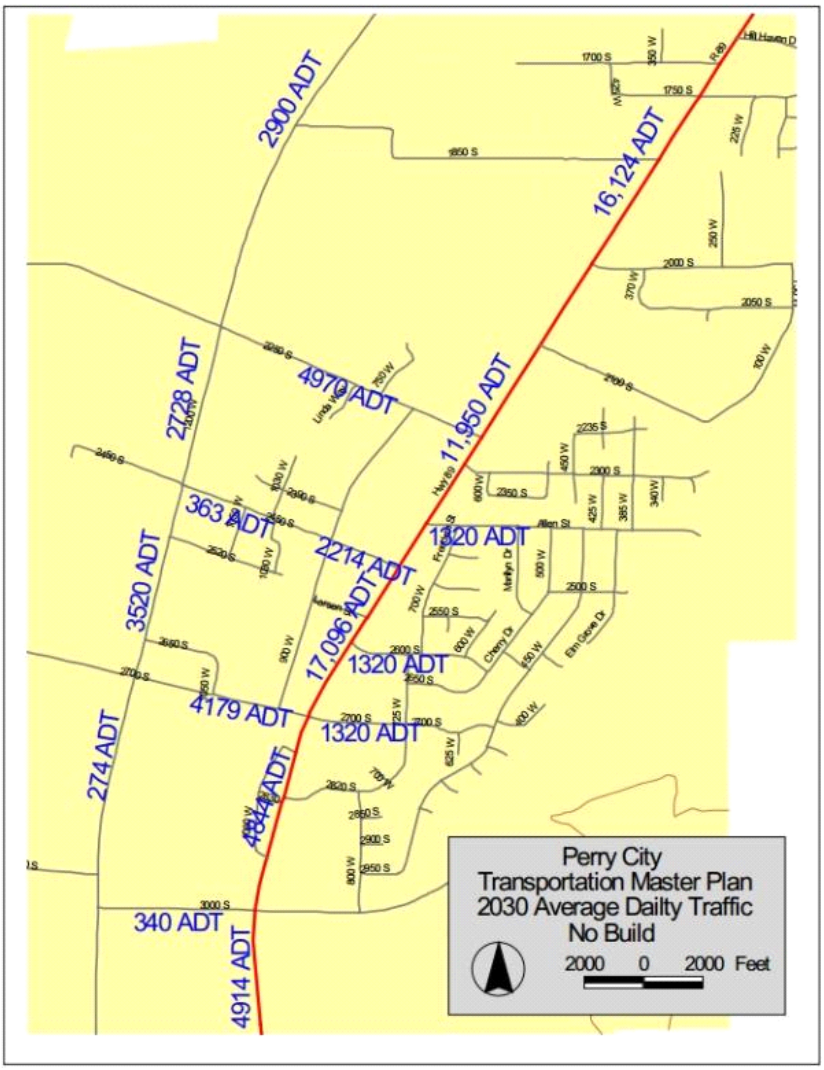


Figure 3.3 – 2030 ADT Volumes

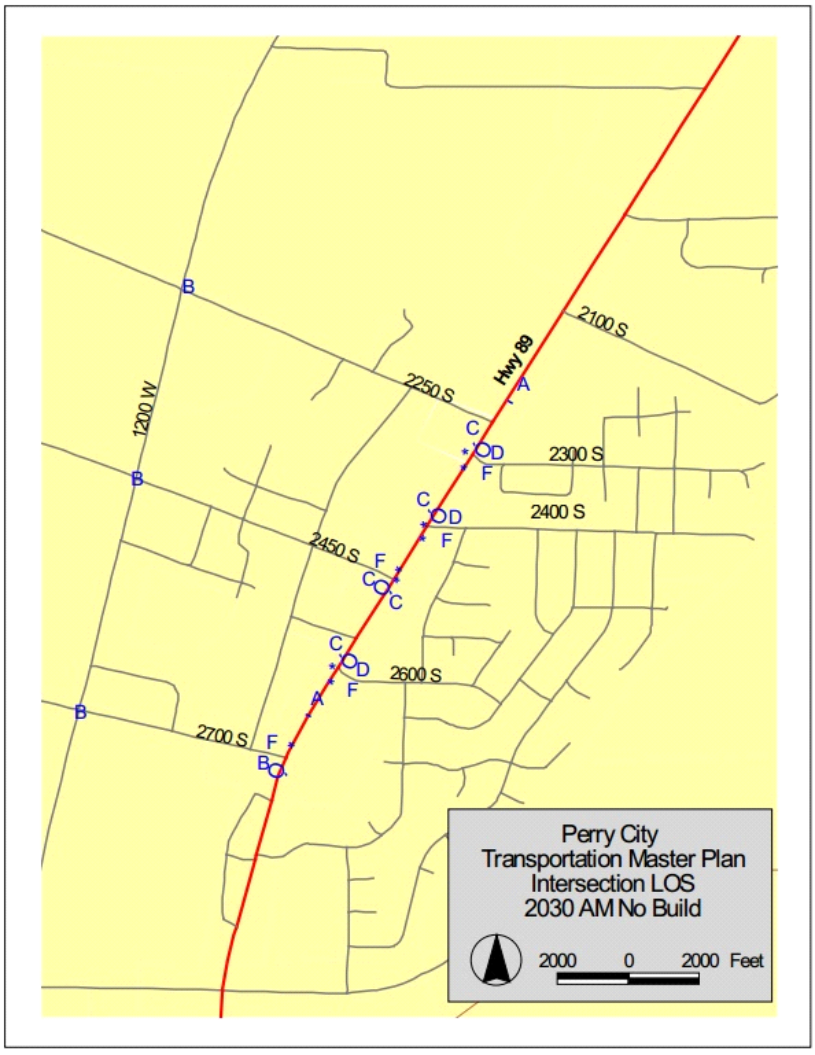


Figure 3.4 – 2030 AM Peak LOS

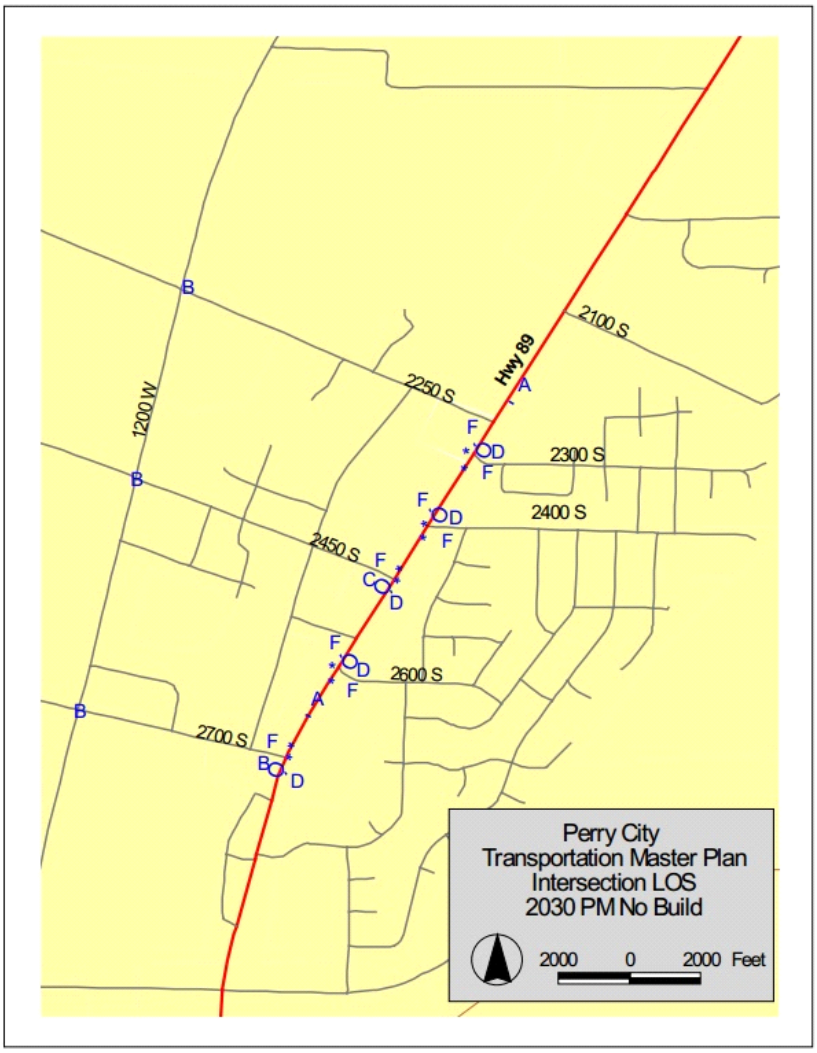


Figure 3.5 – 2030 PM Peak LOS

13.07.040 Capital Improvement Program

1. Purpose.
    a. The following regarding capital improvement programs:
        i. Based on the results of the traffic level of service analysis performed, a list of projects was prepared. In addition to the roadways shown as functioning at unacceptable levels of service, the Extension of 1200 West to US-91 is included in the list of projects due to the fact that it will serve a collector street function and provide relief for US-89.
        ii. In creating a list of projects, it is safe to assume that it is likely that intersections will be improved prior to the widening of roadways. In some cases relatively inexpensive treatments may be feasible that will temporarily address problems that arise at spot locations. Other intersections may require additional pavement to be constructed. Eventually, signalization of intersections may be required -- it should be noted that traffic signals are not installed based on a long range forecast of traffic volumes, a separate warrant analysis is conducted. Clearly, the future travel demand and additionally, the need for eastside and westside collector roads will become a priority. These roads should function to allow local traffic additional north and south access that will eventually distribute traffic along US-89 at different locations. A Westside collector such as 1200 West will allow traffic direct access to US-91 relieving US-89 of local traffic. A long term consideration for 1200 West is to extend it south to Willard. This will allow greater north/south access for local traffic.
        iii. It is recommended that each major development continue to be subject to safe engineering principles and that those most significant developments should be required to perform a site specific traffic impact analysis. For the purposes of this study it is assumed that each development will be required to construct appropriate roadways that connect to the existing roadway network, subject to City Planning Commission and/or City Council approval. Cost estimates for collector and arterial roadways consistent with the City typical street section standards shown in Figure 4.1, including curb, gutter and 4’ sidewalks on each side of the roadway were developed. These costs do not include right-of-way. Right-of-way values should be appraised at the time when the city is negotiating with property owners for the property. Detailed assumptions for these cost estimates are included in the appendix.
        iv. A few of the anticipated roadway improvements are associated with US-89, therefore the Utah Department of Transportation will need to be involved, at least in a review capacity, if not financially as well. Impact fees may also contribute to intersection improvements along US-89 caused by development that contributes traffic to the roadway. In addition, to require that developments construct all roadways internal to their development (with appropriate connections to existing and future roadways), impact fees may be assessed to development that cause the need for off-site capacity improvements.
        v. Although the order in which future development will occur is not known at this time, Table 4.1 was prepared to indicate a time period for each of the several projects needed to address anticipated roadway improvement needs. Certainly the order and intensity of future development will dictate the locations for specific improvement in the future. In order to assess impact fees for these projects, an estimate of the total traffic using the project area, as well as the percentage of both new growth and internal traffic is included along with the estimated project cost.

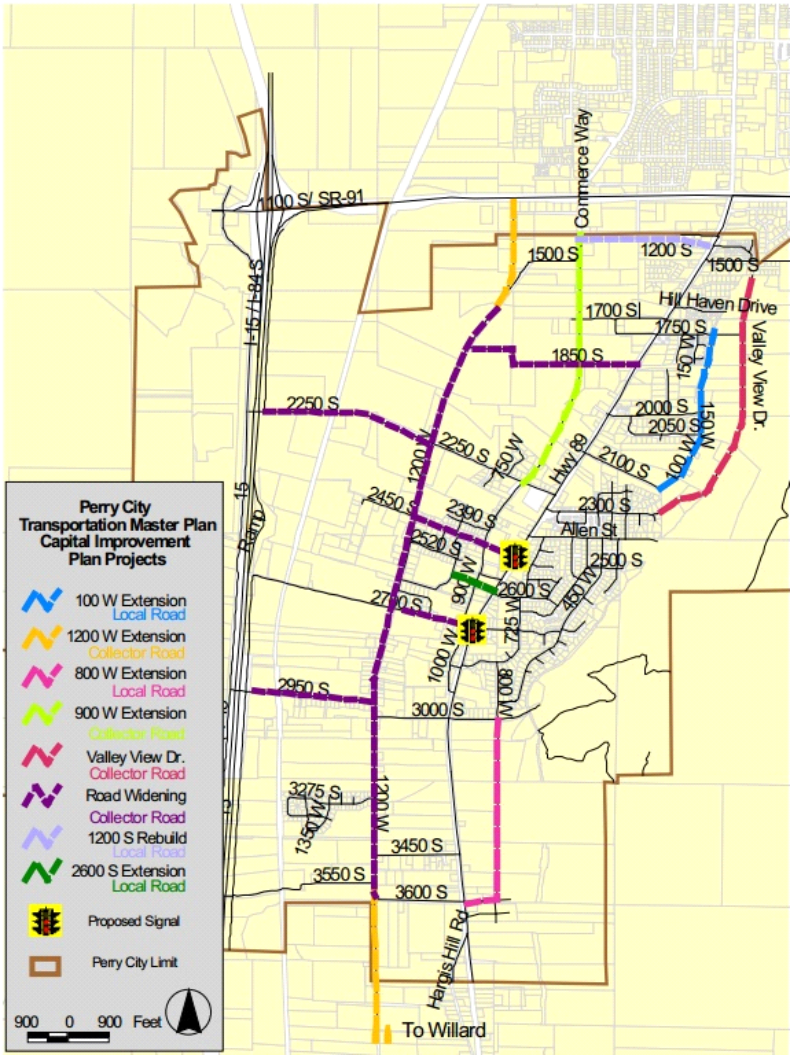


Figure 4.1 Capital Improvement Plan Recommendations

Table 4.1 – Capital Improvement Projects

Project Location	Recommended Improvement Type	From/To	Estimated 2030 Project Cost
2008 - 2013 Projects			
1200 West connection to US-91	Road extension	1700 S/SR-91	$230,000
1200 West	Road widening	1700 S/3000 S	$750,000
2450 South	Road widening	US-89/1200 W	$310,500
Canyon View Drive (100 West)	New Road/Extension	2100 S/1750 S	$310,000
1200 South	New Road	US-89/Commerce	$173,376
2600 South Extension	New Road	US-89/Linda Way	$110,000
Sub Total			**$1,990,500.00**
2013 - 2023 Projects			
2450 South/US-89	Intersection Traffic Signal	N/A	$350,000
2700 South/US-89	Intersection Traffic Signal	N/A	$350,000
2700 South	Road widening	US-89/1200 W	180,000
Park Street (900 West)	Road Extension	2250 S/1500 S	$527,000
East Side Connector/Valley View Dr.	New Road	1500 S/2300 S	$798,000
Sub Total			**$2,205,000.00**
Projects beyond 2023			
2950 South Extension/widening	Widening/extension	1200 W/I-15 Frontage	$310,000
2250 South	New Road/Extension	1200 W/I-15 Frontage	$441,000
1700 South	Road widening	US-89/1200 W	$390,000
800 West	New Road/Extension	3000 S/3600 S	$389,700
1200 West Extension South	New Road/Extension	3600 S/City Limit	$568,800
Sub Total			**$2,099,500.00**

Cost estimates do not include Right-of-way

13.07.050 Conclusion And Recommendations

1. Purpose.
    a. As stated in the introduction, the purpose of this study was to identify anticipated future roadway improvement needed to accommodate growth and provide acceptable LOS and appropriate roadway classification to allow Perry City to properly plan and budget for essential existing and future transportation needs. The population of Perry is projected to more than double over the next 5-7 years, and potentially reach population of over 25,000 residents in the next 30 years.Therefore it is expected that traffic volumes will correspondingly increase in Perry. In order to project where the increased traffic will originate and which roads will be most affected and to what extent the roads will be affected, an analysis of several different factors is required. These contributing factors are as follows:
        i. Land Development: It must be determined, based on the City's General Plan, where and how much of certain types of development will occur in the City.
        ii. Transportation Corridors: It needs to be determined where the traffic is going to be carried on the transportation network so that future improvements can be planned.
2. Interchange Evaluation.
    a. The following regarding interchange evaluations:
        i. In addition to identifying the anticipated future roadway improvements, the Perry City Planning Commission requested that an evaluation of a potential interchange located at 2950 South be conducted. This evaluation included consultation with FHWA and evaluation of existing policy. Each new access onto the interstate has to receive Federal Highway Administration approval through an interchange justification process. That justification process must identify the need for the interchange; that there are no surface street alternatives to the interchange; and that the interchange does not negatively impact the flow of traffic on the interstate. Approval of a new access to the interstate constitutes a federal action and as such requires full NEPA documentation. The existing policy is included in the Appendices. In addition to meeting the criteria identified in the FHWA interchange policy, additional concerns raised by FHWA include the proximity of the existing rest stop and port of entry. These would likely have to be relocated if an interchange were approved at this location to avoid the adverse affect of weaving from the on and off ramps.
        ii. This plan evaluated the condition of and identified the need for improvements to the existing and future transportation network. From that evaluation, a capital improvement project list was prepared based on a 25 year projection. The next step to implement capital improvement projects relies on funding. Perry City is currently in the process of developing an impact fee schedule for all new development to aid in the capital improvement costs.

13.07.060 Appendices

1. Appendix of Individual Project Cost Quantities.
    a. The following appendix for individual project cost quantities:

Individual Project Cost Quantities

1200 West Widening					
Curb & Gutter	Linear Feet	15000	$14.00		$21,000.00
Sidewalk	Linear Feet	15000	$14.00		$210,000.00
Widening Street	Square Feet	0	$1.75		$0
Overlay/Rebuild	Square Feet	330000	$1.00		$330,000.00
				Sub-Total	**$750,000.00**
1200 West to South City Limit					
Curb & Gutter	Linear Feet	15800	$14.00		$221,200.00
Sidewalk	Linear Feet		$14.00		$0
Widening Street	Square Feet		$1.75		$0
New Build	Square Feet	347600	$1.00		$347,600.00
				Sub-Total	**$568,800.00**
1200 West to US-91					
Curb & Gutter	Linear Feet	4600	$14.00		$64,400.00
Sidewalk	Linear Feet	4600	$14.00		$64,400.00
Widening Street	Square Feet	0	$1.75		$0
New Build	Square Feet	101200	$1.00		$101,200.00
				Sub-Total	**$230,000.00**
East Side Connector					
Curb & Gutter	Linear Feet	12000	$14.00		$168,000.00
Sidewalk	Linear Feet	12000	$14.00		$168,000.00
Widening Street	Square Feet	264000	$1.75		$462,000.00
New Build	Square Feet	0	$1.00		$0
				Sub-Total	**$798,000.00**
1200 South					
Curb & Gutter	Linear Feet	2408	$14.00		$33,712.00
Sidewalk	Linear Feet	2408	$14.00		$33,712.00
Widening Street	Square Feet	0	$1.75		$0

Overlay/Rebuild	Square Feet	105952	$1.00		$105,952.00
				Sub-Total	**$173,376.00**
2450 South					
Curb & Gutter	Linear Feet	4600	$14.00		$64,400.00
Sidewalk	Linear Feet	4600	$14.00		$64,400.00
Widening Street	Square Feet	46000	$1.75		$80,500.00
Overlay/Rebuild	Square Feet	101200	$1.00		$101,200.00
				Sub-Total	**$310,500.00**
2250 South					
Curb & Gutter	Linear Feet	8820	$14.00		$123,480.00
Sidewalk	Linear Feet	8820	$14.00		$123,480.00
Widening Street	Square Feet	0	$1.75		$0
Overlay/Rebuild	Square Feet	194040	$1.00		$194,040.00
				Sub-Total	**$441,000.00**
2600 South					
Curb & Gutter	Linear Feet	2200	$14.00		$30,800.00
Sidewalk	Linear Feet	2200	$14.00		$30,800.00
Widening Street	Square Feet	0	$1.75		$0
New Build	Square Feet	48400	$1.00		$48,400.00
				Sub-Total	**$110,000.00**
900 West					
Curb & Gutter	Linear Feet	10540	$14.00		$147,560.00
Sidewalk	Linear Feet	10540	$14.00		$147,560.00
Widening Street	Square Feet	0	$1.75		$0
Overlay/Rebuild	Square Feet	231880	$1.00		$231,880.00
				Sub-Total	**$527,000.00**
100 West					
Curb & Gutter	Linear Feet	6200	$14.00		$86,800.00
Sidewalk	Linear Feet	6200	$14.00		$86,800.00
Widening Street	Square Feet	0	$1.75		$0
New Build	Square Feet	136400	$1.00		$136,400.00
				Sub-Total	**$310,000.00**
800 West					
Curb & Gutter	Linear Feet	7794	$14.00		$109,116.00
Sidewalk	Linear Feet	7794	$14.00		$109,116.00
Widening Street	Square Feet	0	$1.75		$0
New Build	Square Feet	171468	$1.00		$171,468.00
				Sub-Total	**$389,700.00**
1700 South					
Curb & Gutter	Linear Feet	7800	$14.00		$109,200.00
Sidewalk	Linear Feet	7800	$14.00		$109,200.00
Widening Street	Square Feet	0	$1.75		$0
Overlay/Rebuild	Square Feet	171600	$1.00		$171,600.00
				Sub-Total	**$390,000.00**
2950 South					
Curb & Gutter	Linear Feet	6200	$14.00		$86,800.00
Sidewalk	Linear Feet	6200	$14.00		$86,800.00
Widening Street	Square Feet	0	$1.75		$0
Rebuild	Square Feet	136400	$1.00		$136,400.00
				Sub-Total	**$310,000.00**

2700 South					
Curb & Gutter	Linear Feet	3600	$14.00		$50,400.00
Sidewalk	Linear Feet	3600	$14.00		$50,400.00
Widening Street	Square Feet	0	$1.75		$0
Overlay/Rebuild	Square Feet	79200	$1.00		$79,200.00
				Sub-Total	**$180,000.00**
Total Quantities					
Curb & Gutter	Linear Feet	112,202	$14.00		$1,570,828.00
Sidewalk	Linear Feet	96,402	$14.00		$1,349,628.00
Widening Street	Square Feet	494,800	$1.75		$865,900.00
Overlay/Rebuild	Square Feet	2,204,444	$1.00		$2,204,444.00
				Total Cost	**$5,488,376.00**

2. Additional Interchanges to the Interstate System.
    a. The following information regarding the sources for additional interchanges to the interstate system:
        i. Federal Register: February 11, 1998 (Volume 63, Number 28)
        ii. Notices
        iii. Page 7045-7047
        iv. From the Federal Register Online via GPO Access
        v. DOCID:fr11fe98-120

            (1) DEPARTMENT OF TRANSPORTATION
            (2) Federal Highway Administration
            (3) Additional Interchanges to the Interstate System
            (4) AGENCY: Federal Highway Administration (FHWA), DOT.
            (5) ACTION: Notice of policy statement.

3. Summary, Date, and Further Information.
    a. The following regarding the summary, date, and further information of this Chapter:
        i. This document issues a revision of the FHWA policy statement regarding requests for added access to the existing Interstate system. The policy includes guidance for the justification and documentation needed for requests to add access (interchanges and ramps) to the existing Interstate System. The policy statement was originally issued in the Federal Register on October 22, 1990 (55 FR 42670).
        ii. The effective date of this policy is February 11, 1998.
        iii. For Further Information Contact: Mr. Seppo I. Sillan, Federal-Aid and Design Division, Office of Engineering, (202) 366-0312, or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366-0780, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

4. Supplementary Information.
    a. The following supplementary information for this Title:
        i. Background: Section 111 of title 23, U.S.C., provides that all agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. The Secretary has delegated the authority to administer 23 U.S.C. 111 to the Federal Highway Administrator pursuant to 49 CFR 1.48(b)(10). A formal policy statement including guidance for justifying and documenting the need for additional access to the existing sections of the Interstate System was published in the Federal Register on October 22, 1990 (55 FR 42670).
        ii. The FHWA has adopted the AASHTO publication "A Policy on Design Standards--Interstate System" as its standard for projects on the Interstate System. This publication provides that access to the Interstate System shall be fully controlled by constructing grade separations at selected public crossroads and all railroad crossings. Where interchanges with selected public crossroads are constructed, access control must extend the full length of ramps and terminals on the crossroad.

5. Summary of Changes.
    a. The following summary of changes:
        i. The changes in the policy statement are being made to reflect the planning requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, Pub. L. 102-240) as implemented in 23 CFR part 450, to clarify coordination between the access request and environmental processes, and to update language at various locations. The following specific revisions are made to the existing policy statement:
        ii. An additional sentence is added to item 5 under "Policy" that ensures requests for new or revised access are consistent with 23 CFR part 450 and 40 CFR parts 51 and 93.
        iii. Text in item 5 pertaining to future interchange additions has been moved to item 6 because it covers a different subject.
        iv. Item 6 is re-designated as item 7.
        v. A new item 8 is added so that those reviewing the access request have the information necessary to process the request.
        vi. The fifth paragraph under "Application" is revised to clarify coordination with the environmental process.
        vii. The revised policy statement also includes various editorial changes to enhance clarity and readability. The revised policy statement is as follows:

6. Policy.
    a. The following regarding policy:

i. It is in the national interest to maintain the Interstate System to provide the highest level of service in terms of safety and mobility. Adequate control of access is critical to providing such service. Therefore, new or revised access points to the existing Interstate System should meet the following requirements:
ii. The existing interchanges and/or local roads and streets in the corridor can neither provide the necessary access nor be improved to satisfactorily accommodate the design-year traffic demands while at the same time providing the access intended by the proposal.
iii. All reasonable alternative for design options, location and transportation system management type improvements (such as ramp metering, mass transit, and HOV facilities) have been assessed and provided for if currently justified, or provisions are included for accommodating such facilities if a future need is identified.
iv. The proposed access point does not have a significant adverse impact on the safety and operation of the Interstate facility based on an analysis of current and future traffic. The operational analysis for existing conditions shall, particularly in urbanized areas, include an analysis of sections of Interstate to and including at least the first adjacent existing or proposed interchange on either side. Crossroads and other roads and streets shall be included in the analysis to the extent necessary to assure their ability to collect and distribute traffic to and from the interchange with new or revised access points.
v. The proposed access connects to a public road only and will provide for all traffic movements. Less than "full interchanges" for special purpose access for transit vehicles, for HOV's, or into park and ride lots may be considered on a case-by-case basis. The proposed access will be designed to meet or exceed current standards for Federal-aid projects on the Interstate System.
vi. The proposal considers and is consistent with local and regional land use and transportation plans. Prior to final approval, all requests for new or revised access must be consistent with the metropolitan and/or statewide transportation plan, as appropriate, the applicable provisions of 23 CFR part 450 and the transportation conformity requirements of 40 CFR parts 51 and 93.
vii. In areas where the potential exists for future multiple interchange additions, all requests for new or revised access are supported by a comprehensive Interstate network study with recommendations that address all proposed and desired access within the context of a long-term plan.
viii. The request for a new or revised access generated by new or expanded development demonstrates appropriate coordination between the development and related or otherwise required transportation system improvements.
ix. The request for new or revised access contains information relative to the planning requirements and the status of the environmental processing of the proposal.

7. Application.

a. The following regarding application of this Title:

i. This policy is applicable to new or revised access points to existing Interstate facilities regardless of the funding of the original construction or regardless of the funding for the new access points. This includes routes incorporated into the Interstate System under the provisions of 23 U.S.C. 139(a) or other legislation.
ii. Routes approved as a future part of the Interstate system under 23 U.S.C. 139(b)
represent a special case because they are not yet a part of the Interstate system and the policy contained herein does not apply. However, since the intention to add the route to the Interstate system has been formalized by agreement, any proposed access points, regardless of funding, must be coordinated with the FHWA Division Office. This policy is not applicable to toll roads incorporated into the Interstate System, except for segments where Federal funds have been expended, or where the toll road section has been added to the Interstate System under the provisions of 23 U.S.C. 139(a).
iii. For the purpose of applying this policy, each entrance or exit point, including "locked gate" access, to the mainline is considered to be an access point. For example, a diamond interchange configuration has four access points.
iv. Generally, revised access is considered to be a change in the interchange configuration even though the number of actual points of access may not change. For example, replacing one of the direct ramps of a diamond interchange with a loop, or changing a cloverleaf interchange into a fully directional interchange would be considered revised access for the purpose of applying this policy.
v. All requests for new or revised access points on completed Interstate highways must be closely coordinated with the planning and environmental processes. The FHWA approval constitutes a Federal action, and as such, requires that the National Environmental Policy Act (NEPA) procedures are followed. The NEPA procedures will be accomplished as part of the normal project development process and as a condition of the access approval. This means the final approval of access cannot precede the completion of the NEPA process. To offer maximum flexibility, however, any proposed access points can be submitted in accordance with the delegation of authority for a determination of engineering and operational acceptability prior to completion of the NEPA process. In this manner, the State highway agency can determine if a proposal is acceptable for inclusion as an alternative in the environmental process. This policy in no way alters the current NEPA implementing procedures as contained in 23 CFR part 771.
vi. Although the justification and documentation procedures described in this policy can be applied to access requests for non-Interstate freeways or other access controlled highways, they are not required. However, applicable Federal rules and regulations, including NEPA procedures, must be followed.

8. Implementation.

a. The FHWA Division Office will ensure that all requests for new or revised access submitted by the State highway agency for FHWA consideration contain sufficient information to allow the FHWA to independently evaluate the request and ensure that all pertinent factors and alternatives have been appropriately considered. The extent and format of the required justification and documentation should be developed jointly by the State highway agency and the FHWA to accommodate the operations of both agencies, and should also be consistent with the complexity and expected impact of the proposals. For example, information in support of isolated rural interchanges may not need to be as extensive as for a complex or potentially controversial interchange in an urban area. No specific documentation format or content is prescribed by this policy.

9. Policy Statement Impact.

a. The policy statement, first published in the Federal Register on October 22, 1990 (55 FR 42670), describes the justification and documentation needed for requests to add or revise access to the existing Interstate System. The revisions made by this publication of the policy statement reflect the planning requirements of the ISTEA as implemented in 23 CFR part 450, clarify coordination between the access request and environmental processes, and update language at various locations. The States will have to take these factors into consideration when making future requests for new or revised access points, but the overall effort necessary for developing the request will not be significantly increased.

13.09 Culinary Water Capital Facilities Plan

13.09.010 Overview Of The Perry City Culinary Water System Capital Facilities Plan
13.09.020 Existing System Evaluation
13.09.030 Future System Evaluation
13.09.040 Finance Element: Funding Of Future Culinary Water Facilities

13.09.010 Overview Of The Perry City Culinary Water System Capital Facilities Plan

1. Purpose of a Capital Facilities Plan.
    a. The purpose of this Capital Facilities Plan (CFP) is to identify existing system deficiencies (if any), the increased demands placed upon the City's existing culinary water facilities by future development and to evaluate how these deficiencies and future demands will be met by the City. The CFP is also intended to outline which improvements which may be funded through impact fees.
2. Need for a Capital Facilities Plan.
    a. According to the Impact Fees Act, local political subdivisions with populations or serving populations of more than 5,000 as of the last federal census must prepare a Capital Facilities Plan. Although Perry had a population of less than 5,000 as of the 2000 Federal Census, the City has elected to prepare this comprehensive capital facilities plan for culinary water infrastructure to ensure adequate planning for future growth. Local governments must pay strict attention to the required elements of the Capital Facilities Plan which are enumerated in the Impact Fees Act. The following elements must be discussed in the CFP before a local political subdivision can legally commence public notice and adopt the CFP.
3. Demand Analysis.
    a. The CFP must consider the level of service which is provided to a community's existing residents and ensure that future facilities meet these standards. The unit of measurement varies depending on which public facility is discussed. For example, the demand on culinary water improvements may be measured in terms of ERUs demanded. The CFP is also required to include a clear nexus between estimated future demand and the proposed capital facilities required to be constructed or acquired to meet the future demand.
4. Financing Options.
    a. The CFP must also include a consideration of all revenue sources, including impact fees, which may be used to finance system improvements. In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.
5. Noticing and Adoption Requirements – 11-36-202.
    a. The Impact Fees Act requires that any entity within a first- or second-class county provide written notice of its intent to prepare or modify any CFP. Because Box Elder County is classified as a second-class County, Perry must meet this requirement.
    b. If an entity prepares an independent CFP rather than include a capital facilities element in the general plan, the actual CFP must be adopted by enactment. Before the CFP can be adopted, a reasonable notice of the public hearing must be published in a local newspaper at least 14 days before the actual hearing. A copy of the proposed CFP must be made available to the public during the 14-day noticing period for public review and inspection. Copies must be posted in at least three designated public places which may include the City offices and each public library within the City's jurisdiction.
    c. Following the 14-day noticing period, a public hearing will be held, after which the City Council may adopt, amend and adopt, or reject the proposed CFP. Following the adoption, Utah Code Section 10-3-711 and 712 requires that a summary of the enactment be published in order for the enactment to become effective.
6. System Overview.
    a. The Perry City Water System supplies water to the inhabitants and businesses within Perry City limits. Most of this water is treated and used for non-irrigation purposes. Pineview Water supplies pressurized irrigation water to most of the city and plans to serve the entire city upon build out. The Perry system is bounded on the south by the Willard City system, on the north by the Brigham City system, on the east by mountains and on the west by the great salt lake wetlands, thus, expansion of the system beyond current city boundaries is not anticipated. Individual elements of the system are as follows:
7. Water Resources.
    a. Perry's water system is supplied by one spring and four wells. The spring is Stokes Springs located southwest of Evans Canyon and east of the Ogden-Brigham Canal. The wells are located on 2400 South, 2700 South and approximately 1760 South. These sources supply a maximum flow rate of 1,990 gallons per minute.
    b. In addition to culinary water, Perry City is served by Pineview Secondary Water System. Water is delivered by a canal along the east bench to several reservoirs where it enters the pressurized distribution system. This system is reliable and the entity is committed to serving the whole city through build out, thus outdoor water demand was neglected for this plan.
8. Existing Water Demand.
    a. All connections to the water system are equated to Equivalent Residential Units (ERU). A typical residence is considered to be 1 ERU, while a school, church, or other large user would be some multiple of an ERU based upon usage records. Currently there are 1,481 ERUs in the system.Using usage records and information from city personnel it has been determined that the peak day demand is 1.2 million gallons per day and the peak instantaneous demand is 1,136 gallons per minute.
9. Future Water Demand.
    a. The future demand is found assuming the condition where all remaining land (except sewer ponds and environmentally sensitive areas) within city boundaries will be developed at a density consistent with the city's land use map. This scenario is referred to as "build out". Build out also includes infill development in established sections of town.
    b. At the build out condition, there will be approximately 7,760 ERUs resulting in a peak day demand of 6.29 million gallons per day and a peak instantaneous demand of 6,120 gallons per minute.
10. Future Water Source / Supply.
    a. Current sources can only supply 41% (or 2.61 million gallons per day) of the required 6.29 million gallons per day. It is apparent that new sources of water will need to be developed. If current population projections and flow rate assumptions hold true, it appears that the existing water sources will be adequate until approximately 2015. Additional sources would likely come from rehabilitating an agricultural well owned by the city as well as developing new wells.
11. Water Storage.
    a. Perry City currently has a total storage capacity of 1.65 million gallons located in three reservoirs. Current storage requirements are 592 thousand gallons for equalization, 420 thousand gallons for fire suppression and 600 thousand gallons for emergency, totaling 1.61 million gallons. It is apparent that additional storage will be needed in 2007 or 2008 to stay ahead of the amount required.

b. At the build out condition, approximately 6.67 million gallons of storage will be needed. This includes 3,104 thousand gallons for equalization, 420 thousand gallons for fire suppression and 3,144 thousand gallons for emergency.

12. Distribution System.

a. The existing distribution system consists of several different pipe materials including PVC, steel and cast iron (some lead joint). There are two Pressure Reducing Valves (PRV) and three Pressure Sustaining Valves (PSV) effectively creating three to four pressure zones depending on the flow condition.
b. Currently there are no distribution deficiencies except for the need for a redundant loop on the northeast corner of the city (200 West). The distribution system will need to be upgraded through build out due to additional demands placed on it by development. This will consist of line upsizing, transmission lines, PSVs and PRVs.

13.09.020 Existing System Evaluation

1. Existing Demand.

a. Existing demand is calculated to determine existing deficiencies in the City's water system. To do this, the existing demand is input into the water model and various scenarios of flow conditions are evaluated. From these scenarios, areas of low pressure or flow deficiencies are discovered.
b. A standard residential unit is the basic unit used for calculating demand on the system. Water users that differ from a basic residential unit are considered to be some multiple of a residential unit depending on the expected water use. Commercial connections are estimated from water usage records and other available data to convert to Equivalent Residential Units (ERU). The ERUs are summed for each demand region and the city as a whole.
c. There are 1,237 existing residential connections. These are single family or multiple family residential structures. Based on water use records commercial demands have been converted to ERUs. These commercial and industrial connections total 244 ERUs. Total existing equivalent residential connections, including residential, multi-family, small and large commercial and industrial users, calculated for the year 2006 is 1,481.
d. Currently there are a very small number of connections in the city that are not served by pressurized secondary water. The local supplier of secondary water is working to serve the area and has committed to serving the whole city through build out. For this to happen however, the city must require developments to provide secondary water. Developments must also provide the required water shares / rights for secondary water. For this reason, all demands are considered to be indoor use and all modeling was done based on this assumption.
e. Several types of demand are used for water modeling. The peak instantaneous demand is used in the water model. The peak instantaneous demand is calculated from the average summer day demand multiplied by a factor to get to the peak day demand. The peak day demand is then multiplied by a factor to get to the peak hour, or peak instantaneous demand. This is the highest demand the system will experience, and consequently the demand used for modeling of the distribution system, while the peak day demand was used in evaluating storage requirements.
f. Guidelines established by the State of Utah estimate peak day demand (the highest 24-hour period of the year) for indoor and outdoor as discussed below.

Peak Day – State of Utah Formula (Indoor Use)

800 gpd/connection X 1,481 ERUs = 1,184,800 gallons per day
= 823 gallons per minute

g. A second approach taken to arrive at the peak day demand is to start from an average day's demand and apply a reasonable factor. From a sampling of 2005 usage records, an average demand for a residence is 0.26 gpm. These flow rates were applied to the appropriate demand regions and a factor of 2.14 was applied to get to the peak day demand. This demand is 810 gpm. This approach is backed up by anecdotal evidence supplied by city personnel suggesting that on a peak day in the summer, their sources supply about 1.2 million gallons (~810 gpm) to the system.
h. The instantaneous peak (peak hour of the peak day) was obtained by applying a higher factor of 3.00. The .26 gpm multiplied by 3.00 and applied over the entire system gives the instantaneous peak of 1136 gpm. This is the demand that was used in the existing model to analyze current pipe sizes, service pressures, and residual pressures from fire flow demands.
i. This second approach is more reliant upon actual flows observed and therefore was used in the existing model to assess current pipe sizes, service pressures, and residual pressures from fire flow demands.

2. Existing Water Sources / Supply.

a. Water is supplied to the system by one spring and 4 wells. The city also owns an agricultural well which is currently used to irrigate an orchard. The agricultural well would need to be rehabilitated in order to be used by the system.
b. Flows from Stokes Springs vary throughout the year with a spring high of approximately 130 gpm and an approximate summertime rate of 90 gpm. This 90 gpm was used for determining source capacity.
c. The four wells that supply the system when demand exceeds the supply of Stokes Springs are: Well #1, Well #2, Anderson Well #3, and East Bench Well #4. The combined (rated) flow rate of all four wells together is 1,900 gpm. The flow rate of the agricultural well is 800 gpm.
d. Thus, the combined possible flow rate on the peak day is 1,990 gpm. As mentioned, the current peak day demand is 810 gpm. An investigation of the city's water rights reveals that they have water rights of 3,128 gpm (including the agricultural well).

3. Existing Storage.

a. Water storage provides a reserve to compensate for varying demand as a result of time of day. It also provides the emergency storage needed for the large demands placed on the system as the result of fire fighting efforts or line breaks.
b. Some water systems have emergency interconnections with neighboring systems. Perry has a six inch line on the north side of town that interconnects with Brigham City Water System.
c. Existing storage capacity is 2.65 million gallons. That capacity is distributed as follows:

• North Bench - 1,000,000 gallons
• South Bench - 300,000 gallons
350,000 gallons

d. Storage can be divided into three categories.

• Equalization storage volume - to satisfy peak hour demands.
• Fire storage volume - to provide fire-fighting water.
• Emergency storage volume - to meet emergency demands in the event of some type of system failure. In discussions with city personnel, it has been decided that since the system is relatively reliable, 50% of peak day demand would be adequate.

i. Required Equalization Storage – State of Utah

Indoor Use

Existing
400 gal/ERU X 1,481 ERUs = 592,400 gallons

ii. Identified Fire Storage

Existing
3,500 gpm for 2 hours = 420,000 gallons

iii. Identified Emergency Storage

Existing
53% =637,600 gallons

4. Existing Distribution System.

   a. The distribution level of service is based upon a review of fire flow demands for various areas and structures as well as the capacity of the system. Target fire flows were assumed based upon previous experience. A fire flow analysis consisting of the peak hour and fire flow demands was performed in the model near large water users and such places as schools, churches, and industry. Fire flow is in addition to peak hour demand.
   b. It was found that except for the highest elevation areas of the city, fire flows are adequate. The high elevation areas of the city were developed before current state laws for pressure and fire flow were implemented. Agreements were made between the developer and the city as to the amount of pressure that would be supplied to the areas.
   c. Actual fire flow tests were performed in the field in October 2006. The hydraulic model was calibrated using those flows.
   d. Assumptions for required fire flow included 1,000 gpm for residential areas, 2,000 gpm for churches and commercial areas, and 3,500 gpm for Wal-Mart and industrial areas. It is difficult to predict where future schools, churches and other structures commonly found in residential areas will develop. These types of water users will have a higher fire flow demand than a typical home, so the distribution system capacity will need to be evaluated at that time.

13.09.030 Future System Evaluation

1. Future Demand.

   a. Future demands on the system will occur in sections of the city already developed and in currently undeveloped areas. All areas of future demand are assumed to have pressure irrigation available.
   b. Future demands are calculated by multiplying the gross acreage in a future demand region (currently undeveloped area) by a density factor that represents ERUs per acre at build-out. Additional demands are placed in partially developed areas to account for "in-fill" as neighborhoods mature. All of these new demands are added to existing demands to simulate a build out scenario.
   c. It is estimated that, using the above procedure, future development will result in 6,279 new equivalent residential units. When added to the 1,481 existing equivalent residential connections, the resulting number of equivalent residential units at build-out will be 7,760.
   d. The assumption has been made that future demand characteristics will be similar to current patterns for similar land uses. Total future water demand at build out is estimated to be 4,366 gpm for Peak Day.

2. Future Water Sources / Supply.

   a. Based upon projected growth rates for Perry, the existing sources will be adequate until somewhere near the year 2015. This assumes the projected growth rates are not exceeded, that the existing wells can pump at the current rate when needed, and that the springs continue to produce at or above the yields shown above.
   b. Due to the difference between current source capacity and future peak day demand (4,366 gpm –1,990 gpm = 2,376 gpm), additional sources will need to be identified. The city has plans to rehabilitate their agricultural well and bring it online when needed. Other additional sources could result from developing new sources and conservation efforts.

      Additional water rights will also need to be aquired (4,366 gpm – 3,128 gpm = 1,238 gpm).

      *Detailed cost estimates for all future improvements can be found in the appendix

3. Future Storage.

   a. Future storage requirements are again threefold, equalization, fire suppression and emergency. Future equalization requirements are calculated per state law. Fire storage assumes that the current 3,500 gpm for two hours is adequate. Also, since the city has an interconnection with Brigham City's water supply, they are comfortable with having only 50% of peak day demand as emergency storage. This means that they are currently very near capacity for storage. Additional storage needs to be constructed within the very near future to provide the desired protection.

      Required Equalization Storage – State of Utah

      Indoor Use

      Existing
      400 gal/ERU X 7,760 ERUs = 3,104,000 gallons

      Identified Fire Storage

      Existing
      3,500 gpm for 2 hours = 420,000 gallons

      Identified Emergency Storage

      Existing
      50% =3,143,822 gallons

      This is a total of 6.67 million gallons of storage required at build out. This equates to the need for 5 million more gallons of storage. It is proposed that all 5 million gallons of storage be built at the same elevation as the existing south bench storage. In order to better serve the south end of the community, it is suggested that two 1.5 million gallon tanks should be built closer to the south end of the city. The remaining 2 million gallons required could be built as two 1 million gallon tanks near the north end of the city.

4. Future Distribution System.

   a. As Perry grows, much of the growth will be on the south and west sides of existing development. Since all of the storage will be contained on the east side of the

city, improvements will be necessary to convey water across highway 89 and out to the west side of Perry.

b. Currently there are three Pressure Sustaining Valves (PSV) where the distribution system crosses Hwy. 89. These PSVs restrict flow across the highway in order to maintain a minimum pressure at the higher elevation parts of the system. As the west side of the city develops, additional crossings and related PSV valves will need to be installed. An alternative to the PSV valves would be to reconfigure / develop an additional pressure zone for the upper elevation areas thus eliminating the need for the PSVs. Under this scenario, one of the future storage tanks would need to be placed at a higher elevation to create a new pressure zone.

c. Additional distribution upgrades include the following. Transmission lines would need to be installed to convey water from new storage tanks to the distribution system. If significant growth on the west side of I-15 does indeed occur, another feeder would need to be installed at 2950 South and go under the interstate highway. As the industrial zone develops between the railroad tracks and I-15, an additional loop will be needed near the south end of the industrial area to accommodate the high fire flows that are required for some industries.

d. Areas of future development have been modeled in a general way only. A simple grid system consisting of 8" pipes was modeled with the build out demands being applied. It is anticipated that the 8" waterlines will be installed as part of the development and that 8" will be the minimum size for most developments. It is recommended that a minimum pipe size of 10" be required in the industrial zone between the railroad tracks and I-15 due to the narrowness of the area and associated probable lack of looping.

13.09.040 Finance Element: Funding Of Future Culinary Water Facilities

1. Impact Fee Revenues.

a. Impact fees have become an ideal mechanism for funding growth-related infrastructure. Impact fees are charged to ensure that new growth pays its proportionate share of the costs for the development of public infrastructure. Impact fee revenues can also be attributed to the future expansion of public infrastructure if the revenues are used to maintain an existing level of service. Increases to an existing level of service cannot be funded with impact fee revenues.

b. Impact fee revenues are the main source of funding for the future culinary water capital facilities. The projects are 100 percent growth related, so 100 percent of the costs will be qualified to be funded through impact fees. The timing of the culinary water projects can lead to large costs to the City in any given year. In order to offset these costs bonding may be a method in which the City is able to pay for the projects without using other revenue sources such as property taxes. The timing and costs of culinary water capital projects are found in table 4.1. In the case that the City decides to used culinary water bonds to finance its capital projects tables 4.2 and 4.3 show the principle borrowed at an interest rate of 5 percent. The bond financing costs will be recovered by culinary water impact fees.

TABLE 4.1: CULINARY WATER TIMING AND COSTS

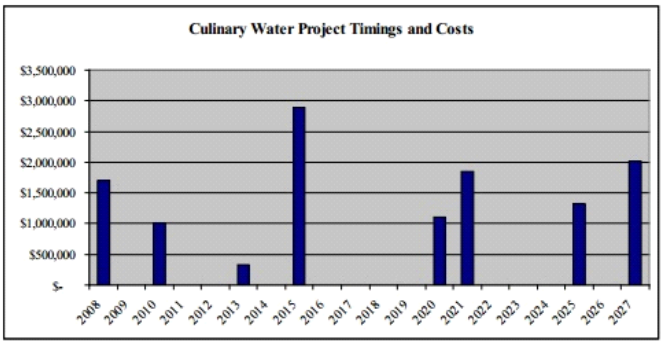


TABLE 4.2: SERIES 2009 CULINARY WATER BOND

Principle	$2,720,013
Interest	5.0%

Year	Payment	Interest	Principle	Remaining Principle
2010	($218,260.91)	$ 136,001	$ 82,260	$ 2,637,753
2011	($218,260.91)	131,888	86,373	2,551,380
2012	($218,260.91)	127,569	90,692	2,460,688
2013	($218,260.91)	123,034	95,227	2,365,461
2014	($218,260.91)	118,273	99,988	2,265,474
2015	($218,260.91)	113,274	104,987	2,160,486
2016	($218,260.91)	108,024	110,237	2,050,250
2017	($218,260.91)	102,512	115,748	1,934,501
2018	($218,260.91)	96,725	121,536	1,812,966
2019	($218,260.91)	90,648	127,613	1,685,353
2020	($218,260.91)	84,268	133,993	1,551,360
2021	($218,260.91)	77,568	140,693	1,410,667
2022	($218,260.91)	70,533	147,728	1,262,939
2023	($218,260.91)	63,147	155,114	1,107,825
2024	($218,260.91)	55,391	162,870	944,956
2025	($218,260.91)	47,248	171,013	773,942
2026	($218,260.91)	38,697	179,564	594,379
2027	($218,260.91)	29,719	188,542	405,837
2028	($218,260.91)	20,292	197,969	207,868
2029	($218,260.91)	10,393	207,868	(0)

TABLE 4.3: SERIES 2014 CULINARY WATER BOND

Principle	$3,208,117
Interest	5.0%

Year	Payment	Interest	Principle	Remaining Principle
2015	($257,427.60)	$ 160,406	$ 97,022	$ 3,111,095
2016	($257,427.60)	155,555	101,873	3,009,222
2017	($257,427.60)	150,461	106,966	2,902,256
2018	($257,427.60)	145,113	112,315	2,789,941
2019	($257,427.60)	139,497	117,931	2,672,010
2020	($257,427.60)	133,601	123,827	2,548,183
2021	($257,427.60)	127,409	130,018	2,418,165
2022	($257,427.60)	120,908	136,519	2,281,646
2023	($257,427.60)	114,082	143,345	2,138,300
2024	($257,427.60)	106,915	150,513	1,987,788
2025	($257,427.60)	99,389	158,038	1,829,749
2026	($257,427.60)	91,487	165,940	1,663,809
2027	($257,427.60)	83,190	174,237	1,489,572
2028	($257,427.60)	74,479	182,949	1,306,623
2029	($257,427.60)	65,331	192,096	1,114,527
2030	($257,427.60)	55,726	201,701	912,826
2031	($257,427.60)	45,641	211,786	701,039
2032	($257,427.60)	35,052	222,376	478,664
2033	($257,427.60)	23,933	233,494	245,169
2034	($257,427.60)	12,258	245,169	-

2. Impact Fee Credits.

    a. Impact Fee Credits are handled between the City and developers to "allow a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities: a) are identified in the Capital Facilities Plan and b) are required by the local political subdivision as a condition of approving the development activity." Credits are handled on a case-by-case basis and will not be included in the analysis, although the Proportionate Share Analysis of the impact fee analysis will identify the extent to which specific developers are entitled to a credit.

13.11 Wastewater Capital Facilities Plan

13.11.010 Existing And Future Conditions
13.11.020 Environmental Review
13.11.030 Development And Screening Of Alternatives
13.11.040 Evaluation Of Viable Alternatives And Plan Adoption
13.11.050 Selected Plan, Description, And Implementation
13.11.060 Appendices

13.11.010 Existing And Future Conditions

1. Project need and planning area identification.

   a. Perry City is a rural community located in Box Elder County, Utah. Perry City is bordered by Brigham City to the north and Willard City to the south. An Area Map of the City is shown in Exhibit 1.1, and a Location Map of the area is shown in Exhibit 1.2. Both exhibits are found in Appendix D. Perry currently has an estimated population of 4,100 people.

      The Perry City Council has voted to investigate their wastewater treatment options. The City currently operates a discharging lagoon treatment facility and a gravity collection system. Both components of the existing system will be analyzed to determine the best options for the next 20 years. As part of this capital facility plan, a Phase 1 environmental review will be conducted identifying any potential environmental issues that would restrict the progress of a potential project. The purpose of conducting the environmental report is to position the City in a favorable position for State or Federal funding.

      The primary need for this project is because the existing lagoon treatment system is organically overloaded. One calculation provided to Perry City by the Utah Division of Water Quality during the fall of 2006 indicated the existing treatment facility was organically overloaded by 157%. The report and calculations are shown in Appendix I. Perry City is currently experiencing double digit growth. The City Council understands they must provide additional or new treatment methods for the community.

      This Capital Facilities Plan examines feasibility to construct and operate the collection and treatment facility under current conditions and regulations. The plan will examine cost-effective methods of upgrading the wastewater collection and treatment services to Perry City. The main focus of the collection system will be the interceptor lines. Treatment options will include status quo, pumping the wastewater to Brigham City, expanding the existing lagoon system, expanding the existing system and adding aeration, building a mechanical treatment plant, and building a mechanical treatment plant with Willard City. The above mentioned options will be compared to find a cost-effective solution.

2. Existing environment of the planning area.

   a. Climate.

      The climate in Perry City is influenced by its location along the benches of the Wasatch Mountains. It can be characterized as moderate precipitation with winters that can be cold, but are not severe, and warm dry summers. The closest weather station to Perry is located in Brigham City, Utah. Climate data can be viewed from that weather station in Table 1.1.

TABLE 1.1 TEMPERATURE, PRECIPITATION, AND EVAPORATION DATA

	Extreme High Daily Maximum Temp. (°F)	Extreme Low Minimum Temp. (°F)	Average Month Temp. (°F)	Total Precipitation (Inches)	Snow Fall (Inches)	Monthly Average Snow Depth (Inches)	Evapo-transpiration (Inches)
Jan	48	-1	26	2	11	5	0.74
Feb	55	2	32	2	7	5	1.19
Mar	67	17	41	2	5	2	2.45
Apr	77	25	49	2	2		3.88
May	86	31	57	2			5.64
Jun	94	38	66	2			7.10
Jul	98	46	74	2			8.20
Aug	96	44	72	1			7.13
Sep	91	33	63	2			4.76
Oct	79	24	51	2	2		2.80
Nov	63	12	38	2	5	2	1.18
Dec	52	3	28	1	12	3	0.70

      The annual precipitation is normally 16 inches in the valley. Average snowfall from the months of December through February is 10 inches per month. Of the 10 inches, 4 inches usually remains to cover the valley floor. The frost-free, or growing, season ordinarily lasts about 147 days from May through October. Estimated annual evaporation is approximately 43 inches.

   b. Physiography and Topography.

      Perry City was originally known as "Three Mile Creek" and is located in Box Elder County along U.S. Hwy 89. Perry is nestled between Brigham City and Willard and bordered on the east by the majestic Wasatch Mountains and on the west by the shoreline of the Bear River Migratory Bird Refuge. The surface gradient along the bench slopes about 4%, east to west, throughout the main developed portions of the community. A U.S. Geological Survey (USGS) 7.5 Minute Series Quadrangle Map illustrating the physiography and topography area in and around Perry City can be viewed in Exhibit 1.3 in Appendix D.

   c. Geologic Characteristics.

      According to the Geologic Map of the Northern Wasatch Front, Utah (Davis, 1985), the Perry City area is underlain mainly by the Provo Formation and Younger Lake Bottom Sediments (Qlb) consisting of clay, silts and sands, and the Provo Formation and Younger Shore Facies (Qpsf) consisting of chiefly sand and gravel in beach deposits, bars, spits and deltas. The Wasatch Fault line cuts through the eastern area of Perry City. Bedrocks are exposed east of the fault and valley-fills are

deposited west of the fault. The Wasatch fault zone is the boundary between the steep, bedrock-cored Wasatch mountain front and a large asymmetric graben with thick valley-fill deposits to the west.

d. Earthquake Hazards.

According to Hecker (1993), Holocene to late Pleistocene (0-30,000 yrs) faults cut through the Perry area. There is a potential for surface rupture to occur closely following the trace of the Wastach Fault along the range front in the eastern area of Perry City. Exhibit 1.4 in Appendix D illustrates the faults in the area.

Ground shaking due to earthquake, either surface-rupturing events or an earthquake with no surface rupture, may pose a significant risk in the area. The peak ground acceleration (PGA) based on a 10 percent probability of exceedance within a 50-year return period is 0.24g.

e. Soils and Land Use Patterns.

According to the U.S. Department of Agriculture Soil Conservation Service (USDA-SCS), the predominant soils west of U.S. 89 are classified as loams. These loams include Rosh Spring Silt Loam (Ru), Dagor Loam (DA), and Draper Loam (DRA). These loams range from a dark grayish-brown loam about 21 inches with under-lying layers, a light brownish-gray loam extending 60 inches to a dark gray, and gray silt loan about 20 inches thick with under-laying layer being a light gray silt loam extending 60 inches.

The soils east of U.S. 89-91 are predominantly Wasatch Gravel Sandy Loam (WcC) and Kilburn gravelly stone. The Wasatch Gravel Sandy loam is a soil on the alluvial fans at the base of the mountains with 3 to 10 percent slopes. They are formed in alluvium derived from quartzite, gneiss, and schist. A representative profile, the surface layer is grayish-brown and brown gravelly sandy loam about 11 inches thick. The underlying layer extends to a depth of 60 inches or more and is brown very gravelly loamy sand, gravelly sand, cobbly sandy loam, and contents of gravel, cobblestones and some stones. The Kilburn gravelly surface layer is very dark gray-brown and brown gravelly loam. Subsoil is brown gravelly loam to very gravelly sandy loam.

Exhibit 1.5 in Appendix D illustrates the USDA-SCS soil survey map of the area. Descriptions of the soil types identified in the survey that are found within the Perry area are shown in Table 1.2. A complete soil legend can be found in Appendix A.

TABLE 1.2 SOIL TYPES DATA

Map Symbol	Mapping Unit	Section 1.01 Description
1)	Airport silt loam	The surface layers range from 8 to 14 inches in thickness and is moderately to strongly alkaline. Runoff is slow and hazard of erosion is slight.
Ap	Airport silt loam, sandy substratum	The surface layers range from 0 to 8 inches thick. They are grayish brown silt loam and strong alkaline soil.
Cy	Cudahy silt loam	The surface is Gray silt loam this soil can extend down to 60 inches. It is strongly calcareous and moderately alkaline.
DaB	Dagor loam, 3-6% slopes	Surface layer is dark grayish brown loam about 21 inches thick. The under-lying layers, extend to a depth of 60 4lchesare light brownish-gray loam. The surface layer is mild alkaline and non calcareous to slightly calcareous.
DrA	Draper Loam, 0-3% slopes	Surface layer is dark grayish brown loam about 26 inches thick. The under-lying layers are a light brownish-gray loam extends to a depth of 60 inches. These soils are a moderate alkaline and slightly calcareous.
Gh	Gooch silt loam	This soil is in on low lake terraces and lake plains. Slopes are 0 to 1 percent. Runoff is slow and the hazard of erosion is slight.
Gp	Gravel pits	Open excavations where gravel, sand and cobble have been removed.
JaA	James Canyon loam, 0 -3% slopes	The surface layer is very dark gray and dark gray loam about 35 inches thick. The under-lying layers, extending to a depth of 60 inches are gray gravelly loam and gravelly sandy loam. The soils are neutral throughout.
KnC	Kilburn gravelly sandy loam, 3-6% slopes	Surface layer is dark grayish-brown and brown gravelly loam about 14 inches thick. Subsoil is brown gravelly loam about 8 inches thick. The substratum is brown and very gravelly sandy loam and brown very gravelly loam sand that extends to a depth of more than 60 inches. The surface layer is neutral and the substratum is mildly alkaline.
KnD	Kilburn gravelly sand loam, 3-6% slopes	Grayish brown gravely sand loam with 20% gravel. Hazard of erosion moderate.
KnE	Kilburn gravelly sand loam, 10-20% slopes	Grayish brown gravely sand loam with 20% gravel. Hazard of erosion moderate.
KnF	Kilburn gravelly sand loam, 20-30% slopes	Grayish brown gravely sand loam with 20% gravel. Hazard of erosion moderate.
KnG	Kilburn gravelly sand loam, 30-60% slopes	Grayish brown gravely sand loam with 20% gravel. Hazard of erosion high.
KoB	Kilburn gravelly sand loam, 1-3% slopes	Grayish brown gravely sand loam with 20% gravel. Hazard of erosion slight.
Lt	Logan silty clay loam 0-3% slope	This area dark gray silt loam soil. Runoff is slow and erosion is none to slight. This soil is free from harmful salts and alkali.
PbA	Parleys Loam 0-3% slope	Grayish brown silt loam soil and is mildly alkaline.
PIA	Parley silt clay loam, 0 -3% slopes	This soil is brown in color mildly to moderately alkaline.
Pr	Payson silt loam 0-1% slope	The soil is a light brownish gray and mild to strong alkaline. Runoff is slow and erosion is none to slight.
Ru	Roshe Springs silt loam	The surface layer is dark gray and gray silt loam about 20 inches thick. The under laying layer is light gray silt loam that extends to a depth of 60 inches or more. The soils are moderately alkaline throughout, and below a depth of 10 inches, they are very strong calcareous.

TmA	Timpanogos loam 0-3% slope	The soil is grayish brown silt loam mildly alkaline. Runoff is slow and erosion is non to slight.
TmB	Timpanogos loam 3-6% slope	This soil is grayish brown silt loam mildly alkaline. Runoff is slow and erosion is non to slight.
Wo	Wood Cross silty clay loam	The surface layer is a dark-gray silty clay loam about 24 inches thick. The under laying layer extends to a depth of 60 inches. It is light brownish gray and a light-gray silty clay loam. These soils are mildly alkaline throughout.

As viewed in Exhibit 1.5 in Appendix D, the closer to 1-15 excavation occurs, the higher chance of encountering groundwater occurs.

f. Environmentally significant agricultural lands.

The Perry area is known for its agriculture, especially the production of fruits and vegetables. Colorful roadside fruit stands grace Highway 89 in Perry and neighboring communities. Many buyers travel far to purchase the best fruit in the west along northern Utah's "Fruit way".

Regarding potential important farmland in the project area, the U.S. Department of Agriculture Natural Resources Conservation Services (USDA-NRCS) was consulted. According to USDA-NRCS, there is a small amount of farm land in the project area. These lands are identified by soil type on Exhibit 1.5 in Appendix D. The soil types of concern are Lt, Ru, Wo, DaB, KnC, KoB, PbA, PIA, TmA, and TmB. In reviewing the alternatives presented in .this study, the majority of the pipelines are located in roadways. It is anticipated that pipeline routes in this project will temporarily disturb less than 1.0· acres of prime farm land.

g. Wetlands Soil Types.

Exhibit 1.6 in Appendix D illustrates the wetlands in the Perry area as delineated by the National Wetlands Inventory (NWI) conducted by the U.S. Fish and Wildlife Service (USFWS). Discussions have been made with the Corps of Engineers concerning the wetlands in and around Perry and Willard. Per our conversations with the US Army Corp. of Engineers, Exhibit 1.6 will serve as a guide in assessing where wetlands are located. In the event that improvements are constructed near the identified wetlands or proper delineations will be made and 404 US Army Corps of Engineers permit will be obtained during the design process. The 404 permit allows for utility crossings of wetlands.

h. Groundwater Basins and Recharge.

The limits of the groundwater basin that includes the Perry area are displayed in Exhibit 1.7 in Appendix D. Perry is located in the East Shore area. Clark and others (1990) defined the East Shore aquifer system as consisting of saturated alluvial deposits between the Wasatch Range and the Great Salt Lake, including multiple confined aquifers and a deep unconfined aquifer along the mountain front. The shallow water-table zone in the topographically low portions of the area is part of the overall groundwater system of the East Shore area, but is not considered as part of the principal aquifer, as defined by Anderson and others (1994). The consolidated rocks in the mountains also contain water, but they are only considered as a source of recharge to the East Shore aquifer system. Groundwater in the Perry area generally moves through the principal aquifer from east to west toward the Great Salt Lake, where it discharges by upward leakage to the shallow unconfined aquifer and as diffuse seepage to the Great Salt Lake (Clark and others, 1990).

Recharge to the groundwater system in the Perry area is from infiltration of precipitation, unconsumed irrigation water, and seepage from canals and streams. Recharge also occurs from subsurface inflow from adjacent consolidated bedrocks in the Wasatch Range.

Anderson and others (1994) divided the recharge areas into two categories: 1) Primary recharge area and 2) Secondary recharge area Category 1 is an area where the basin-fill deposit is between the land surface and the water table and consists of sediments that contain no confining layers thicker than 20 feet. Consolidated rocks adjacent to alluvial deposits are considered as part of the primary recharge area. Category 2 is an area where a confining layer is present between the land surface and the principal. aquifer. When a shallow water-table aquifer is present above the first confining layer, the direction of groundwater movement between the shallow unconfined aquifer and the principal aquifer generally is downward. Exhibit 1.7 in Appendix D displays the primary and secondary recharge areas. The discharge area is an area where the vertical direction of groundwater movement is upward from the principal aquifer to the shallow water-table aquifer. Discharge areas generally occur in the topographically lowest parts of the valleys.

Exhibit 1.7 in Appendix D indicates that the recharge zones in the East Shore area are generally adjacent to and generally coincide with the topographic break in slope between a mountain and a valley. The primary recharge area includes area of consolidated rock outcrop bounding the valley and a narrow band of alluvial deposits along the mountain front. The majority of the project area is located within the primary recharge area with the rest located in the discharge area. The secondary recharge area is absent in the Perry area.

The physical conditions prevailing in the Perry area coincide with described groundwater recharge conditions. Groundwater contained in the . consolidated rocks ill the Wasatch Range is the-primary recharge source. Threemile Creek runs through the project area and the Ogden Brigham Canal runs through the eastern edge of the project area.

i. Land Use Zoning.

A current zoning map for Perry City is included in Exhibit 1.8 in Appendix D. Currently, there are seven (18) zones defined in Perry City. These zones consist of two commercial zones, five residential zones ranging from rural 1/2 acre zones to Medium High Density Residential, three mixed use zones, two manufacturing zones, one agricultural zone, one civic zone, one environmentally sensitive zone, an institutional zone, neighborhood park zones, and a sewage lagoon zone. The commercially zoned areas are generally located along highway 89 and other main roads and highways through the City. Most of the mixed use zones are grouped at the northern end of the city limits. The agriculture zone is located on the west side of the city, primarily west of Interstate 15.

j. Underground Water Quality.

The available groundwater quality information is generally presented using total dissolved solids (TDS). According to Anderson and others (1994), the TDS concentration in the groundwater in the Perry area is below 500 milligrams per liter (mg/l), indicating that the quality of water is generally good with respect to TDS.

In 1989, water samples were collected from two wells located in the discharge zone in the Perry and Willard area by the USGS (Anderson and others, 1994). These two wells were used for industrial and commercial uses, respectively. The water samples were collected for laboratory analysis of physical parameters (e.g., pH, specific conductance), inorganic contaminants and radionuclide. Only TDS was found to have a high concentration of 524 mg/l in one of the two samples, compared to the Utah Secondary Drinking Water Standard of 500 mg/l for TDS.

Pesticides and organic contaminants were not analyzed in the USGS study because of high price. It is likely that the local water systems sampled their drinking water sources over the past years. However, the quality data has not been gathered or systematically evaluated.

k. Surface Water and Flooding.

There are two flood zones located in the Perry city boundaries. The first zone runs parallel to three mile creek in the southeast corner of the City boundaries. The second flood plain stems from two springs near the center of the City. This flood plain starts just north of the Center Street and Perry Boulevard intersection and extends to the first spring located in the middle of the block bounded by Center Street on the south and Davis Street on the North. It then continues to the second spring located just north of Davis Street approximately halfway between Perry Boulevard and Highway 89. From the second spring the flood plain extends west were it connects with the flood plain of the Great Salt Lake. The Great Salt Lake is another area that has to be considered in the design. Exact location of these flood plains is found on Exhibit 1.9A and 1.9B in Appendix D.

3. Project Priority Rating.

The Utah Department of Environmental Quality (DEQ) maintains a priority ranking system to determine those wastewater projects within the State where the limited funds available to assist in construction are most urgently needed. Perry City is currently ranked 4th out of 18 projects on the wastewater treatment project priority list.

4. Water Quality Report (305(b))

There are no impacted waterways listed in the 2002 Utah Water Quality Assessment Report to Congress (305(b)) that are in the project boundary or that will be effected by a proposed project.

5. Existing Wastewater System and Flows.

Perry City currently operates a gravity flow wastewater collection system. This system collects the wastewater and conveys it to a discharging lagoon treatment system. The treatment system was fIrst installed in 1973 as a five-cell total containment lagoon system. In 1981, two more cells were added to increase the capacity. In 1985, the dikes were raised, chlorination was added, and a discharge permit was issued. Since then, Perry's wastewater treatment system has operated to date without any significant upgrades.

A lagoon type system works by using natural processes to dispose of the contamination. These processes involve sunlight, air, water current, and the natural processes of algae and bacteria. Oxygen is supplied by both direct contact of the water with air, and through the natural life processes of the algae. The aerobic bacteria use this available oxygen to decompose organic solids. The pond bottom and lower levels of the lagoons sustain anaerobic bacteria that digest the pollutants which have settled out. The various lagoons are used to detain the water long enough for these processes to take place.

In the fall of 2006, the Utah Department of Water Quality conducted a review of the existing treatment facility and provided some engineering to the City of Perry. The report made the following conclusions and recommendations. The report is shown in Appendix I.

a. Facility has excess hydraulic capacity (70% of design)
b. Facility is organically overloaded (157% of design)
c. Pond 1 appears to be full of sludge (1-2 $ft^{\wedge 3}$ per capita per year)
d. Perry City should conduct a sludge profile of their system
e. Perry City should try to reduce the TSS (algae) in the effluent
f. Perry City needs to increase their oganic capacity NOW! Or find another method of dispoal

Currently, the biosolids that exist in Perry's wastewater system are collecting in the primary lagoon of the lagoon system. There is no current disposal or handling system in place. Intermittent pumping of sludge from the primary lagoon has been performed historically to dispose of the biosolids. The build-up of sludge in the lagoons is an item of concern for the DEQ, as noted in the water quality review of their lagoon system.
For several years, Perry City has considered the possibility of expanding the primary cell to the east to assist with the organic overloading problem. The main problem with this expansion has been the need to mitigate wetlands and obtain a 404 permit from the Anny Corp of Engineers. During the fall of 2006, the Perry City obtained a permit from the Corp of Engineers to expand the primary cell by approximately 100%. Expanding the primary cell will be one of the alternatives evaluated in this study.
There is a measuring flume immediately upstream of the lagoons. Currently, data from this measuring devise is not available. Thus, in the absence of actual historical flow data, an estimate of expected flows is required for planning purposes. The DEQ "Administrative Rules for Design Requirements for Wastewater Collection, Treatment, and Disposal Systems" regulation R 317-3.2.2 states "design average flow should be estimated at not less than 100 gallons per capita per day." Since the predominantly residential nature of Perry does not suggest that a larger than normal wastewater flow should be expected, the required minimum of 100 gallons per capita per day (gpcd) will be used throughout this Facility Plan. According to the 2000 census data within Box Elder Co. there are 3.22 people per household. Thus, on average each household generates 322 gallons per day of wastewater. Based on the study performed by the DEQ, the average influent concentration of BOD is currently 165 mg/L, and for TSS is 110 mg/L. For the purpose of this facility plan, and without having measured flows to the system, the influent wastewater will be expected to have the following characteristics.

6. Effluent Limitations.

Treatment alternatives that discharge to any surface stream or water body must do so within the parameters of the discharge permit. Effluent limitations would be based on the State of Utah Secondary Discharge Standards developed by the State that ultimately indicate the level of treatment required prior to discharge in the receiving water.

State Code requires wastewater to be treated to a level that the point discharge does not degrade the receiving stream water for current beneficial use. Furthermore, treatment must at least occur to the degree that wastewater meets secondary effluent standards.

Perry City currently discharges from the lagoon system into The Bear River National Wildlife Refuge, located immediately west of the lagoons. A copy of Perry's. discharge permit was obtained from the State of Utah. It is anticipated that any treatment alternative requiring a discharge permit that would discharge in the Bear River National Wildlife Refuge, at a minimum will require meeting those parameters set forth in the current permit. These parameters can be viewed below in Table 1.3. A copy of the permit can also be found in Appendix B.

TABLE 1.3- PERRY, UTAH DISCHARGE PERMIT REQUIREMENTS

	30 Day	7 Day	Daily Min	Daily Max	Measurement Frequency	Sample Type
Flow, MGD	NA	NA	NA	NA	Weekly	Instant
BOD, mg/l	25	35	NA	NA	Monthly	Grab
TSS, mg/l	25	35	NA	NA	Monthly	Grab
Fecal Coliforms, No./100 ml	200	250	NA	NA	Monthly	Grab

Total Coliforms, no./100 ml	2000	2500	NA	NA	Monthly	Grab
TRC, mg/l	NA	NA	NA	0.02	Daily	Grab
Ammonioa, (as N) mg/l						
Winter (Dec-Feb)	1.43	NA	NA	6.2	Monthly	Grab
Summer (Jun-Aug)	0.83	NA	NA	3.6	Monthly	Grab
Fall (Sept-Nov)	1.06	NA	NA	4.6	Monthly	Grab
Spring (Mar-May)	1.06	NA	NA	4.6	Monthly	Grab

In addition to the requirements above, Perry's permit also outlines the need for the pH of the effluent to be between 6.5 standard units and 9.0 standard units in any sample. PH shall be monitored monthly by a grab sample.

Discharge permit limits could be reduced if Perry could convey the effluent wastewater to the south past the Bear River National Wildlife Refuge so the effluent would be discharged directly into the Great Salt Lake. There is a portion of the Great Salt Lake between the Bear River National Wildlife Refuge and Willard Bay just west of Perry City's current southern boundary. Currently, the Great Salt Lake discharge limits would require the effluent limits of BOD and TSS to be 25 mg/l. There would be no ammonia limit placed on the permit.

7. Infiltration and Inflow (I/I).

"Infiltration" is water other than wastewater that enters the wastewater system from the ground through such means as defective pipe joints, leaky service connections and leaky manhole joints. Infiltration is most prevalent in high groundwater conditions. "Inflow" is water other than wastewater that enters the sewer system through cross connections with storm drains, catch basins, roof drains, yard drains, etc. Inflow can also occur through manhole covers. It is a requirement to demonstrate that the collection system and treatment works are not, and will not be, subject to infiltration and inflow. It is in Perry City's best interest to continue to eliminate I/I.

8. Future Conditions.

The alternatives evaluated for treatment are analyzed and.cost effectiveness is based on a 20 year planning period. If unexpected growth occurs by the end of the planning period, additional treatment capacity may require enlargement and expansion. If the community experiences sufficient growth to reach the projected wastewater effluent capacity in 20 years or less, the additional income to the system created by such growth will provide additional funds to assist in the expansion of any collection or treatment facilities.

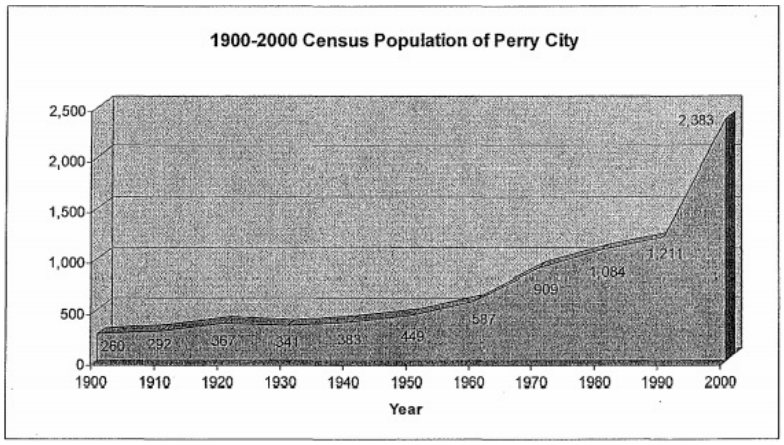
a. Population and Land Use Projections.

An essential element of a Wastewater Facilities Plan is projecting the planning area population growth rate to establish estimated future demands on a proposed wastewater facility. With this in mind, Table 1.4 below shows the historic growth rate within the City and provides an idea of how the community has developed from 1900 through 2000. The information found in Table 1.4 and Chart 1.0 is taken from the US Census.

TABLE 1.4 PERRY CITY HISTORICAL POPULATION DATA

Year	Population	Annual Average Rate of Charge (AARC)
1900	260	
1910	292	1.17%
1920	367	2.31%
1930	341	-0.73%
1940	383	1.17%
1950	449	1.60%
1960	587	2.72%
1970	909	4.47%
1980	1,084	1.78%
1990	1,211	1.11%
2000	2,383	7.00%

CHART 1.0 PERRY CITY HISTORICAL POPULATION DATA



While this study was being conducted Perry City has been busy planning and updating other areas within the City. Part of this update was to look at historical growth and land use data and project how the City may grow in the future. The following data was taken from estimates provided to the City by JUB Engineering. Within the current City limits there are a total of 1,765 total acres zoned residential and 775 acres zoned commercial. It was determined that a build-out capacity of 5,709 residential homes could be built within the available 1,765 residential acres. Likewise there could be a total build-out of 2,051 equivalent residential units (ERCs) built within the 775 commercial acres. These calculations assume that growth and building density continue as historically planned and as the current zoning allows. From this data growth projections were estimated through build-out. A summary of this data can be reviewed in Table 1.5 below.

TABLE 1.5 PROJECTED GROWTH DATA BY LAND USE AND WATER USAGE

Year	Residential ERCs	Commercial ERCs	Total ERCs	Population	% Build-out
2006	1,237	244	1,481	3,983	22%
2010	1,811	414	2,225	5,832	32%
2015	2,722	729	3,451	8,766	48%
2020	3,729	1,129	4,858	12,006	65%
2025	4,669	1,546	6,215	15,033	82%
2030	5,359	1,876	7,236	17,257	94%
2035	5,709	2,051	7,760	18,383	100%

As one reviews the information in Table 1.5, it is important to remember that this is a projection based on land use and water system connections and not a representation of the wastewater department. There are small differences in the number of residential and commercial connections served by the wastewater department than is reflected in Table 1.5.

According to Perry's Wastewater Department records, there are 1,207 residential and 30 commercial connections to the wastewater system. To the wastewater system, 20 of the 30 commercial connections operate just like 20 residential connections. However, the other 10 commercial connections operate larger than 10 residential connections. To determine how many more ERCs the 10 larger commercial connection represent, an analysis of the water usage data was conducted. Table 1.6 summarizes the findings. It was determined that a typical resident produces 10,000 gallons of wastewater per month.

TABLE 1.6 LARGE COMMERCIAL USER DATA

	Indoor Water Usage Per Month	ERCs
KOA	35,000	3.5
The Lodge	17,000	1.7
Center St. Grill	22,000	2.2
Wal Mart	166,000	16.6
Cinema	18,000	1.8
Animal Clinic	30,000	3.0
Heritage Theater	21,000	2.1
Calls Drive Inn	20,000	2.0
Point Perry	20,000	2.0
Maddox Ranch House	150,000	15.0
Total		49.9 or 50

In summary, the 10 commercial connections really represent 50 ERCs to the wastewater system. The total number of ERCs represented by the commercial connections is 70. Thus, the entire wastewater system is presently serving 1,277 ERCs. Applying the growth trends established in Table 1.5 to the present will provide planning period projections for this capital facility plan. A summary of the 20-year planning period projection along with the build-out projection are found in Table 1.7.

TABLE 1.7 WASTEWATER SYSTEM ERC PROJECTIONS

Year	Residential ERCs	Commercial ERCs	Total ERCs
2006	1,207	70	1,277
2010	1,767	102	1,870
2015	2,656	154	2,810
2020	3,638	211	3,849
2025	4,555	264	4,819
2027	4,880	283	5,163

b. Forecasts of Flows.

Based on 1,277 ERCs, 3.22 people per ERC, and 100 gallons per capita per day of wastewater generated, the calculated flow at the existing lagoons is estimated to be 411,194 gallons per day or 0.41 MGD. The treatment plant design flow at the end of the 20-year planning period is based on 5,206 ERCs. This calculates to a projected flow in 2027 of 1,676,332 gallons per day or 1.67 MGD. The peak factor that will be used for the design of treatment facilities will be 2.0. Thus, any alternative with a treatment facility will be required to be designed for a peak flow of3.34 MGD peak.

c. Flow Reduction.

None of the present discharges from residences or businesses in Perry are thought to be of such high volume or type of connection as to warrant flow reduction measures.

13.11.020 Environmental Review

1. Environmental Information.

Under the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) must be prepared if it appears that the proposed Wastewater Treatment Facility would have a significant adverse impact on the quality of human health and the environment. Preparation of an EIS is not required if a "categorical exclusion" from 40 CFR Part 6 is granted by EPA, or if a "Finding of No Significant Impact" (FONS!) is granted by the EPA.

Perry City's proposed project does not qualify for a "categorical exclusion". Therefore, an "Environmental Information Package" (EIP) must be prepared as an integral part of the Facilities Plan. The Utah Department of Environmental Quality and the EP A use the EIP to determine if an EIS must be prepared. After a review of information provided in the EIP, if no significant impact is present, an FONSI will be granted and an EIS will not be required.

Information from the EIP is used in evaluation of potential environmental impacts, both beneficial and adverse, of alternative wastewater collection and treatment systems. The EIP for the Perry Wastewater Collection and Treatment Facilities Project is comprised of the remaining paragraphs of this Section and Section 4.5. This section reviews environmental issues and conditions in general within the planning area. Specific environmental impacts and assessments for each wastewater collection and treatment alternative are found in Section 4.5, "Environmental Evaluation" .

Environmental help and information has been sought from all appropriate State and Federal agencies regarding the pla.n.nil:lg process. Copies of all correspondence to and from each environmental agency are included in Appendix C.

2. Historical and Archaeological Sites

A letter was sent to the Utah State Historical Society requesting comments concerning any historical or archaeological sites, or concern within the study area. The response letter, dated December 12, 2006, enclosed in Appendix C, outlined a potential to encounter buried archaeological sites within the project area. Due to this potential, it was required to have an archaeological consultant conduct a cultural resource inventory of the project area. Bighorn Archaeological Consultants was hired to perform this survey. The following summarizes the conclusions of Bighorn Archaeological Consultants survey. A complete copy of the study is found in Appendix G.

Examination of the proposed project revealed no new cultural resources sites. However, one previously recorded archaeological site (42BO822) was updated This site is part of the Union Pacific Railroad that was constructed in 1869 and is on the National Register of Historic Places. Although the site is within the project corridor, the railroad will not be disturbed as construction plans are to bore the site. In the event that any prehistoric, historic, or paleontological materials are discovered during the construction process, work should cease in the area and appropriate contracts made to document the finds. Moreover, if current construction plans are followed, Bighorn recommends·a determination of ***No Historical Properties Affected*** *for the project.*

It is anticipated that any proposed project will not affect historical properties. For any project that may result from this project, specifications will be written in the contract documents that will require the contractor to halt work if any archaeological artifact is encountered in the field. Proper authorities will then be called to the project site to evaluate the findings.

3. Floodplains and Wetlands.

a. Floodplains.

Floodplain Maps are provided as Exhibits 1.9A and 1.9B. One of the floodplains primarily follows from Threemile Creek and extends from the bank of the Creek 50 -l50± feet in both directions. Also a flood plain extends from two springs near the center of the City. This flood plain starts just north of the Center Street and Perry Boulevard intersection and extends to the first spring located in the middle of the block bounded by Center Street on the south and Davis Street on the North. It then continues to the second spring located just north of Davis Street approximately halfway between Perry Boulevard and Highway 89. From the second spring the flood plain extends west were it connects with the flood plain of the Great Salt Lake. The Great Salt Lake is another area that has to be considered in the design. Exact location of these flood plains is found on Exhibit 1.9A-B in Appendix D.

As can be seen on the floodplain maps, all the proposed collection lines and treatment sites are located outside the floodplain. The selected wastewater system alternative will be designed and constructed to minimize any impacts from a 100 year flood. Exposed project components will be protected by channels, dikes or riprap where necessary and the compacted earth cover will provide protection for underground components.

b. Wetlands.

Within the study area, there are areas classified as wetlands. Discussions with the NRCS office indicated there are soil types within the study area that could have wetlands within them. These soil types are classified as Draper loam (DrA), James Canyon loam (JaA), Parleys loam (PbA), Parleys silty clay loam (PIA), Timpanogos loam (TmA), Timponogos loam (TmB). These soils are associated .with wetlands, and mitigation would likely be required if the pump station were located on these soils where the groundwater table is high. The planners will avoid areas with these soil types for locating a pump station and collection lines if at all possible. In the event that some areas of the project fall within wetland areas the permitting process set by the Corp of Engineers will be strictly followed to help mitigate the impact. A copy of the response letter from the Army Corp of Engineers can be found in Appendix C.

Real estate near the sewer mains may develop more rapidly due to the availability of the sewer improvements. As each property develops, the individual developers will be required to receive permits from the Army Corps of Engineers before any changes of the wetlands status of these lands may be realized. The installation of sewer improvements will not eliminate the due process for protecting wetlands found in Perry City.

4. Agricultural Lands.

Regarding potential important farmland in the project area, the U.S. Department of Agriculture Natural Resources Conservation Services (USDA-NRCS) was consulted. The response from the USDA-NRCS is attached in AppendixC. According to USDA-NRCS, there is a small amount of farm land in the project area. These lands are identified by soil type on Exhibit 1.5 in Appendix D. The soil types of concern are Lt, Ru. Wo, DaB, KuG, KoB, PbA, PIA, TmA, TmB, and TmA. It is estimated that less than ten acres will be affected by the construction of the wastewater collection system. In these areas, the contractor will be required to remove the top soil and set it aside, then place it back to preserve the topsoil. These impacts will be temporary. There will be no long-term impacts because the sewer lines will be buried at least five (5) feet deep and the area will be restored back to its prior condition.

Construction of wastewater collection facilities will not affect the continued use of nearby and adjoining land parcels for traditional agriculture. However, if an adjoining landowner proposed to change his/her land to another type of use; there may be a perceived effect because of the proximity to the collection facility.

The wastewater collection facilities will not affect the continued use of nearby and adjoining land for traditional agriculture.

5. Wild and Scenic Rivers.

Currently, there are no rivers in the project impact area, which are included in the National Wild and Scenic Rivers System.

6. Fish and Wildlife Protection.

A letter was sent to the Utah Division of Wildlife Resources (DWR), requesting their input or concurrence regarding the potential impacts that the proposed wastewater treatment facilities may have on aquatic and terrestrial wildlife. The Division of Wildlife Resources performed a search from the existing data known to the Utah Natural Heritage Program. The search results indicate that there are no occurrence records for any State or Federally-listed species in the immediate area of the project. However, there are occurrence records for several rare species near the project area. The response from the DWR and search results is attached in Appendix C.

It is believed that the proposed project will not impact any aquatic and terrestrial wildlife.

7. Endangered Species Protection.

An inquiry was directed to the U.S. Fish and Wildlife Service (USFWS) regarding impact on fish and wildlife and threatened and endangered species (T&E). No response was received from the USFWS. However, information on the T&E species of the area has been gathered from government agencies and other projects in the community. Table 2.1 is a list of species that may occur in the area of influence of the project can be viewed below.

TABLE 2.1 SPECIES THAT MAY OCCUR IN PROJECT AREA

Common Name	Scientific Name	Status
Ute Ladies'-tresses	Spiranthes diluvialis	Threatened
Ogden Rocky Mountainsnail	Oreohelix peripherica wasatchensis	Candidate
June Sucher	Chasmistes liorus	Endangered
Bald Eagle	Haliaeetus Leucocephalus	Threatened
Western Yellow-billed Cuckoo	Coccyzus americanus occidentalis	Candidate

USFWS policy requires that a consultant review the proposed action and a determination be made if the action will affect any listed species or their critical habitat. Once the determination has been made, the determination should be submitted to the Federal agency for review. If it is determined by the Federal agency, with the written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is complete, and no further action is necessary." However, if the Federal agency does not concur with the determination further studies will be required and/or a different course of action should be taken.

After reviewing the listed species, conducting field investigations, and reviewing the proposed alternative, it has been determined that the endangered species will not be negatively influenced by this project. All areas of the project will be constructed in previously disturbed areas. These areas have been disturbed by previously constructed roadways, utilities, and agriculture activities. It is not anticipated that any large trees will be cut down, which may impact the potential rapture nesting or roosting habits of raptures. Best management practices will be put into place to alleviate any potential storm water pollution to receiving streams or bodies of water.

8. Air Quality.

The e-mail letter (Appendix C) dated March 28, 2005, issued by the Utah Division of Air Quality, indicated that an approval order would not be required for this wastewater project. It is noted in the letter that fugitive dust will occur during this type of construction. The contractor will be required to take measures to minimize fugitive dust through watering, and/or chemical stabilization, vegetative or synthetic cover and windbreaks.

It must be noted that air quality will be very slightly degraded during the construction of the project by exhaust from equipment. Very little dust is expected due to controls that will be required in the construction specifications. Operation of the facility will not significantly affect air quality.

9. Direct and Indirect Impacts.

The proposed wastewater collection and treatment facilities are not expected to have detrimental environmental impacts.

Any wetlands disturbed where pipelines cross will be restored to their pre-construction condition. In addition, measures will be taken to ensure that wetlands, or high water table areas, are not drained as a result of pipeline installation through installation of clay cutoff walls along the pipeline. Secondary impacts should be mitigated by the development and wetland requirements that must be met for each property to develop.

Some dust will be generated during construction, which may slightly diminish the air quality temporarily. Proper construction management will limit the amount of dust generated through strict enforcement of the construction specifications, which require dust abatement. .

There will be minor disruptions of traffic, which will occur during construction. These disruptions are temporary. The Contractor will be required to repair all roads and leave trenches in a smooth and clean finished condition.

Wildlife species will not be significantly impacted either positively or negatively by the project.

Real estate near the sewer mains may develop more rapidly due to the availability of the sewer improvements. As each property develops, the individual developers will be required to receive permits from the Army Corps of Engineers before any changes of the wetlands status of these lands may be realized. The installation of sewer improvements will not eliminate the due process for protecting wetlands or other environmentally sensitive lands found in Perry.

The City has limited control over development pressures for those landowners that desire to develop. Currently, many landowners are selling farmland without a community sewer system. For the most part, the City Council understands the benefit of operating a community wastewater system.

10. Mitigating Adverse Impacts.

    It is anticipated that there will be no long-term adverse impacts. No mitigation measures are planned.

11. Determining Need for An Eis.

    The DWQ is responsible to determine, based on environmental information contained in this Facilities Plan, whether or not an EIS is required in connection with this project The DWQ must prepare an EIS when any significant environmental impact is present.
    Considering the minimal environmental impacts expected, it is the opinion of Sunrise Engineering that a finding of no significant impact (FONSI) would he appropriate. No significant impacts to the environment will be realized from construction and operation of the project Although there are historic sites within Perry, construction of the sewer system will not impact these facilities. No known archaeological resources, important agricultural land, or endangered species are present in the project area. Erosion will be controlled. Water quality during construction of the project will not be degraded and will be improved after construction, due to elimination of groundwater contamination from raw wastewater. No displacement of households or businesses will occur as a result of the project Visual impacts will be negligible. Noise and air quality will remain unchanged.
    Development will remain the same with or without this project Vacant land already specified as wetlands will not have easy access to collection lines and should not receive much additional pressure to develop as a result of this wastewater project. The installation of an updated or new wastewater treatment system will enhance the water quality by eliminating the overloading of the existing lagoon.

13.11.030 Development And Screening Of Alternatives

The primary objective of this section is to identify a multitude of alternatives for treatment of Perry City wastewater and screen the alternatives into a few, which are most feasible on a general basis. The first sub-section will identify the general types of treatment available. The subsequent subsections will provide an in depth description of each alternative and screen the alternatives that are not feasible or practical. This screening process will reduce detail analyses to only those alternatives which appear to be practical for the size and type of system that would meet the City's needs.

Each alternative that passes this general screening process must, if implemented, meet effluent limitations established by EPA and the Utah DEQ. The systems must also be affordable, expandable to accommodate future growth, politically acceptable, and must meet environmental and other non-monetary criteria to warrant further evaluation in Section 4.

1. Development of Treatment Alternatives.

    Several types of wastewater treatment are available for consideration. These treatment alternatives are broadly defined and can contain numerous specific treatment processes. Several alternatives that are applicable to this study are listed as follows:

    General Treatment Alternatives Considered:
    1. Status Quo
    2. Expansion and Optimization of Existing Lagoons
    3. Regionalization with Brigham City
    4. Build Mechanical Treatment Plant
    5. Join with Willard to Build Mechanical Treatment Plant

2. Take No Action at this Time (Status QUO)

    This is a short term option. The current system has been operating since 1985. As previously noted, the present system is unable to treat current wastewater flows. The treatment system is 157% organically overloaded. Another direction must be taken before the current capacity is lost, which is estimated to be five years. To keep the current system costs nothing but time. Delaying any action at the moment will allow less time to resolve the problem in the future. Additionally, construction costs are escalating and a future project will be more costly. However, for the present time, there are no new maintenance costs for this option, or changes in rates.

3. Expansion and Optimization of Existing Lagoons

    The existing treatment method in Perry City is by discharging lagoons, which treat wastewater much like total containment lagoons. A discharging lagoon system consists of a minimum of three ponds, sized to ensure that wastewater flowing into the ponds has a minimum detention time of 120 days. The treated effluent, or water that has flowed through the lagoons and undergone the required detention time, then flows out of the last pond and is discharged to a ditch or stream.

    Perry operates a seven cell discharging lagoon system. As was mentioned previously, the existing discharging treatment lagoons are currently organically overloading by 157%. In order to eliminate this overloading, the first cell of the treatment lagoons must be expanded. Adding aeration would help optimize treatment in the lagoon system.

    a. Expand First Cell.

        In order to expand the current lagoons, the land required must be obtained, and the proper permitting must take place. Due to the wetlands surrounding the lagoons,

a 404 permit must be granted from the Army Corps of Engineers. Perry City has been working with the Army Corps of Engineers for several years and has obtained a permit to expand their lagoon system. The expansion permit from the Army Corps of Engineers authorizes expansion directly east of the first cell. The size of the expansion is approximately the same size of the primary cell. This expansion will alleviate the current overloading of the lagoons and provide a viable treatment alternative for the short term. The added volume and surface area will provide the right conditions to allow the natural treatment processes to take place. The treatment system would be able to remove the pollutants until the growth of Perry is such that the wastewater produced will again be too much to allow the full natural treatment processes the time and space necessary for the disposal of pollutants. At Perry's current growth trends, the expansion would work for less than five years. Preliminary probable cost opinions estimate the expansion would cost $2,155,000.

The problems associated with this treatment method are twofold. First, long term considerations indicate that in a few years the expanded lagoons will once again be operating to capacity and will begin overloading. At that time, obtaining further expansion permits from the Army Corps of Engineers is not likely, thus leaving the City of Perry in a similar situation to which they are currently in.

Second, due to cold temperatures during the winter months, the lagoons are unable to meet the ammonia requirements required by the Utah DEQ. The nitrifying bacteria responsible for oxidizing ammonia tend to go dormant in cold temperatures. This is a well known fact with lagoon treatment systems. Dr. Michael Richard presented a technical report at the 1995 Rocky Mountain American Waterworks Association / Water Environment Association Annual Conference. The following was taken from his work and illustrates the problems with meeting ammonia requirements during cold temperature periods:

A coming problem in the Rocky Mountain region is the requirement for ammonia removal during municipal wastewater treatment. Many small communities in the Rocky Mountain region that use aerated lagoons are getting effluent ammonia limits in their renewed NPDES permits. A major problem exists in that aerated lagoons in the Rocky Mountain region have to operate at a low winter time temperature where ammonia removal by nitrification is minimal or ceases. This makes meeting low effluent ammonia standards almost impossible for these systems. A great need exists to find a way for the continued use of small community aerated lagoons to meet effluent ammonia limits in the cold time of the year.

Concerns about cold temperature nitrification usually arise when water temperature in the biological treatment system drop to 5 degrees Celsius (41°F) or below. At this temperature the nitrifying bacteria responsible for oxidizing ammonia tend to go dormant. If this happens, it usually means effluent violations for those plants with ammonia limits.

Throughout the industry, several studies have been conducted to evaluate different techniques to increase ammonia removal in lagoon and aerated lagoon system during cold times of the year. Unfortunately, these techniques are not recognized as solutions to reducing ammonia limits in lagoon type systems at this time.

Because of the above" mentioned difficulties, particularly the inability of this treatment method to reach required ammonia levels and the projected five year treatment life, this alternative will not be considered in further detail in Chapter 4.

b. Expand First Cell and Add Aeration.

Adding aeration to the treatment process increases the organic capacity of the system. The aeration process adds oxygen to the wastewater, providing the aerobic bacteria the necessary conditions for proper disposal of the organic material. Aeration essentially adds to the productivity of the lagoon system without increasing the amount of land the treatment plant occupies. However, in order for aeration to function properly, the depth of the cells must be increased from 4.5 feet to 12 feet. Adding aeration to the treatment process at the same time as expanding the first cell will further increase the organic capacity, extending the life of the system beyond that of merely expanding the cell. With an increased organic capacity, the lagoon system will again function normally until the total wastewater that needs to be treated will be more than the plant can handle. Preliminary probable cost opinions estimate the capital costs for these improvements to be $7,620,000.

The difficulties associated with this alternative are very similar to those outlined in the previous section. These include meeting the demand for future flow, obtaining permits from the Army Corp of Engineers for future expansion, and meeting the ammonia levels required by the Utah DEQ. Due to cold temperatures in the winter months, the aerated lagoons would still suffer delinquent ammonia levels, and thus will not be considered in further detail in Section 4.

On October 12,2006 Sunrise met with Mayor Nelson, Council member Bruce Howard, and Duncan Murray to discuss treatment options. Different options for treatment were discussed. The discussion included the results of a preliminary analysis of constructing additional lagoons both with and without aeration. The results of that meeting were that Perry City did not want to invest money in more lagoons or technology that did not treat ammonia, and also that they did not want to user their resources for what is basically a short term solution for their current situation. Based on this meeting and the preliminary development of the aerated lagoon option, it was determined that further investigation and calculations of these alternatives was not warranted.

4. Regionalization with Brigham City.

Brigham City currently treats its own wastewater in a mechanical treatment plant located in the northwest corner of the community. The system used there has the capacity to treat 4.0 MGD of wastewater. Currently, Brigham City is treating less than 2.0 MGD. In order for Perry City to regionalize with Brigham City, Perry City would need to construct a lift station and force main to convey the wastewater to Brigham City's 27' trunk line. The trunk line runs on the west side of Brigham City and flows north to the treatment plant. This is an option that can be used to replace the currently overtaxed lagoon system that Perry City is using now, This alternative is a viable treatment option for the City of Perry. By regionalizing treatment of their wastewater with Brigham City, Perry City is able to take advantage of the benefits associated with using existing facilities for treatment. The downside of this alternative includes the monetary costs associated with the new system infrastructure required and the fees associated with regionalization. Further analysis of this option is included in Section 4 of this study.

5. Build a Mechanical Plant.

This option requires a mechanical plant to be built by Perry City to take the place of the current lagoon system. The plant would use less acreage, and would be designed to be attractive and easy to maintain. It is anticipated that the plant would be located immediately east of the existing lagoon system. This would allow for minimal improvements to the collection system. Several mechanical treatment plant options exist for Perry City. The different types of mechanical plant are as follows:

1. STM - Aerator Plant
2. Sequencing Batch Reactors Plant - SBR Plant
3. Membrane Bioreactor Technology - MBR Plant

Each of these mechanical plant options are capable of meeting the discharge requirements outlined in Perry's permit. Typically, an MBR plant is capable of producing the highest quality of water with the fewest treatment steps. Water quality from an MBR plant is able to meet State requirements for reuse water. This means the water is of a quality that it can be used for irrigation of lawns and gardens. SBR and STM- Aerotor plants can achieve a quality of water ready for reuse with an additional polishing process. The initial cost of a MBR plant is 1.5 to 2 times more expensive to purchase and operate than a SBR or STM- Aerotor plant. For this report, achieving reuse quality water is not a priority at this time. However, any mechanical plant considered will need to have additional treatment in the future to achieve reuse quality.

This alternative is a viable treatment option for the City of Perry. By constructing their own mechanical treatment plant, Perry City can effectively treat their wastewater to meet the effluent requirements of the EPA and Utah DEQ. The downside of this alternative includes the monetary costs associated with the new mechanical plant, and disposal of the biosolids produced by the plant. Further analysis of this option is included in Section 4 of this study. However, detailed analysis will be limited to STM-Aerotor Plant and SBR Plants due to the higher costs associated with a MBR plant.

6. Join with Willard City and Build a Mechanical Plant.

   Willard City is currently designing a new collection system and pump station to convey their wastewater to Brigham City. The force main from the pump station would need to be constructed through the entire north-south city limits of Perry. Due to Willard City's project and the current timing,there is an opportunity for Willard City and Perry City to join together and build a treatment plant together. Therefore, this alternative includes regionalization with the City of Willard to construct a new mechanical plant. According to preliminary discussions with the State of Utah, if the plant was located where the discharge from the plant could flow to the Great Salt Lake instead of the Bear River National Bird Refuge, there would be no ammonia requirement on the permit.

   This alternative has all the benefits of the previous alternative, yet has a lower construction cost because of the shared use with Willard. It uses less acreage, is relatively inexpensive to expand, and has consistent results which also exceed the current standards. A location for a treatment plant on the Perry/Willard City boundary line is anticipated. Additional costs would be incurred to provide a trunk line from the existing piping to the treatment plant. Joining with Willard provides the benefits of economies of scale and allows both cities to meet the current treatment requirements of the Utah DEQ without having to deal with fees and politics associated with regionalization with Brigham City.

7. Treatment of Industrial and Federal Facilities' Wastes.

   There are no present industrial facilities or federal facilities in Perry City. It is possible that industrial development will occur in the future. If it does, the City must evaluate the pretreatment requirements for each industry on a case-by-case basis, to prevent an industry from imposing an overwhelming hydraulic or biologic load on the existing wastewater facilities.

8. Perry City Collection Requirements.

   Regardless of the alternative chosen for treatment, the collection system is in need of some upgrades to meet the growth of the community. The problem areas of the collection system are the trunk lines. After modeling future flows in the existing lines, several segments have been identified to be enlarged. Currently, a 10" inch line extends from 1200 West and Center westward for approximately 1000 feet along Center St. then jogs to the south through a field to approximately 2700 South and 1-15. At this point the line crosses under 1-15 where it flows south and then west to the lagoons. This line will need to be replaced by a 30" inch line which will be placed in the proximity of the existing line. With regards to the building a treatment plant with Willard City near the Perry/Willard city boundary, the 30" line would need to extend to the treatment plant. The frontage road along the west side of the freeway is the best alignment for this line.

   In Section 4.0 each viable option outlined will include the collection system costs associated with that particular alternative.

9. Future Northwest Collection Requirements.

   The northwest area of Perry City has potential for substantial growth. Installation of future collection lines in this area is inevitable and will be required. The treatment facilities for the alternatives evaluated in this facilities plan will have to be designed to handle the future waste projected from this area. The projected flow for the treatment alternatives includes these areas. Exhibit 1.8 shows the current zoning map for Perry City. Based on the current zoning and using equivalent ERC flows from the city engineer for different zone types, wastewater flows for the northwest area were projected and future trunk line and interceptor line sizes were determined. Exhibits 4.1 through 4.6 show approximate projected locations of the future collection system.
   Based on the current zoning, a 14" gravity interceptor line will be required along Perry St. (1200 West) from about 1500 South to Davis St. (2250 South), where it will connect with a 16" interceptor that flows west along Davis St. to the east side of I-15. From that point it becomes a 18" trunk line which flows to the south and connects with the new upgraded trunk line at the west end of 2700 South. Also, an 8" main line will be required eventually on the east side of I-15 from the I-15/Highway 91 intersection to Davis St (2250 South).
   The opinion of probable cost for the northwest future collection area is included in Exhibit 4.13. The costs of these improvements will not be included in the capital costs of the alternatives because they are not required at the present time and the costs will not be included in the funding package from the state. The costs for these future collection trunk lines and interceptors will be paid for by impact fees. These costs are detailed in the impact fee section of this facility plan.

13.11.040 Evaluation Of Viable Alternatives And Plan Adoption

This section contains further evaluation of the viable treatment alternatives involved in this study. The evaluation includes economic and non-economic analysis for the relevant factors involved. Based on these analyses, selection of the best overall wastewater treatment facility alternative is made in Section 5.0. The selected alternative must be politically acceptable, environmentally sound, and economically justified when it is compared to the other alternatives.

In Section 3, many alternatives for wastewater treatment were evaluated and screened. The screening of alternatives resulted in four viable alternatives being selected for further analysis. These principal alternatives are listed below and are capable of meeting Federal, State, and Local criteria for the proposed project

Alternative # 1- Regionalization with Brigham City
Alternative # 2- Build STM Aerotor Mechanical Treatment Plant
Alternative # 3- Build Sequencing Batch Reactor (SBR) Mechanical Treatment Plant
Alternative # 4- Join with Willard to Build STM Aerotor Mechanical Treatment Plant

DEMONSTRATION OF FINANCIAL CAPABILITY

Perry City has the legal authority to own and operate water, sewer, power, and other utility systems. At present, the City operates a culinary water system, sewer system, parks, roads, and other services. The City, therefore, has demonstrated managerial and financial capability to operate these services and systems. The existing maintenance personnel will manage operation of the alternative chosen with minimal additional training. In the event that further assistance is needed or the mechanical treatment plant alternative is selected, more personnel may need to be hired. Billing procedures are already established, and a managerial staff is already in place.

1. Alternative #1- Regionalization with Brigham City

   For Perry to regionalize with Brigham City, Perry City would need to construct a lift station and force main to convey the wastewater to Brigham City. A map showing the general location of the lift station and the force main to Brigham City collection system is shown in Exhibit 4.1 in Appendix D. The preliminary design of the force main is a 16" PVC C-900 pipe. Build-out calculations indicate the peak design flows will reach 3500 gallons per minute in the trunk and force main.

   Brigham City has additional capacity in their mechanical plant. The plant was designed to be a 4.0 MGD plant. Brigham City is treating approximately 1.6 million gallons

per day. Discussions with Brigham City concerning pumping to their facility have been favorable. However, discussions concerning buying a portion of the capacity from Brigham City. and jointly operating the facility has not been well received. Brigham City prefers that Perry pay approximately $2.14 per 1000 gallons of waste treated. This equates to approximately $13.84 per ERC for treatment, operations, and maintenance costs. In addition to the treatment charge, Brigham City desires to recoup their investment in their treatment plant.

A treatment availability charge (TAC) is the means by which Brigham City will recoup their investment. This charge is a monthly fee per ERC that never goes away. The calculated TAC is $6.06 per ERC. In summary, monthly fees totaling $19.91 per ERC would need to be paid to cover the cost Brigham City would charge to treat Perry City's wastewater.

Benefits for pumping to Brigham City include no additional personnel to operate the plant, no treatment facility to operate or maintain, and not having to meet changing discharge requirements. The downside of pumping to Brigham City include the loss of control of operating a plant, paying the TAC forever, a lift station, not owning capacity into the facility, and operation and maintenance costs associated with a lift station.

2. Alternative #2- Build STM Aerotor Mechanical Plant.

   This alternative involves construction of a new STM-Aerotor mechanical treatment plant owned and operated by Perry City. This plant would be designed to receive an average flow of 2.0 MGD with a peak factor of 2.0 resulting in a peak: flow of 4.0 MGD. The facility would have a design life of 20 years. Preliminary analysis of the study area indicates that the most likely location for the treatment plant would be in the vicinity of the existing lagoons, or even on the land that was recently permitted for the lagoon expansion. This location is shown in Exhibit 4.2 found in Appendix D. Based on wastewater characteristics, projected effluent requirements, and site location, a STM-Aerotor plant is a good treatment alternative for Perry City. This type of plant would allow for convenient and inexpensive modular expansions. Using this type of mechanical plant, the wastewater is treated in a controlled environment with results which are very consistent and well within the allowed parameters of the current discharge permit. Water quality produced by this plant would be less than the current permit limitations of 25 mg/I BOD and TSS. Ammonia would also be removed in the process to an expected level of 1 mg/I.

   The flow of the wastewater through the plant is described as follows and is shown in Exhibit 4.3 found in Appendix D. The wastewater flows through the headwork first, where material harmful to the process and equipment is screened and removed. The next step is the STM-Aerotor, which is where the biological treatment takes place. The flow next enters the clarifier, followed by disinfection. Afterwards, the effluent would be discharged into the wetlands of the Great Salt Lake.

   The headwork consists of a screen, and grit removal. The screening process removes larger deleterious materials for compaction, and then placed in a container lined with a plastic bag. Grit is small, coarse particles of sand gravel, eggshells, or other minute pieces of mineral matter which are also placed in a plastic bag-lined container. The screened material will be sent to the local landfill.

   Biological treatment occurs in two parallel tanks where the environmental conditions are controlled to produce an active population of bacteria. The bacteria use the oxygen in the water to feed on the pollutants. The wastewater is detained in these tanks for 8 to 12 hours. Oxygen is provided by slowly rotating tubes that fill with air when above the water, and while below, continuously release that air in fine bubbles. This is a patented process called STM Aerator that uniquely combines the activated sludge process with that of fixed film. Activated sludge organisms will remove the bulk of the pollutants in the wastewater and nitrify the ammonia. The fixed film organisms produce excellent sludge-settling characteristics for the next step.

   The effluent from those tanks, which consists of treated wastewater and bacteria flocculent, flows into the clarifier.· In this tank, the sludge and bacteria flocculent settle to the bottom, and the treated water flows out through the top, over a weir. The water then passes through the UV disinfection, and out of the plant as effluent.

   Part of the sludge and flocculent which, settles out in the clarifier is returned to the STM Aerator tanks to help maintain a heavy inventory of bacteria (Return Activated Sludge or RAS). The remainder of the sludge (Waste Activated Sludge or WAS) is pumped to the aerobic digesters, where it undergoes about 30 days of further biological treatment before it is pumped to the sludge dewatering press. This press will remove water from the sludge, changing the amount of solids from 1 or 2% to about 20%. The dewatering system of this alternative will be a Huber screw-press. The dewatered sludge will be thickened enough that it can then be handled and shipped to a landfill for final disposal.

   Reuse of treated effluent for irrigation is a potential benefit from a mechanical wastewater treatment plant. But final filtration must be added to the processes for the water to reach Type I reuse quality. Type I is defined by the State of Utah as reclaimed water that is suitable for reuse where human contact is possible such as public parks and golf courses. Also, a reuse pump station and pressure piping would be required to pump the water to its point of use. The amount of water that would be available for reuse would be determined by the State Engineer's evaluation of the consumptive use of the underlying water right. This would be determined after a reuse application is filed with the state engineer. Costs for reuse are not part of this analysis.

   The by-product of treated water at this type of plant is the biosolids. Biosolids may be used for composting and sold as fertilizer for lawns and gardens. This would require additional treatment in order for them to reach a treated level of Class A. This would add an additional cost to the plant which would decrease the economic feasibility of this alternative. Due to the relatively small amount of biosolids. that would be generated, it appears that final disposal of biosolids in a landfill is the most cost-effective method at present. State rule R315-315-5 allows for " *...water treatment plant sludge, digested waste water treatment plant sludge, or septage containing no free liquids to be placed at or near the bottom of the landfill working face and covered with other solid waste or other suitable cover material."*

3. Alternative #3- Build SBR Mechanical Plant.

   A Sequencing Batch Reactor Plant consists of sequencing batch reactors (SBRs) used for biological treatment of the wastewater. The probable location of an SBR plant would be the same as for the STM Aerator plant near the existing lagoons and is shown on Exhibit 4.4 in Appendix D. Using this type of mechanical plant, the wastewater is treated in a controlled environment with results which are very consistent and well within the allowed parameters of the current discharge permit. Water quality produced by this plant is similar to the STM Aerotor plant which would meet the 25 mg/l BOD and TSS limitations found in the permit. Ammonia would also be removed in the process to an expected level of 1 mg/l or less.

   The flow of the wastewater through the plant is described as follows and is shown in Exhibit 4.5 found in Appendix D. The wastewater would flow through the headwork first, where material harmful to the process and equipment is screened and removed. The headworks for the SBR treatment plant are the same as the STM Aerotor plant. The primary purpose is to remove the material harmful to the process and equipment. The parts and processes of the headworks would be as described in the section above for the STM Aerotor plant.

   After passing the headworks, the wastewater would flow to the sequencing batch reactors which are concrete tanks that utilize two tanks for continuous flow. One tank receives flow while the other completes its treatment cycle. Treatment in the sequencing batch reactors occurs in the following operational steps: fill, react, settle, decant/sludge waste, and idle.

   During the fill operation, wastewater enters the SBR reactor. Initially, a complete mix of the contents occurs without the use of aeration, which assists in control of filamentous organisms, and is essential for systems requiring phosphorus removal. Eventually, during the filling process, aeration using mechanical blowers is introduced to

promote biological reactions with the influent wastewater, promoting nitrification and de-nitrification.

During the react period, the wastewater flow is stopped while the mixing and aeration continue. During this process, nitrification and de-nitrification continues. In this process, the biomass existent in the reactors consumes the substrate under controlled environmental conditions.

When the mixing and aeration cease, the settling process begins. During this process the solids are allowed to separate from the liquid under calm conditions, resulting in a treated wastewater that can be discharged as effluent.

Following settling, the decanting/sludge waste process begins in which the treated wastewater is discharged to the disinfection process and a small amount of the sludge waste is removed as waste activated sludge (WAS). The remaining sludge stays in the reactor and is immediately ready to receive the next batch of raw wastewater. After removal, the waste activated sludge is pumped to the aerobic digesters, where it undergoes about 30 days of further biological treatment before it is pumped to the sludge dewatering press. This press will remove water from the sludge, changing the amount of solids from 1 or 2% to about 20%. This is thickened enough that it can then be handled by conveyors and shipped to a landfill for final disposal.

The idle period is used in a multi reactor system to provide time for one reactor to complete its fill phase before switching to another unit. Because idle is not a necessary phase, it is sometimes omitted.

Disposal of the dewatered sludge is as described for the STM Aerotor plant, which is by disposal in the county landfill. Eventually, additional treatment operations can be added to the system to produce a Class A sludge that would qualify for reuse. This additional treatment is not included in the cost estimates for this study and would have to be funded later.

The advantage to an SBR mechanical plant is that all of the treatment processes occur in the same tank, thus reducing the size of the footprint required for treatment. A disadvantage to this is that it requires more power and mechanical parts which results in higher operations and maintenance costs.

4. Alternative #4- Join with Willard to Build STM Aerotor Plant.

   This alternative includes building a new STM Aerotor treatment plant and combining ownership and funding of the plant with Willard City. This plant would be designed to receive an average flow of 2.0 MGD with a peak factor of 2.0 resulting in a peak flow of 4.0 MGD. The facility would have a design life of 20 years. The location of all the needed improvements is shown in Exhibit 4.6 in Appendix D. A gravity trunk line is required to convey the wastewater to the plant. Preliminary design of this trunk line indicates that it should be a 30" line for a build-out design period. The projected peak flow is approximately 3500 gallons per minute. The specific details of the processes and requirements for a STM Aerotor treatment plant are as described in Section 4.2.

   A casual observer may conclude that by joining with Willard, Willard will financially benefit or lower their monthly treatment fees. This conclusion is incorrect because Willard City has already obtained funding for their project and the State has set their monthly user rate at $42.31. Of the $42.31, $19.91 is designated to Brigham City for treatment (See Section 3 for discussion of the $19.91 cost). By joining with Perry, the $19.91 will not go to Brigham City, but will be available for use in the new treatment plant capital and 0 & M costs. If this alternative is chosen, Willard City's monthly user rate will remain at $42.31. The benefits to Willard City are non-monetary in that they would have ownership and representation in the new treatment facility.

5. Economic / Monetary Evaluation.

   The focus of this sub-section is to define all of the economic and monetary costs associated with each alternative and evaluate the cost-effectiveness of each alternative. The costs associated with the alternatives include capital costs, operation and maintenance costs, existing costs, and sunk costs. Final evaluation of cost-effectiveness is shown by individual cost to each equivalent residential Unit (cost/ERC).

   A cash flow model will be used to analyze the monetary costs of each alternative. The cash flow model is an extremely powerful tool. The cash flow model is a dynamic tool allowing the analyzer to play "what if" scenarios with either revenues, expenditures, or both. The purpose of the cash flow model is to link the individual users/equivalent residential users (ERCs) and the revenues generated by them with the expenditures of constructing and maintaining a wastewater system. The model projects all the revenues and expenditures year by year of a given alternative for a given period of time (20-years). By using the model, one can determine of if the wastewater utility is generating enough revenues to cover the expenditures. The revenues included in the analysis include monthly use rates) hook-up fees, impact fees, treatment fees and other pertinent fees. Projected expenditures that are included in the analysis are the debt payments for the initial cost of the project, personnel cost to do billings and maintenance of the system, equipment repair and replacement costs) and any utility costs, like electrical power, associated with the alternative. The results of the cash flow model can be viewed in Appendix E. Any operation and maintenance information need for a particular alternative can be gathered from the cash flow models.

   a. Evaluation of Capital Costs.

      Capital costs are estimated for this study using an opinion of probable cost. The opinion of probable cost used in this study is based on current prevailing market prices for all aspects of a project and includes capital costs, professional costs, such as: engineering design, construction management, attorney fees, DWQ administration, etc., and miscellaneous costs, such as: land acquisition costs, and inflation costs. The estimates are determined from an evaluation of scope and difficulty of work, recent bid prices of similar work in the area, quotations from vendors and contractors, and from engineering judgment. Since the planner does not control the economic conditions that affect construction costs, the estimates are not a guarantee of actual cost. Estimates therefore represent anticipated initial project costs and indicate the cost range that Perry City should expect for the initial project.

      The engineer's opinion of probable cost for the improvement projects associated with the principal alternatives is summarized below in Table 4.1. These cost opinions include the project costs and do not reflect who will fund what portion of each. The future collection system in the northwest is not included in this table because it will not be part of the initial funding package from the state. It is assumed that the new collection lines required in the northwest area of the city will be paid for by impact fees.

TABLE 4.1 SUMMARY OF OPINION OF PROBABLE CAPITAL COSTS

Improvement	Exhibit	Alt #1 Brigham City Treat Wastewater	Alt #2 STM Aerotor Plant	Alt #3 SBR Treatment Plant	Alt #4 Join with Willard STM Aerotor Plant
Collection System Upgrades	4.7	$1,500,000	$1,500,000	$1,500,000	$1,500,000
30" Trunk Line (100% Perry City)	4.8	-	-	-	$2,100,000
Lift Station and Force Main to Brigham City	4.9	$2,832,000	-	-	-
STM Aerotor Treatment Plant	4.10	-	$12,000,000	-	-
SBR Treatment Plant	4.11	-	-	$13,300,000	-

Join with Willard STM Aerotor Treatment Plant (2/3 cost to Perry)	4.12	-	-	-	$8,000,000
Total		$4,332,000	$13,500,000	$14,800,000	$11,600,000

Engineers' opinion of probable costs for the improvement projects associated- with the alternatives represented above are shown in Exhibits 4.7-4.12 found in Appendix F.

b. Operation and Maintenance Costs.

Operation and maintenance costs for each alternative include multiple monthly or annual costs that vary each year depending on the alternative and operation parameters of the system. Specific detailed projected operation and maintenance costs are included in the cash flow models that are shown in Appendix E. The model includes these costs to determine end user rates and cost-effectiveness of each alternative.

For Alternative #1, the operation and maintenance costs that are ·included in the model are personnel, vehicle, lift station electrical charges, miscellaneous parts and supplies, lab work, and new equipment costs. Alternatives #2 and #3 are similar to each other in that they include a mechanical treatment plant. The operation and maintenance costs included in the model for these alternatives are personnel, vehicle, treatment plant electrical charges, miscellaneous parts and supplies, lab work, new equipment costs, and disposal of the treatment plant biosolids.

It is anticipated that for Alternative #1 Perry City will incur any cost escalations resulting from increased energy use at the Brigham City Plant. They are also responsible for the energy costs that would be associated with the new lift station and force main. Energy costs associated with Alternative #2 & #3 will be higher than Alternative #1 due to the difference to operate a treatment facility over a lift station. The actual dollar costs of energy use are included as a component of operation and maintenance costs in the examination of each alternative in the Cash Flow Analysis of each alternative.

Of extreme importance when considering operation and maintenance costs of a treatment plant is to take into consideration the amount of sludge (biosolids) that will be produced and how it will be disposed of. As was defined in the previous section, sludge will be disposed of by transporting them to the Box Elder County Landfill. The disposal costs associated with each alternative are shown in the Cash Flow Analysis models in Appendix E.

c. Existing Costs.

Existing costs that are included in the evaluation include the costs associated with the current wastewater budget for the City of Perry. Perry is currently paying on a bond issued Jan 1, 1972, which will retire in 2009. The specific costs are shown in detail for each alternative in the Cash Flow Analysis model. Existing costs may also include costs for any bonds or other payments that the city is currently paying. These costs are shown in the Cash Flow Analysis model for each alternative. They are located under the existing O & M and debt service figures.

d. Sunk Costs.

Perry City currently owns the collection system and discharge lagoon treatment system that they are currently using to treat their wastewater. For all of the primary alternatives being evaluated, the existing collection system will continue to be used, but will require upgrades as discussed in Section 3.2. Also, for all of the primary alternatives being evaluated, the existing discharging lagoon treatment system will have to be abandoned. The abandonment of the lagoon system will be a sunk cost that will be realized by the City. The cost incurred will be equal for all four alternatives, thus this cost is not included as part of the analysis.

e. Total Monetary Cost.

The total monetary evaluation of alternatives will be calculated by using net present value (NPV). The NPV technique of analysis will provide an "apples to apples" dollar comparison of alternatives. Net present value is the sum, if invested now at a given interest rate, that will provide exactly the funds required to make all future payments during the fixed 20 year planning period. The NPV financial formula takes into account the initial purchase value plus the operation and maintenance costs minus the salvage value at the end of the 20 year planning period. For this study, the salvage value for all improvements is assumed to have the same life expectancy and depreciation rate. Thus, the salvage value of each improvement does not affect the net present value formula and is not included in the net present value calculation. A comparison of the net present worth of each alternative will indicate which alternative is the most cost effective. A summary of these net preset value comparisons is found below in Table 4.2. Appendix F shows the spreadsheets used to calculate the NPV for each alternative.

Each alternative was evaluated using the same terms for cost comparison, which resulted incomparable net present worth values. The planning period is 20 years counted from the expected year of completion of facilities (2009). The inflation rate for the calculations was assumed as 3%, and the discount rate used for net present value as 6.5%.

TABLE 4.2 SUMMARY OF NET PRESENT VALUE

Alternative	Net Present Value
Alternative #1 - Regionalization to Brigham City's Mechanical Treatment Plant	$14,626,000
Alternative #2 - Mechanical Treatment Platn with STM Aerotor	$15,900,000
Alternative #3 - Build SBR Mechanical Treatment Plant	$18,931,000
Alternative #4 - Join with Willard to Build a STM Aerotor Treatment Plant	$13,577,000

f. End User Monthly Rate Analysis

The monetary cost for each of the alternatives can also be represented by the end user monthly rate charged to each equivalent residential connection (ERC). Comparing end user monthly rates evaluates the cost-effectiveness of the alternatives and the "price" the user will have to pay for each. When combined with the non-economic factors, end user monthly rate is a principal factor in determining the best alternative. The end user monthly rate for each of the alternatives is shown in Table 4.3 below. Specific details associated with end user rate can be found in the Cash Flow Analysis models for each alternative in Appendix E.

TABLE 4.3 PROJECTED END USER RATE (2008)

Expense Category	Alt #1 Brigham City Treat Wastewater	Alt #2 STM Aerotor in Perry City	Alt #3 SBR Plant in Perry City	Alt #4 STM Aerotor in Willard

Brigham City O&M and TAC	$19.91	-	-	-
New Debt Service, O&M	$10.50	$37.19	$44.56	$27.00
Existing Debt Service, O&M	$11.00	$11.00	$11.00	$11.00
TOTAL	$41.41	$48.19	$55.56	$38.00

Note: Acutal funding scenario may change these rates.

g. Impact Fee Analysis.

The treatment alternatives discussed in this study are designed for a 20 year growth period and for future expansion after that. Thus, the improvements that will be made to the Perry City wastewater system need to have the capacity to handle future waist. It is unreasonable to make current residents pay for the cost that is due to future growth. For this reason, the City will impose impact fees on new users of the Perry wastewater system. These impact fees are based off of the percentage of the new improvements that the new users will be responsible for.

Table 4.4 shows the required improvements associated with all of the alternatives, the percent due to new growth, the total capital improvement cost to new users, the annual payment to new users, the total cost for payments over the next 20 years, and the impact fee associated with each capital improvement. The new growth capital improvement cost (CIP) is the capital improvement cost multiplied by the percent due to new growth. The actual annual payment is calculated from the new growth CIP, using an interest rate of 3.5% for a term of 20 years. The new growth final cost is the annual payment multiplied by the payment period of 20 years. The impact fee is calculated by taking the new final cost and dividing it by the number of projected new connections.

The costs associated with the collection system upgrades, the trunk line from Perry to Willard, and the Lift Station and Force Main are due to new growth and will be covered 100% by the impact fees on new growth. The portions of the treatment plants that are due to new users are based off of plant capacity remaining after the existing flows are taken into account.

TABLE 4.4 IMPACT FEES PER IMPROVEMENT

Improvement	% Due to New Growth	CIP Cost	New Growth CIP Cost	Actual Annual Payment	New Growth Final Cost	Impact Fee
Collection System Upgrades	100%	$1,500,000	$1,500,000	$105,542	$2,111,000	$600
30" Trunk Line (100% Perry City)	100%	$2,100,000	$2,100,000	$147,760	$2,995,000	$800
Lift Station and Force Main to Brigham City	100%	$2,832,000	$2,832,000	$199,263	$3,986,000	$1,100
STM Aerotor Treatment Plant	79%	$12,000,000	$9,534,000	$670,823	$13,417,000	$3,600
SBR Treatment Plant	79%	$13,302,000	$10,568,000	$743,600	$14,873,000	$4,000
Join with Willard STM Aerotor Treatment Plant (2/3 cost to Perry)	73%	$8,000,000	$5,850,000	$411,682	$8,234,000	$2,200
Future N.W. Collection System	100%	$2,710,000	$2,710,000	$190,608	$3,812,000	$1,000

To determine the total impact fee for each alternative it is necessary to add the impact fees associated with each specific improvement. This is done in Table 4.5 which is the total impact fee that will be required for each alternative.

TABLE 4.5 IMPACT FEES PER ALTERNATIVE

Improvement	Alt #1 Brigham City Treat Wastewater	Alt #2 STM Aerotor in Perry City	Alt #3 SBR Plant in Perry City	Alt #4 STM Aerotor in Willard
Collection System Upgrades	$600	$600	$600	$600
30" Trunk Line (100% Perry City)				$800
STM Aerotor Treatment Plant		$3,600		
SBR Treatment Plant			$4,000	
Join with Willard STM Aerotor Treatment Plant				$2,200
Future N.W. Collection System	$1,000	$1,000	$1,000	$1,000
Total Impact Fee	$2,700	$5,200	$5,600	$4,600

h. Summary of Economic Evaluation.

The NPV evaluation determined that Alternative #4 is the least expensive option available. In addition, Alternative #4 returns the lowest monthly user rate to the existing users and allows future growth to pay their portion through impact fees.

6. Non-Monetary Evaluation.

In evaluating the treatment alternatives for Perry City, it is important to consider all non-monetary factors involved. Non-monetary evaluation combined with the monetary evaluation will help determine the best all around treatment alternative. Non-monetary factors/parameters vary greatly depending on project and location. For this study the non-monetary evaluation includes an environmental evaluation and an evaluation of other miscellaneous factors. The other factors include: reserve capacity, reliability, implementability, recreation factors, expandability, service area factors, location and management, and city development factors.

a. Environmental Evaluation.

The four treatment alternatives were weighed for a comparison of environmental impact. The treatment alternatives were ranked between 1 and 10 with 1 being the least desirable and 10 being essentially no environmental impact to that particular aspect of environmental sensitivity.

TABLE 4.6 TREATMENT ALTERNATIVES

Alternative	Alt #1 Brigham City Treat Wastewater	Alt #2 STM Aerotor in Perry City	Alt #3 SBR Plant in Perry City	Alt #4 STM Aerotor in Willard
Historical and Archaeological Sites	9	9	9	9
Floodplains	9	9	9	9
Wetlands	6	6	6	6
Agricultural Lands	6	7	7	7
Wild and Scenic Rivers	10	10	10	10
Fish and Wildlife Protection	8	8	8	8
Air Quality	9	9	9	9
Surface Water Quality	9	9	9	9
Groundwater Quality	8	8	8	8
Indirect Impacts	8	8	8	8
Total	82	83	83	83

The conclusion of the environmental review suggests that there is not a clear Alternative that is better than any other. Each alternative will not greatly impact the environment.

b. Evaluation of Miscellaneous Factors.

This section defines the other miscellaneous factors that need to be considered for the evaluation of the treatment alternatives. The other factors include: reserve capacity, reliability, implementability, recreation factors, expandability, service area factors, location and management, and city development factors.

RESERVE CAPACITY

Each alternative that is evaluated in detail includes reserve capacity, which is the treatment capability beyond the needs of the population at the present time. The design life and planning period is 20 years for treatment alternatives and at least 50 years for the collection system. The Administrative Rules for *Design Requirements for Wastewater Collection, Treatment and Disposal Systems (R317-3 Utah Administrative Code*) states that "sewers should be designed for the ultimate tributary population or 50 year planning period whichever requires a larger capacity." The collection system may be oversized due to minimum pipe size requirements dictated by Utah State Code, which dramatically increases hydraulic capacity. The projected treatment facilities are sized only for the projected 20 year growth. However, methods and sites for enlargement and expansion have been identified, and ·possible future expansion needs have been considered in doing the preliminary design.

RELIABILITY

Reliability is the ability of the treatment facility to meet and maintain effluent limitations set by the EPA and Utah DEQ for Perry City. The selected plan must be able to consistently meet this requirement through the 20 year planning period.. In the case of Alternatives 1, Brigham City would be required to maintain the effluent limitations, and each entity has a record of accomplishment for being able to meet their requirements.

When examining the possibility of a new plant for the treatment of wastewater for Perry, only proven technologies have been examined. This will assure that all of the treatment alternatives can provide an acceptable degree of reliability in order to meet the final effluent requirements.

Alternative #1 requires a lift station, which is not used for reliability comparisons. However, the reliability of a lift station is critical, and it will be equipped with a redundant on-site backup generator, which will switch on in the event of a power outage. The pump system will also be redundant in that a minimum of three (3) pumps will be installed, to operate with one or two pumps operating on-line and the other on standby/backup.

IMPLEMENT ABILITY

Implementability refers to plan acceptability for all jurisdictions involved, and the ability of the projected project to actually happen. In other words, is the Alternative accepted politically by the City and Citizens? It also refers to the equitable features of the plan and any financial constraints. All short -listed alternatives are viable as treatment alternatives. The final test of viability is user cost, whether citizens perceive that they can afford the monthly rate, and minimizing non-monetary costs.

RECREATIONAL OPPORTUNITIES

This project will have no impact or new benefit to recreational opportunities to the area.

EXPANDIBILITY

Alternatives 2, 3, and 4 are expandable. The mechanical treatment plants will be designed such additional treatment capacity (equipment) can be incorporated in parallel with the current equipment. The alternative of contracting with Brigham City is expandable as Brigham City expands, but Perry will have minimal control over how that expansion will occur. Perry will be required to participate financially in any expansion costs.

The collection system upgrades are anticipated to meet build-out conditions or a projected capacity of approximately 3500 gallons per minute.

SERVICE AREA FACTORS

Each of the short-listed alternatives is capable of providing wastewater collection and treatment service to the required Perry 'city Service Area. The service area will include all of the land within the City limits. Further engineering evaluation will have to be performed to determine if areas currently out of the city limits will be able to connect on to the system, and whether they will have to pay a treatment fee.

LOCATION AND MANAGEMENT

Perry City will be responsible to maintain their collection system and the gravity interceptors to the lift station, trunk line, or treatment plant. The lift station, and the forced main, will be maintained by the City staff. Additional staff, or some training, may be needed after the collection and treatment system is placed in service.

In the event that the City's wastewater treatment is contracted to Brigham City, then Brigham City would manage the treatment facility and Perry would have limited input regarding the management of the treatment facilities. Operation and maintenance of a new treatment facility would be the responsibility of Perry City for Alternative #2, in which they would be the sole owner. Their responsibility would include hiring additional staff as needed, training for treatment plant operators, and disposal of biosolids in an effective and environmentally adequate manner. For Alternative #3, Perry and Willard would each own a portion of the plant and would have joint responsibility and input regarding the management and treatment of the treatment facilities. It is anticipated that a treatment district would be formed to manage the plant in Alternative #4.

CITY DEVELOPMENT

For each alternative, an impact fee was estimated that would be charged to new users of the collection and treatment systems. These monetary costs are included in the Cash Flow Analysis models and are taken into consideration in the monetary evaluation of the alternatives.

For the non-monetary evaluation, all of the short-listed alternatives are equal as far as proper handling of municipal wastewater is concerned and in that they will be designed for future growth and development. Development in the proximity of a treatment plant is not favorable due to the various odors emitted. This is still not a big factor as the locations chosen for the treatment plant are in areas that are not desirable for residential development.

7. Selection of Alternatives.

Selection of the alternatives will be made based on evaluation of all of the monetary and non-monetary factors. This is done in Table 4.5 using a numeric evaluation method to rate each method in each category.

TABLE 4.7 EVALUATION OF ALTERNATIVES

Alternative	Alt #1 Brigham City Treat Wastewater	Alt #2 STM Aerotor in Perry City	Alt #3 SBR Plant in Perry City	Alt #4 STM Aerotor with Willard
Monetary considerations (NPV)	7	5	4	8
Environmental Evaluation	8	8	8	8
Reserve Capacity	6	8	8	8
Reliability	9	9	9	9
Implementability	2	6	6	8
Expandability	9	9	9	9
Service Area Factors	9	9	9	9
Location and management	8	8	8	8
City Development	8	8	8	8
Total	66	70	69	75

An examination of the preceding factors reveals that Alternative #4 received a higher grade when ranked according to the above criteria.

8. Views of the Public and Concerned Interest Groups.
   a. Public Participation.

      Open discussion and citizen involvement is required in preparation of any facility plan. Public meetings also help develop plans reflecting area needs and values. Design plans can be provided at less cost and a politically acceptable project may result from implementation of suggestions from local residents. In preparation of this updated Facilities Plan, two (2) public meetings will be held.

   b. Responsiveness Summary.

      To be completed after public hearings.

13.11.050 Selected Plan, Description, And Implementation

1. Justification and Description of Selected Plan.

At the conclusion of Section 4, Alternative #4 - Join with Willard City and Build a STM- Aerotor Plant was selected as the best alternative for Perry City. The selection was based both on monetary and non-monetary factors. The following describes the selected plan:

ALTERNATIVE #4 - Join with Willard and Build a STM-Aerotor Plant

1. Upgrade trunk lines of collection system (Build-out flow ± 3,500 gpm)
2. Construct 30" trunk line to treatment plant
3. Build 2.0 MGD STM-Aerotor Plant with Willard discharge to Great Salt Lake

The treatment plant will be located near the Perry City south boundary on the west side of I-15. With the plant at this location, the majority of both Perry and Willard City's wastewater will flow by gravity to the treatment plant. Discharge from the treatment plant would be directly to the Great Salt Lake. Current discharge parameters require wastewater to be treated to BOD and TSS levels of 25 mg/l and there are no requirements on ammonia, nitrates, and phosphorous.

Trunk lines will be sized to meet a build-out capacity of approximately 3,500 gallons per minute. This is based on the State of Utah peak design requirements for trunk and interceptor lines of 250 gallon per capita per day.

2. Design of Selected Plan.

   Preliminary design of the selected plan has been completed. All design and construction of the collection and treatment systems will be in accordance with the *Administrative Rules for Design Requirements for Wastewater Collection, Treatment and Disposal Systems (R317-3 Utah Administrative code).*

   The following is a schedule of implementation for the selected plan:

   TABLE 5.1 SCHEDULE OF IMPLEMENTATION

03/08/07	Deliver Facility Plan Draft to Perry City and Utah DWQ
03/22/07	1st Public Meeting
04/08/07	Receive Comments on Draft Facilities Plan from DWQ
04/18/07	Introduce Project to DWQ Board
04/19/07	2nd Public Meeting
04/18/07	Funding Commitments Secured from DWQ Board
05/31/07	Submit Final Revisions of Facilities Plan to the DWQ
06/14/07	Final Public Hearing
06/14/07	Engineering Design Contract Signed, Begin Detail Design
06/20/07	Final Approval of Facilities Plan by DWQ, Pending EPA Concurrence
06/30/07	EPA Approval of Facility Plan and FONSI
10/15/07	Engineers Submit Plans and Specifications for Review to DWQ
11/01/07	Advertise for Bids
12/15/07	Open Bids, Award Contract
03/01/08	Begin Construction
03/01/09	Final Inspection, Begin Using System

3. Cost Estimates For Selected Plan.

   Exhibit 4.12 found in Appendix F contains a cost estimate of the selected plan including collection, treatment, engineering and other costs necessary to realize the plan.

   The current guidelines of the Water Quality Board for the target yearly user fees for wastewater is 1.4% of the median adjusted gross income (MAGI). The most recently available MAGI for Perry City is from 2004 and equals $47,910; this gives a target yearly fee of $670.68 and a monthly user fee of $55.89 per month per equivalent residential connection. Due to the fact that the estimated user rates for all of the alternatives are below $55.89, Perry will not qualify for grant dollars with the DWQ. It is anticipated that interest rates in the neighborhood of 3.5% will be attainable.

   CAPITOL FINANCING PLAN

   The Capitol Financing Plan for the selected alternative must estimate projected costs and demonstrate that the proposed funding mechanisms are able to provide adequate funding to complete the project. Appendix D shows the estimated project costs and the proposed funding package to provide for those costs. The project is estimated to require $11,600,000 dollars to complete. The participation of Water Quality loans is projected to provide for these costs.

   To assure that Perry City can continue to operate a viable wastewater utility for the next 20-years, a 20 year Cash Flow projection for the system has been provided in Appendix E. This spreadsheet demonstrates that while charging the projected sewer rates, the City will be able to meet the obligations of all loan payments while maintaining the system and providing for other incidental costs.

4. Energy Requirements of Selected Plan.

   The selected plan is designed to conserve where possible. One of the major benefits of the STM-Aerotor plant is the fact that it uses minimal energy resources during the treatment process. All proposed trunk lines will be gravity. The energy requirements for this system will be met by Perry and Willard City. Energy will also be used in constructing the system in the fOffil of fuel for equipment, hut energy consumption for construction equipment ends when construction is completed.

5. Environmental Impacts of Selected Plan.

   An environmental information package is included in this plan in Section 2. No significant detrimental environmental impacts are associated with this project However, the lagoons will have to be decommissioned and a 404 permit for a portion of the interceptor and force main line through some wetlands will be required from the U.S. Army Corp. of Engineers as described in Section 2.

   a. Decommissioning of Lagoons.

      In presenting a funding plan to the state, it was implied that Perry understands the importance and environmental significance of totally abandoning their existing lagoon system. After the treatment plant construction is completed and is effectively treating wastewater, the DWQ will require that the lagoons be decommissioned. The state has two requirements for decommissioning of the lagoons. First, Perry will be required to stop sending wastewater to the lagoon system. Second, the remaining biosolids will have to be removed.

      Perry City has agreed to comply with the decommissioning requirements of the state and has also indicated the desire to reclaim the lands where they are currently located. The process is as follows:

      1. Stop the flow of all wastewater to the lagoons
      2. Discharge as much existing water from the lagoons as possible meeting the discharge requirements
      3. Decant the lagoons as much as possible

4. Let the remaining biosolids dry up for a period of one to three years, depending on weather conditions
5. Remove the remaining biosolids. The biosolids will be given or sold to farmers for fertilizing applications or will be hauled to the county solid waste dump.
6. Remove the dyke walls and restore the property to wetlands. It is anticipated that a possible reclamation could act as a wetlands bank for the City. Developments that are planning projects in wet land areas may help with reclamation to tap into the wetland bank.

The proposed reclamation plan will allow the City of Perry to decommission their lagoons for little or no cost. At a minimum, Perry City will comply with decommissioning requirements from the state DEQ.

UNAVOIDABLE ADVERSE IMPACTS

This project will not have unavoidable adverse impacts.

IRRETRIEVABLE RESOURCE COMMITMENT

The rights-of-way for the pipelines can be considered irretrievable resource commitments. Since the pipeline will be aligned along fence lines and existing road rights-of-way as far as possible, this impact will be negligible. Where collector or interceptor piping crosses farmland, it will be deep enough that farming operations can continue unaffected. No other significant effects in this area are anticipated by this project.

6. Arrangements for Implementation.

a. Funding Agencies.

The proposed project cart only happen with cooperation and assistance among various agencies. The project is greatly enhanced if low interest loans are received from the Utah Water Quality Board.

Utah Water Quality Board (UWQB)
US Department of Agriculture/Rural Development

It is anticipated the Division of Water Quality (DWQ) will fund the design and construction of the proposed project.

b. Elections.

The portion of the financing plan that is a loan can be either a voted or non-voted revenue bond. In either case, services from a bond attorney will be acquired to meet the bonding requirements after funding commitments are complete. If the City selects a voted bond, the election will take place before detail design begins or loan closing takes place.

c. Sewer Use Ordinance, User Charge System, and Impact Fees.

Perry City has a sewer use ordinance and a user charge system in place. Increases to the user charge system will need to be completed. Average monthly user fees should be increased to $38 per month and impact fees should be raised to $3,800 per ERC.

d. Other Permits and Requirements.

The U.S. Army Corps of Engineers (ACE) has jurisdiction over protection of wetlands. The project is expected to impact-some wetlands for the trunk lines and a "404" Permit from the ACE will be required. Since it appears that the chosen alternative will require that a pipeline pass through wetlands, a permit will be required. It is anticipated that there will not be problems obtaining this permit from the ACE for the project. (See Section 2.3).

The DWQ is the responsible agency charged with determining that a wastewater project is ready for construction and will issue the actual construction permit to build the project. The City must also apply for and obtain any other local permits required for implementation of this project, for example, UDOT and the railroad.

e. Treatment Special Service District.

The implementation of this plan will require Perry and Willard to work together to form a treatment special service district. It is proposed that representation for the district be given in the amount or percentage of the plant paid for by that corresponding community. This study suggests that Perry would have 2/3 say and Willard City 1/3 say in the affairs of the plant. As the communities grow, operation and maintenance costs would be split to the corresponding number of ERCs served by each community.

f. Civil Rights Compliance.

Perry City complies with the requirements in the Civil Rights Act of 1964. Required certification will be obtained for EPA EEO compliance, fair labor compliance, and all other applicable regulations as required.

g. Operation and Maintenance (O&M) Requirements.

Operation and Maintenance costs have been included in the cost effectiveness analysis. The O&M costs along with debt service constitute the basis for required user fees. These expenses should be monitored each year and adjustments in the user fees made accordingly.

Operation and Maintenance of the treatment plant will be dealt with more thoroughly as the project progresses. A detailed plan of operation which includes O&M requirements is part of the Project. During construction of the project, a Plan of Operation and an Operation and Maintenance Manual will be completed with detailed instructions for operators of the facilities.

h. Pre-Treatment Program

It is recommended that Perry develop a general basis for a pre-treatment program now for inclusion in the Sewer Use Ordinance. This will ensure that when the appropriate pre-treatment program is needed, only site specific requirements must be added. The purpose of a pre-treatment program is to prevent the introduction into the treatment facilities of pollutants that interfere with the proper operation of the treatment processes. The costs of pre-treatment of wastewater will be the responsibility of business owner or developer.

7. Land Acquisition.

The implementation of Alternative 4, (Join with Willard City and Build a STM-Aerotor Treatment Plant), will require purchase of the site for the treatment plant, rights-of way for the 30" trunk line along I-15 that are not in existing streets. All other improvements needed for the project will be constructed in right-of-ways or easements publicly owned.

13.11.060 Appendices

View PDF of all Appendices.

Adopted by Ord. Wastewater Capital Facilities Plan Appendices on 6/1/2007

13.13 Emergency Management Plan

13.13.010 Purpose And Intent
13.13.020 Legislation
13.13.030 Summary Of Emergency Situations
13.13.040 Perry City Government Responsibility In The Event Of Emergency/Disaster
13.13.050 Duties And Responsibilities In The Event Of An Emergency
13.13.060 Description Of Emergency Condition: Levels 1, 2, And 3
13.13.070 Description Of Emergency Response Conditions
13.13.080 Supporting Agencies
13.13.090 Phases Of Emergency Management
13.13.100 Plan Implementation
13.13.110 Evacuations
13.13.120 Emergency Support Functions
13.13.130 Emergency Management Plan Maintenance

13.13.010 Purpose And Intent

A. Protection of Health, Safety, and Welfare; and Implementation of Law.

1. The purpose and intent of this Plan is to implement all federal, state, and local laws and policies; to better provide for the protection of the health, safety, and welfare of all Perry City area residents, business owners, real property owners, and other affected parties; to better coordinate with other governmental agencies and public entities; and to provide for better training, communication, preparation, etc. of Perry City officials and affected parties.

B. Caveat and Disclaimer.

1. Nothing within this Plan should be deemed or construed to be a guarantee of specific results or to be binding or to cause liability against Perry City for failure to act according to this Plan. Perry City, despite its best efforts, may not be able to completely execute all components of this Plan.

13.13.020 Legislation

A. Federal Legislation.

1. The following documents are located in the State Emergency Operations Center (EOC) and can be accessed through the Federal Emergency Management website (www.fema.gov):

a. 44 CFR Chapter 1 (Emergency Management and Assistance): This document outlines the organization, power, and duties of the Federal Emergency Management Agency (FEMA). It also details the operation and scope of FEMA programs such as hazard mitigation, the National Flood Insurance Program (NFIP), fire prevention and control, disaster assistance and preparedness (including, in Part 350, radiological emergency preparedness).
b. Disaster Relief and Emergency Assistance Act (Stafford Act.) (PL 100-707): This act limits the qualifying events for disaster assistance to natural catastrophes and established provisions for cost sharing by state and local governments.
c. Disaster Mitigation Action of 2000 (PL 106-390):

(1) This action amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize a program for pre-disaster mitigation, to streamline the administration of disaster relief, to control the federal costs of disaster assistance and for other purposes.

d. Emergency Planning and Community Right-to-know Act (EPCRA) (42 USC 110001-11050):

(1) The EPCRA provides the public with information on the hazardous chemicals in their communities and establishes emergency planning and notification requirements to protect the public in the event of a release of an extremely hazardous substance.

e. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675:

(1) CERCLA protects the public health and environment by facilitating cleanup of environmental contamination and imposing costs on parties responsible for the pollution.

f. 10 CFR 50-47:

(1) This legislation requires the establishment of state and local plans and preparedness for coping with effects of radiological emergencies as part of the nuclear power plant license.

B. State Legislation.

1. State Statutes are located in State Emergency Operation Center (EOC). The following state statutes:

a. The Governor's Emergency Operation Directive
Utah Emergency Management Act of 1981, Utah Code 53-2, 63-5
Disaster Response Recovery Act Utah Code 63-5A
Emergency Interim Succession Act, Utah Code 63-5B
b. Utah National Guard (Chapter from Utah Code)
Chapter 39 - Describes departmental duties.
c. Department of Natural Resources (Chapters from Utah Code):

(1) Chapter 65: Discusses responsibilities during forest fires.
(2) Chapter 23: Discusses responsibilities for wild animals and plants and powers for restricting hunting and fishing.
(3) Chapter 17: Discusses the powers and duties of the department regarding flood control.
(4) Chapter 65: Discusses general environmental provisions (e.g., hazardous substance spills, disposal of debris including animal carcasses).

d. Department of Family Services (Chapters from Utah Code):

(1) Chapter 63: Describes the administration, supervision, powers and duties of state health activities.
(2) Chapter 63: Describes the structure, duties and levels of services of local health departments.
(3) Chapter 63: Describes departmental powers and duties regarding communicable diseases.
(4) Chapter 63: Describes the powers, duties, identification and control of environmental health concerns (e.g. toxic substances, radioactive material/nuclear power plants, disease control.)

e. Department of Transportation (Chapters from Utah Code):

(1) Chapter 72: Describes emergency repairs of county trunk highways.
(2) Chapter 72: Describes departmental powers, duties and organization.
(3) Chapter 72: Describes the powers and duties of traffic officers
(4) Chapter 72: Describes provisions for the maintenance of order in state, county and municipal prisons.

f. Department of Agriculture (Chapters from Utah Code):

(1) Chapter 4: Describes departmental powers and duties.
(2) Chapter 4: Describes the maintenance of animal health requirements (e.g., cooperation with the federal government during animal disease outbreaks, embargo and condemnation of diseased animals, slaughter on premises.)
(3) Chapter 4: Describes the regulation of food.

g. Counties (Chapter from Box Elder County Policies and Procedures):

(1) Chapter 17: Describes the legal status and organization (e.g., home rule; powers of the board chairperson and vice-chair, executive, administrator and sheriff).

h. Cities (Chapter from Utah Code):

(1) Chapter 62: Describes the legal status and organization (e.g., powers of the mayor and council, ambulance service).

i. General Municipal Law (Chapter from Utah Code):

(1) Chapter 10: Describes the legal status and organization (e.g., exercise of home rule, law enforcement, mutual assistance, emergency powers).
(2) Chapter 10: Defines and describes the authorities regarding mutual aid agreements.
(3) Chapter 53: Describes the police power of a fire chief or a rescue squad.

C. Perry City Legislation.

1. The following references regarding Perry City legislation:

a. Perry City Resolution 03-02 (Appendix C of this plan)
b. Perry City Resolution 05-10 (authorize implementation of this plan in case of emergency) (Appendix C of this plan)

13.13.030 Summary Of Emergency Situations

A. Perry City Emergencies.

1. Perry City could be subjected to one or more range of emergencies that include:

a. Hazardous material spills or releases into the air, ground, or water. This may occur during transportation or at fixed locations.
b. Landslides and mudslides caused by heavy snow melt or runoff.
c. Earthquake activity. Perry City has at least two major earthquakes faults and has the potential for earthquakes.
d. Flash flooding caused by sudden downpours and water cascading down the mountain slopes.
e. Strong canyon winds, causing damage to power lines, trees, and buildings.
f. Drought. A water shortage and drought could have a severe impact.
g. Wild land and forest fires. These become a threat in late summer when growth is dry and easily inflamed.
h. Terrorism, aircraft crashes, civil disturbances, and tornadoes. These disasters are possible though low in probability.

13.13.040 Perry City Government Responsibility In The Event Of Emergency/Disaster

A. Scope.

1. Perry City's Emergency Committee is designated to standardize and coordinate Perry City's emergency management plan and procedures for its citizens living, working or visiting in Perry City. The Emergency Committee coordinates with the Box Elder County Emergency Services Director, and the State of Utah Emergency Services and Homeland Security Division.

B. Responsibilities.

1. Perry City government has the responsibility to protect the life and property of their citizens from disasters through recognition of potential disasters, advanced planning, and utilization of resources. The various departments in the city government have the primary responsibility for emergency management activities, but when the emergency or disaster exceeds their capability to respond, assistance will be requested from the County or State government. The Federal government will provide assistance to the State, when appropriate. This Plan is based upon the concept that emergency functions for various groups involved in emergency management will generally parallel their normal day-to-day functions. To the extent possible, the same personnel and material resources will be employed in both cases. It is generally true, however, that a disaster is a situation in which the usual way of doing things no longer suffices. It is desirable, and always attempted to maintain organizational continuity and to assign familiar tasks to personnel. In large-scale disasters, however, it may be necessary to draw on people's basic capacities and to use them in areas of greatest need. Day-to-day functions that do not contribute directly to the emergency operation may be suspended for the duration of any emergency. Resources normally used for day-to-day functions will be redirected to accomplish the emergency task by the agency concerned.

C. Integrated Emergency Management System.

1. In keeping with the nationwide strategy of the Integrated Emergency Management System (IEMS), this plan is concerned with all types of emergency situations that may develop. It also accounts for activities before, during, and after emergency operations. The National Incident Management Systems (NIMS) will be incorporated into the Integrated Emergency Management System.

D. Mutual Aid Agreements.

1. Mutual aid agreements with surrounding local emergency response departments will be used to supplement needed resources within the City. Perry City is a partner in the Regional Mutual Aid agreement (see Appendix D).

E. Terrorist Incidents.

1. The response to a terrorist's incident includes two major components, which may operate concurrently or consecutively:

a. Crisis Management:

(1) Crisis management is the law enforcement response to the causes of terrorist's incidents, terrorist, and their weapons. It includes measures to identify, acquire and plan the use of resources needed to anticipate, isolate, prevent, and/or resolve a threat or act of terrorism. The federal

government exercises preeminent authority and responsibility in crisis management. The federal crisis management effort is lead by the Federal Bureau of Investigation (FBI) with assistance from other federal, state and local agencies as necessary.

b. Consequence Management:

(1) Consequence management addresses the consequences of terrorism, the effects upon people, their property and their community. It includes measures to protect public health, and safety, restore essential government services, and provide emergency relief to government, businesses, and individuals affected by the consequences of terrorism. The authority and responsibility for terrorism consequence management rests with the State of Utah and Perry City.

13.13.050 Duties And Responsibilities In The Event Of An Emergency

A. Duties and Responsibilities.

1. In this section the duties and responsibilities of the key Perry City Government officials and employees are described. Also provided is a checklist for these individuals to be used during the emergency. The duties/responsibilities and the checklist supplement each other. The duties predetermine the actions to be taken by these individuals in preparation for an emergency.

B. Emergency Commander: Mayor.

1. This individual has the ultimate authority and responsibility before, during and after an emergency declaration. The Mayor issues the proclamation of emergency (see Appendix E for form to be filled out) after consultation with the incident commander(s) at the disaster site(s) and rescinds it when appropriate. The Mayor is responsible for ensuring mutual aid agreements are in place with neighboring communities and county/state agencies. The Mayor ensures that a line of succession exists for the members of the emergency committee and each city department head in the event that they are unable to discharge their duties at the time of emergency. The Mayor is responsible for appointing emergency committee. Periodic training of these individuals through classroom sessions or on site drills is an additional responsibility of the Mayor.

C. Emergency Committee.

1. The following regarding the Emergency Committee:

a. The mayor is advised during the emergency by the Emergency Committee. The Perry City Emergency Committee is made up of the following members:

(1) Emergency Commander (Mayor)
(2) Deputy Emergency Commander (Mayor Pro Tem)
(3) City Recorder
(4) Public Works Coordinator
(5) Volunteer/Donation Coordinator
(6) Public Information Officer (PIO)
(7) Secretary

b. The Emergency Committee has the ultimate responsibility to carry out the directions of the mayor before, during and after the emergency/disaster situation. The Emergency Committee has authority for making decisions during the emergency. Policy issues would typically include expenditures, appointment of coordinators, requesting aid and resources, establishing incident specific goals, creating response procedures etc.

D. Emergency Committee Duties and Responsibilities under the Direction of the Mayor.

1. The following emergency duties and responsibilities under the for the Emergency Committee under the direction of the Mayor:

a. Coordination of City emergency organization of training and education efforts.
b. Point of contact/liaison with other municipal, county, state, or federal organizations.
c. Review and update City mutual aid agreements.
d. Evaluate and update the City Emergency Management Plan.
e. Coordinate department specific written plans within the City, included as annexes to the City Emergency Management Plan.
f. Practice the four phases of Emergency Management - Mitigation, Preparedness, Execution and Recovery.
g. Coordinate City plans with the cities/towns within the County and State Emergency Management Plans.
h. Each member of the City's Emergency Committee should assure that their respective checklists are ready and available. These checklists should be stored where they can be accessed easily.

E. Emergency Operation Center (EOC) Activation.

1. The following regarding the Emergency Operation Center (EOC) activation:

a. The designated Emergency Operation Center (EOC) is in the city offices at 3005 South 1200 West. The city recorder is responsible (see checklist in Section 13.13.050(K)) for the operation readiness (seating arrangements, equipment, supplies, etc.) of the command center.
b. In case the designated command center is rendered non-operational, the alternate command center is located in the Principals Office, Perry Elementary School located at 994 West 2625 South.
c. The Emergency Commander is responsible for selecting other command centers. Communication between the command center and the field units will be accomplished through the Box Elder Public Safety Dispatch Center located at 52 South 1000 West, Brigham City, Utah.
d. The EOC will be activated on the order of the Mayor or any primary member of the Emergency Committee.
e. The Emergency Committee is responsible for setting up of the furniture, equipment, displays, etc.

F. Police Department.

1. The following regarding the Police Department:

a. The State of Utah has adopted statues requiring all persons exercising police authority to be "CERTIFIED" by the State of Utah. Only Certified Officers will be able to exercise police power, even in the times of disaster or emergency.
b. During emergency operations requiring active use of police authority, the Perry City Police Department will utilize mutual aid from other law enforcement agencies.

G. City Recorder.

1. The City Recorder duties and responsibilities during and after the emergency situation are:

a. Ensuring operational readiness of the Emergency Operations Center.

b. Coordinator for all requests for emergency financial resources.
c. Keeping records to track expenditures incurred during the emergency.
d. Preparing financial reports to County, State and Federal governments in support of reimbursements.
e. Assists in the resolution of claims and accounting for resources expended during the emergency.

H. Public Works Department Coordinator.

1. The responsibilities of the Public Works Department Coordinator are to:

a. Assist in providing damage assessment information to the EOC.
b. Coordinate and aid disaster operations as related to repair and restoration of public works - roads, bridges, power, gas, sewer, etc.
c. Coordinate with the police department in the identification of alternate/detour routes for vehicular traffic throughout the City.
d. Coordinate the clearance of debris.

I. City Department Heads.

1. The City Department heads will ensure that a chain of command exists that allows the continuation of routine services at the highest possible level during emergency operations. Since it is anticipated that these department heads will be engaged in the resolution of the emergency, prior designation for the responsibility of continued services and routine tasks within the department is important.

J. Individual Employees.

1. During times of emergency, employees may find their normal supervisors are engaged in the resolution of the emergency situation and may not have the opportunity to direct activities as usual. If this occurs, the city expects individual employees to continue assigned functions, and pick up any additional duties likely to result from the reassignment of resources, to maintain the pre-emergency level of services.

K. Checklists.

1. The subsequent pages contain checklists for the key individuals involved in the operation and resolutions of emergency operations. They are an aid to ensuring that the necessary items that need to be attended to are carried out.

L. Forms.

1. The forms to be filled out during an emergency are included in Appendix E.

M. Emergency Commander Responsibilities.

1. The Perry City Mayor or a designee will act in the capacity of the emergency commander as or when needed. The responsibility of the emergency commander is to:

a. Establish and activate the Emergency Operations Center (EOC). Sign the activation checklist roster provided by the city recorder.
b. Direct notification of Emergency Committee members.
c. Obtain situation briefing from incident commander(s): evaluate the situation.
d. Declare local disaster emergency by releasing form to the Box Elder County Emergency Services Department with a copy to the State of Utah Department of Emergency Services (provided by the city recorder). See Appendix E for forms.
e. Direct the notification of county and state authorities (form provided by the city recorder). See Appendix E for forms.
f. Determine and direct action necessary to obtain internal and external assistance/resources.
g. Authorize information release to public.
h. Request and review rapid updates of emergency/disaster impacts from incident commander(s) and other sources.
i. Review establishment of volunteer assembly points from volunteer coordinator.
j. Verify rescue operations are occurring as rapidly as possible.
k. Review evacuation plans if required.
l. Maintain Emergency Operation center (EOC) support until stability is achieved.
m. Appoint assistants and specialists as needed during an emergency.
n. Rescind proclamation of local emergency when appropriate by releasing local state of emergency cancellation form provided by the City Recorder. (See Appendix E for form)

N. Emergency Management Committee (EMC) Member Responsibility.

1. The responsibilities of any member of the emergency management committee are to:

a. Report to the Emergency Operations Center (EOC). If unable to report immediately, communicate with Emergency Operations Center (EOC) and assign alternate to report.
b. Sign activation checklist roster provided by the City Recorder.
c. Obtain assignments from the Emergency Commander - be prepared to act in capacity assigned.
d. Access individual “what to do” checklist.
e. Establish contact with resource personnel and employee reporting to you.
f. Stay until released by Emergency Commander.

O. City Attorney Responsibility.

1. The responsibility of the City Attorney is to:

a. Function as a legal advisor to the Emergency Committee.
b. Assist emergency committee in the interpretation of the laws governing emergency powers in a disaster situation.

P. Volunteer/Donation Coordinator Responsibility.

1. The responsibility of the volunteer/donation coordinator is to:

a. Act under the direction of the Emergency Commander and Emergency Operations Center (EOC).
b. Maintain regular contact with Emergency Commander at Emergency Operations Center (EOC).
c. Establish assembly points and a briefing area for volunteers separate from the incident scene.
d. Maintain a list of all volunteers, contacts phone numbers/addresses, and hours worked and provide these to government agencies as needed (See Appendix E for forms).
e. Prepare clear and concise statements defining role of volunteers, where needed, transportation, arrangement of communication requirements, physical requirements for help required (shovel etc).
f. Organize volunteers for a 24-hour operation on a rotating shift basis.

g. Serve as point of contact for amateur radio organizations serving as auxiliary telecommunication support.
h. Ensure volunteers are not put in harm's way by coordinating with incident commanders (need for safety equipment and blankets, immunizations etc).
i. Conduct any training required for volunteers.
j. Maintain a list of donors, amounts/supplies/equipment, when received and provide these to the City recorder as needed (See Appendix E for forms).
k. Prepare and maintain a list of unused donations. Protocol for unused donations will be:

(1) donations that can be used by the City during or after the emergency will be retained.
(2) donations that cannot be used by the City during or after emergency use will be returned to the donor or to a nonprofit organization.

l. Prepare and mail a "thank you" letter signed by the Mayor or designee to volunteers who have donated time and/or cash supplies. Forward "thank you" letter to local newspaper for publication if desired.

Q. Public Information Officer (PIO) Responsibility.

1. The responsibility of the Public Information Officer is to:

a. Act under the direction of the Emergency Commander at Emergency Operations Center (EOC).
b. Maintain regular contact with Emergency Commander at Emergency Operations Center (EOC).
c. Solicit update of events from Emergency Operations Center (EOC), incident commander(s).
d. Establish liaison with representatives of public informing media.
e. Establish a briefing area for the media away from the emergency scene.
f. Prepare drafts of clear, concise statements reflecting current situation of events as quickly as possible.
g. Obtain release signature on communication drafts from the emergency commander.
h. Read communication drafts to media and answer questions without speculation.
i. Brief media members on areas they may use or visit and those they may not.
j. Assign personnel to take incoming calls to the Emergency Operations (EOC) and direct them to the applicable coordinator/Emergency Committee member.
k. Assist in the establishment of communication with external resources for members of Emergency Committee staff and Emergency Commander.
l. Inform media of time and location of next update.
m. Prepare and maintain display boards to show open and closed roads, evacuation routes etc.

R. Incident Commander Responsibility: One Commander for each Incident.

1. The responsibility for the Incident Commander is to:

a. Assume control of the emergency scene.
b. Appoint scribe for recording events at scene. Record incident description: where, when, what, who, extent of damage, etc.
c. Determine boundaries of the scene. Cordon if required.
d. Evaluate scene for secondary threats.
e. Contact emergency commander by any means possible (runner, cell phone, walkie talkie, land line phone, etc.) and keep commander informed of changes at the scene.
f. Recommend to emergency commander if declaration of disaster is required.
g. Call for necessary assistance including photographer and emergency equipment.
h. Coordinate overall emergency activities including activities of outside agencies.
i. Request utility shut off as needed.
j. Brief personnel on site of plan of action, any exposure concerns.
k. Report injury and fatality information to the Emergency Operations Center (EOC).
l. Report all site team members' names to the Emergency Operations Center (EOC).
m. Request additional assistance as needed through the Emergency Operations Center (EOC).
n. Prevent movement or contamination of evidence.
o. Direct debris removal and rescue.
p. Request food, water, sanitary facilities and replacement of personnel as needed.
q. Downsize the scene and rescue efforts as needed.
r. Hand over responsibility to responsible department leaders when incident has been contained.
s. Release site personnel as needed.
t. Instruct all emergency responders to refer the news media to the emergency commander or communications coordinator.

S. City Recorder Responsibility.

1. The responsibility of the City Recorder is to:

a. Ensure Emergency Operations Center (EOC) is operational - seating arrangements, telecommunication, equipment, power etc.
b. The City Recorder is responsible for ensuring furniture, telephones, communication equipment, city maps, evacuation route maps, shelter locations, etc. are located in or near the EOC.
c. The City Recorder is responsible for ensuring emergency declaration forms, roster, checklist for EOC members and copies of this Emergency Management Plan are available to EOC members immediately.
d. Get Emergency Commander to sign notification of emergency declaration and release to county and state officials.
e. Get Emergency Commander to sign "local government initial disaster report form" (Appendix E) and transmit form to Division of Emergency Services by rapid communication means (phone:801-538-3400; fax 1-801-538-3770).
f. Maintain in the Emergency Operations Center (EOC) current and detailed situations maps, roster of emergency committee members check in/checkout times, roster of support agencies (American Red Cross etc.) and when they were informed.
g. Coordinate with incident commanders the identification markings and securing of public and private buildings that constitute a safety hazard.
h. Assist Emergency Commander in the tracking of damage assessment activities in the city.
i. Act as focal point for collecting damage assessment records, collecting bills for expenses incurred for disaster relief by contractors, city departments acquiring/renting equipment liability claims, etc.
j. Maintain and properly store detailed expense records to show expenses incurred due to disaster, submitted to city, county, state or federal agencies for reimbursement purposes.
k. Provide information to city government departments on how emergency expenditures may be changed.
l. Assist in the supervision and direction of the city clerical staff such as typing, answering phones, faxing, answering inquiries or other emergency related duties.
m. Other duties as assigned during the emergency.

T. Public Works Coordinator Responsibility.

1. The responsibility of the Public Works Coordinator is to:

    a. Report to the Emergency Operations Center (EOC).
    b. Be responsible for coordinating all work within their jurisdiction.
    c. Assist with barricades, traffic control points, signs and markers as requested.
    d. Utilize heavy equipment for expedient bulldozing and debris clearance to maintain routes for emergency vehicles and evacuation routes.
    e. Provide logistical support for fleet operation -fleet fueling, lease, purchase, or rental of equipment etc.
    f. Try to ensure water supply, power and sanitary services are operable and maintained at shelters and mass care facilities during emergency.
    g. Coordinate with other county and state agencies in the execution of appropriate emergency support functions (ESF's).
    h. Determine need for and obtain additional resources.

U. Individual City Employee Responsibility.

1. The responsibility of each individual employed by the City is to:

    a. Continue assigned functions in areas of responsibility.
    b. Take on additional duties from Emergency Committee to maintain pre-emergency level of services.

13.13.060 Description Of Emergency Condition: Levels 1, 2, And 3

A. Emergency Conditions Definition.

1. An emergency is anything that occurs that is not normal. An emergency is any situation that is above and beyond the normal operating activities of any city department or agency. These activities are in response to a threat to life (personal safety), property, or the environment.

B. Perry City Response to Emergencies.

1. Perry City personnel respond to emergencies within the City. Box Elder County, the State of Utah, and the Federal Government may provide resources and assistance to the City. Using the incident command system, Perry City retains responsibility for management of the incident.

C. Mutual Aid Agreements: NIMS and CIS.

1. The National Emergency Management system (NIMS) will be incorporated into the Incident Command System (ICS) system. Other mutual aid agreements can be activated with the various communities.

D. Transition to Emergency Operation.

1. When carrying out the emergency operations plan, the transition from normal operations to emergency operation must be orderly. To ensure that everything runs efficiently, all departments need to have a common definition and status of emergencies.

E. Levels of Emergency Conditions.

1. There are three levels of emergency conditions for which action is taken: levels 1, 2, and 3. These defined levels of an emergency provide for uniform transition from normal operating posture to full alert and provide for coordination with other agencies. When responding to emergencies, and coordinating between the Emergency Operations Center (EOC), the following levels apply:

    a. Level 1: No required outside help needed.

        (1) The level l emergency is above the normal daily activities that pose a threat to life (personal safety), property or the environment and where ample resources exists. The responding department controls and handles the incident with on-duty resources that may or may not exceed their individual department.

    b. Level 2: Enhanced Response: Help from outside needed:

        (1) A greater emergency which poses a threat to life (personal safety), property or the environment, and requires more than one city department to help out. Perry City personnel handle the emergency with other resources, mutual aid and resource sharing. Once a level 2 Emergency is in effect, any request for assistance or resources from the on-scene Incident Commander will take precedence over other daily activities. The Incident Commander will notify the Perry City Emergency Committee. The Committee response to the incident will be based upon evaluation and recommendation of the scene Incident Commander. The Emergency Operations Center may be activated with appropriate staffing, as the incident requires.

    c. Level 3: Major Disaster: Help needed now from everywhere:

        (1) A level 3 is an emergency involving a catastrophic incident. The incident may result from a natural disaster such as earthquake, flood or fire, etc. A level 3 requires the resources of the entire county, government, private and outside assistance. Perry City Emergency Committee in consultation with the Mayor or their designee declare a level 3 emergency. The Emergency Operation center (EOC) will be activated with full staffing.

13.13.070 Description Of Emergency Response Conditions

A. Response Procedures.

1. During response operations, responders maintain the principle of centralized control and decentralized execution. All Response actions are in harmony and orchestrated by legal authority from the Emergency Operations Center (EOC). As City Departments, agencies, and non-governmental organizations progress from normal operations to an emergency posture, they go through the following response conditions.

B. Response Conditions.

1. The following is a description of the various response conditions and their characteristics:

    a. RESPONSE CONDITION I: No Outside Assistance Required.

        (1) Monitor the situation regularly.
        (2) Review applicable plans and Standard Operations Procedures.
        (3) Notify elected officials and key personnel as identified by the Continuity of Operations Plan.
        (4) Review status of all equipment and supplies.

    b. RESPONSE CONDITION II: Enhanced Response Required

        (1) Place Emergency Operations Center (EOC) on medium staffing determined by the Emergency Commander.

(2) Accelerate repair or procurement of equipment and supplies on an emergency basis 24 hours a day. Use emergency procedures for procurement of supplies and equipment.
(3) Place all personnel on standby status.

c. RESPONSE CONDITIONS III: Major Incident

(1) Place Emergency Operations Center (EOC) on full staffing.
(2) Bring equipment and supplies to full operational status.
(3) Recall personnel as necessary.
(4) Commit all supplies and resources to the emergency.

d. The above procedures will not constrain or limit the emergency actions of any department or agency involved in a response. The department or agency notifies the Emergency Committee of the size of the emergency by using one of the definitions of an emergency. The Emergency Commander may declare a response condition and notify the Emergency Committee to begin developing a plan of action for the event.

13.13.080 Supporting Agencies

A. Support Agencies and Organizations.

1. The following are possible Support Agencies and Organizations for various emergencies situations:

a. Police:

(1) Primary: Perry Police Department (723-5291); or
(2) Willard Police Department (734-3800);
(3) Brigham City Police Department (734-6650);
(4) Box Elder County Sheriff's Office (734-3818);
(5) Utah Highway Patrol / Utah Department of Public Safety (723-1094)

b. Fire:

(1) Primary: Brigham City Volunteer Fire and Ambulance
(2) Support: Perry First Responders;
(3) Willard Fire Department;
(4) Weber County Fire

c. Wildfires:

(1) Bureau of Land Management;
(2) National Forest Service;
(3) Utah Correctional Industries Flame-in-goes.

B. Other Support Agencies for Various Emergencies.

1. The following is a list of other support agencies for various emergencies that may occur:

a. Brigham City Emergency Services
b. Box Elder Sheriff's Office Search and Rescue or Scuba Team: Lost persons
c. Box Elder School District: Buses for mass transportation needs
d. Bear River Health Department: Health needs and possible body bags
e. Utah Medical Examiner's Office: Body bags and death investigations
f. Utah Department of Public Safety Dive Team: Water searches
g. Utah Department of Public Safety (DPS) Division of Emergency Services and Homeland Security: any significant emergency.

(1) This agency can activate and assist in finding resources in most cases.

h. Utah National Guard and Utah Air Guard: Has to be activated for use through the Governor's office, usually with a recommendation from Utah Department of Public Safety (DPS).
i. Utah Department of Transportation - Heavy equipment and roadway construction
j. Hill Air Force Base Emergency Operations Center (EOC): for Bomb and Explosive problems.
k. Federal Emergency Management Agency - Call at recommendation of Division of Emergency Services.
l. Box Elder County Coroner.

C. Utility Companies.

1. The following is a list of various utility companies:

a. Brigham City Power.
b. Utah Power and Light / PacifiCorp.
c. Questar.
d. Qwest / and other phone service providers.

D. Private Resources.

1. The following is a list of private resources that may be useful in any emergency situation and each perspective use that is offered by that private resource:

a. Life-flight (IHC) / Air-med University of Utah: Emergency medical transport needs.
b. Utah Transit Authority: Large transportation needs.
c. American Red Cross: Temporary Shelter and food supplies.
d. The Church of Jesus Christ of Latter-day Saints: Manpower and emergency supplies.
e. Brigham Community Hospital: Medical coordination.
f. Geneva Rock: Heavy equipment and debris removal.
g. Staker/Parsons: Heavy equipment and debris removal.
h. Gallegos Construction: Heavy equipment and debris removal.
i. Whitaker Construction: Heavy equipment and debris removal.
j. Kel Con Construction: Heavy equipment and debris removal.
k. Braegger Construction: Heavy equipment and debris removal.

l. Gillespie/Peterson Mortuary: deceased persons help.
m. Myer /Olsen Mortuary: deceased persons help.
n. Wilk-n-son Construction: Heavy equipment and debris removal.
o. Wyatt Construction: Heavy equipment and debris removal.
p. Anvil Construction: Heavy equipment and debris removal.
q. Ormond Construction: Heavy equipment and debris removal.

13.13.090 Phases Of Emergency Management

A. Purpose.

1. The purpose of this Chapter is to outline and describe the four (4) phases of emergency management for Perry City: Mitigation, Preparedness, Response, and Recovery.

B. Mitigation.

1. Mitigation activities are any actions taken to prevent or reduce the occurrence of any emergency or risk to human life and property. Examples of mitigation efforts include, but are not limited to:

a. Building codes.
b. Disaster insurance.
c. Public education.
d. Procurement and integration of equipment.
e. Identifying resources.

C. Preparedness.

1. Preparedness activities are any actions taken prior to the emergency that facilitate the implementation of a coordinated response. Examples of preparedness efforts include, but are not limited to:

a. Continuity of government decisions.
b. Testing and maintaining equipment.
c. Establishing, equipping, and maintaining the Emergency Operations Center (EOC).
d. Developing emergency plans and procedures.
e. Participation in training, drills, and exercises.
f. Coordination of Emergency Broadcast System utilization.
g. Coordination of Community Emergency Response Teams locally.
h. Hazard Identification.

D. Response.

1. Response activities are any actions taken immediately before, during or directly after an emergency to save lives, minimize damage to property, and increase the effectiveness of recovery efforts. The following is also included:

a. Perry City government has primary responsibility for supporting the response activities of local units of government by:

(1) Providing or supporting initial response resources (i.e., police, fire and rescue, Emergency Medical Services (EMS), public works, protective actions and public health-environmental issues) and draw additional resources (i.e., mutual aid agreements) from within and outside the county when local/county resources are exhausted.
(2) Notifying the State of the incident where statutes require and request assistance as needed.
(3) Providing a line of succession of key government officials (Continuity of Government).
(4) Maintaining accurate records of disaster-related activities and expenses.
(5) Compiling damage assessment figures reported by damage assessment teams and local units of government.

b. State government provides support upon county request in disaster response by:

(1) Activating the State Emergency Operations Center (EOC) when necessary.
(2) Supplementing resources when they are exhausted or need specialized services not available. Services may be provided by private contractors or through various mutual aid agreements.
(3) Keeping informed and maintaining accurate records of disaster-related activities and expenses.
(4) Compiling information collected through the damage assessment process and
requesting assistance from appropriate federal agencies.
(5) Requesting National Guard support.

c. Federal government provides support upon state request in disaster response by:

(1) Providing assistance through the Federal Response Plan.
(2) Providing disaster assistance under the Stafford Act and other federal authorities.

E. Recovery.

1. Recovery is the phase that involves restoring systems to normal. Short-term recovery actions are taken to assess damage and establish vital life-support systems; long-term recovery actions may continue for years. The following are different examples of recovery efforts:

a. City recovery efforts include, but are not limited to:

(1) Restoring essential services to the community, including debris clearance, decontamination, counseling, and temporary housing.
(2) Assigning personnel, obtaining additional assistance, and managing volunteers and donated resources.
(3) Coordinating access to the disaster area.
(4) Coordinating restoration activities (i.e., re-entry).
(5) Identifying short and long-term health/mental health impacts and determining how to address them.
(6) Identifying and implementing mitigation opportunities where feasible.
(7) Addressing the long-term economic impacts of the disaster.
(8) Continuing with the damage assessment process.
(9) Assisting local units of government with submitting disaster assistance applications.

b. State government recovery activities include, but are not limited to:

(1) Supporting city restoration activities by providing basic guidance, conflict resolution, providing specialized resources and requesting additional resources from federal government/private contractors.
(2) Coordinate health and environmental issues, which arise.
(3) Assisting the city government with the damage assessment process.
(4) Supporting the city government with identifying and addressing short and long-term impacts (e.g., health, mental health, mitigation and economic).
(5) Coordinating with the federal government to deliver disaster assistance under the Stafford Act and other federal authorities.

c. Federal government recovery activities include, but are not limited to:

(1) Coordinating federal assistance under the Stafford Act and other federal authorities.
(2) Providing specialized resources not previously available in accordance with state policy through the Emergency Support Function (ESF) of the Federal Response Plan (FRP).
(3) Supporting city and state long-term recovery efforts.

13.13.100 Plan Implementation

A. Purpose.

1. The following regarding the purpose of this Chapter:

a. This plan addresses Perry City's planned response to large scale emergency situations created by natural or human triggered incidents as well as unexpected events or accidents. It is not meant for day to day emergencies that utilize well established and routine procedures. It is to be used for unique situations that require unusual emergency response.
b. Figure 1 summarizes the implementation of the plan for the anticipated emergencies/disasters listed in the left hand column. It starts with the arrival of the first responder (which can be a citizen or a member of the police department) at the emergency scene. The '911' call from the citizen or the first contact of the dispatch center by the police activates the Incident Command System (ICS). The police are trained to request the proper agencies for assistance and assume the role of the "initial" incident commander. Figure 1 is attached at the end of this Section as Subsection D.

B. Incident Commander's Role.

1. The actual incident commander's role is decided by the police, fire department and medical services personnel arriving at the scene based on the nature of the emergency and who is best fit to assume command for that emergency. For example, an individual from the police department will assume the role for a public shooting. An individual from the fire department will assume the role for a major fire. The incident commander is responsible for informing and briefing the Emergency Commander (Mayor of Perry City or Designee) on the type and magnitude of the emergency as well as recommendation on whether an emergency should be declared. The incident commander(s) is also trained to invoke the implementation of the emergency support functions (ESF's) and remain at the incident site until incident is contained and recovery operations have been initiated. At that time the incident commander will ensure that responsibility at the site is properly assumed by the appropriate personnel.

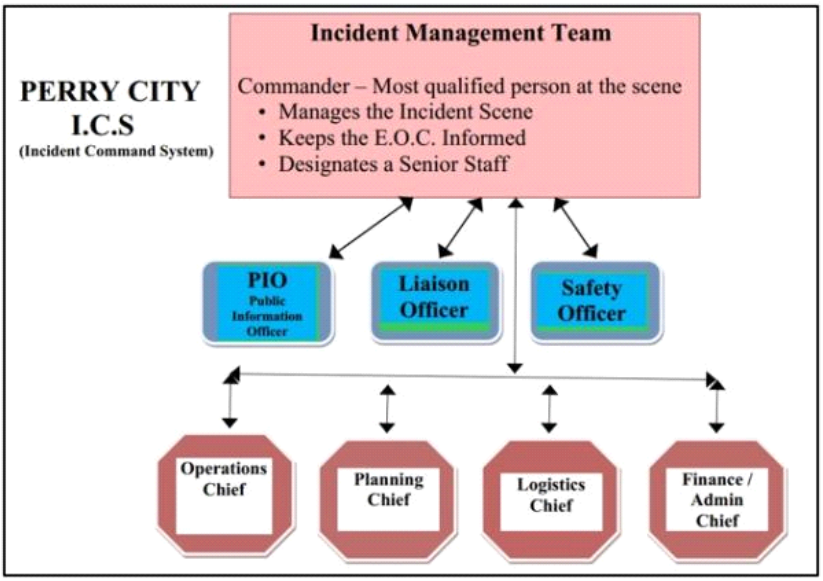
C. Decision to Declare an Emergency.

1. The decision to declare an emergency rests with the Emergency Commander (EC) who chairs the Emergency Management Committee (EMC). The Emergency Commander and the Emergency Management Committee (EMC) provide the focal point for management of the various agencies and appointees engaged in the resolution of emergency. Effective direction coordination and control of resources in a teamwork environment is a key Emergency Management Committee (EMC) function. Their decisions are based on getting frequent and accurate situational assessment from the incident commander and appointees. Checklists have been prepared for the key individuals involved in the resolution of the emergency and these can be found in Section 13.13.050(K) Section 5 and the plan. The following also regarding this Section:

a. Two key appointees to be made by the Emergency Commander at the onset of the emergency/disaster are the volunteer coordinator and the communications coordinator. These coordinators are responsible for the execution of Emergency Support Functions ESF #6 and ESF #5 respectively.
b. The various support agencies (city, county, state, and federal), and appointed coordinators and the city employees in the various departments have the responsibility to extend every effort to restore and maintain city services and functions to pre-emergency levels.

D. Figure 1: Perry City Emergency Plan Implementation.

1. The following chart is for the implementation of the Perry City Emergency Plan:



13.13.110 Evacuations

A. Purpose and Responsibility.

1. The following regarding the purpose and responsibility of evacuations:

a. The responsibility for ordering evacuations rests only with the Incident Commanders. The Incident Commander is responsible for notifying the Emergency Commander of any evacuation ordered. Any time the need arises to evacuate people voluntarily or involuntarily; the Emergency Commander should be notified so that proper measures can be taken to provide security at the evacuation sites. Involuntary evacuations require an unusual exercise of policy power, and restraint should be exercised in non-life threatening situations. When life is threatened, evacuations must be ordered and enforced.

b. Voluntary evacuation decisions are usually left to the property owner. For hazards that are highly visible or extensively discussed in the media, people may evacuate prior to the official recommendation to do so.

B. Evacuation of Public Buildings.

1. If certain types of emergency situations occur during working hours, it may be necessary to evacuate employees and the public from City buildings until a safety check can be completed. Departments should develop an evacuation plan, and conduct periodic briefings for their employees. The Elected Officials/Department Head, the major building occupant, or the highest level of government occupying the premises, will be responsible for assuring plans are in place.

C. Medical Facilities.

1. Within Perry City there are medical facilities (eg. Avocet) that need special consideration with regard to evacuation and relocation of patients/residents. These plans will be developed by the medical facilities, and the City will review them to ensure that plans are in place and operational.

D. Animal/Livestock Evacuation.

1. The sheltering and protection of animals and livestock is the responsibility of the owners. However, in an emergency, the Emergency Management Committee will provide information to the police on how animal control operations will be conducted. This includes shelter areas, quarantine areas, assisting the reuniting owners.

E. Shelters.

1. The American Red Cross has been chartered under Federal law to provide mass care (feeding and housing) to victims/displaced persons of natural disasters. Hence efforts should be coordinated with them since they will normally operate shelter and mass care operations. Other agencies such as the Salvation Army, religious groups and volunteer organizations may operate shelters in coordination with the Emergency Operations Center. Some or all of these organizations coordinate their efforts with the American Red Cross. Some may operate the shelters themselves and assume full responsibility for them.

F. Schools.

1. The schools are responsible for developing and implementing an evacuation plan. These plans will be reviewed with the City. Coordination with the police department in an emergency situation is required.

13.13.120 Emergency Support Functions

A. Purpose of this Chapter.

1. The Perry City Emergency Committee established the following eleven Emergency Support Function (ESF's). They contain the emergency assignments and responsibilities for each of the functions as detailed below. Table 1 summarizes the emergency support functions and supporting agency responsibilities. During the recovery phase, all agencies are expected to support continuing operations with equipment and staff. (for Table, see Section 13.13.120(M)).

B. ESF#1: Emergency Alert Issuance.

1. The following information regarding ESF #1 Emergency Alert Issuance:

a. Primary Agencies:

(1) Box Elder Consolidated Dispatch (911 Center).

b. Supporting Agencies:

(1) Perry City Emergency Management Committee.
(2) Perry City Police Department.
(3) Utah Division of Emergency Services and Homeland Security, Brigham City.
(4) Local cellular and telephone companies.
(5) Media.
(6) Volunteer and Private Organizations.

c. Response:

(1) Provide countywide, redundant 24-hour communications and warning capabilities and procedures.
(2) Initiate and disseminate warning to emergency response personnel.
(3) Receive and disseminate reports and warnings of incidents to the public and emergency response personnel.
(4) Support the direction and control function by linking primary and supporting agencies, jurisdictions, field sites and command facilities.

d. Recovery:

(1) Demobilize and return resources to a state of readiness.

C. ESF#2: Law Enforcement.

1. The following information regarding ESF #2 Law Enforcement:

a. Primary Agencies:

(1) Perry City Police Department.

b. Supporting Agencies:

(1) Perry City Emergency Management Committee.

c. Response:

(1) Agency members participate and assume appropriate role in the incident area(s) and Emergency Operations Center.
(2) Assist with maintaining security and control access to the site of the disaster, Emergency Operations Center (EOC), temporary morgue sites and other facilities. Assist with controlling traffic and crowds.
(3) Coordinate with neighboring community agencies in the establishment of a perimeter around the evacuated area and a pass system for emergency response personnel and resources.
(4) Coordinate with neighboring community law enforcement to conduct warning, evacuations, search and rescue, identification of victims and shelter operations.
(5) Obtain special resources and services (e.g. bomb squad, civil support team, hostage negotiators, laboratory facilities).
(6) Coordinate and assist the FBI in matters dealing with terrorism or terrorism threats arising within Perry City.

d. Recovery:

(1) Coordinate re-entry activities with local law enforcement.
(2) Demobilize and return resources to a state of readiness.

D. ESF#3: Fire and Rescue.

1. The following information regarding ESF #3 Fire and Rescue:

a. Primary Agencies:

(1) Brigham City Fire and Ambulance Department.

b. Supporting Agencies:

(1) Perry City Emergency Management Committee.
(2) Perry City First Responders.
(3) Utah Division of Emergency Services and Homeland Security, Brigham City.

c. Response:

(1) Agency members participate and assume appropriate role in the incident area(s) and Emergency Operations Center.
(2) Mobilize and coordinate city resources to assist the fire department.
(3) Conduct hazardous materials and decontamination operations.
(4) Provide fire suppression and search and rescue operations.
(5) Assist the Incident Commander with requesting and coordinating with Utah Division of Emergency Services a County Level Hazardous Materials Team, if needed.
(6) Determine the need for and acquire additional resources.

d. Recovery:

(1) Assist re-entry activities with local law enforcement.
(2) Demobilize and return resources to a state of readiness.

E. ESF#4: Public Works.

1. The following information regarding ESF #4 Public Works:

a. Primary Agencies:

(1) Perry City Public Works Department.

b. Supporting Agencies:

(1) Perry City Emergency Management Committee.
(2) Bear River Health Department-Environmental Health.
(3) Utah Department of Transportation (UDOT) - trucks, front end loaders, portable toilets.
(4) Mutual Aid Communities.
(5) Utah Department of Natural Resources.

c. Response:

(1) Agency members participate and assume appropriate role in the incident area(s) and Emergency Operations Center.
(2) Assess and report damage to infrastructure and waterways.
(3) Procure necessary equipment (trucks, earth moving equipment, portable toilets,
etc.) from Utah Department of Transportation.
(4) Coordinate the restoration and maintenance of essential services (i.e., electricity, fuel, water, gas, sewage disposal) to the affected area.
(5) Clear or barricade roads, repair water and sewer systems and provide potable water supply and emergency lighting as needed.
(6) Coordinate with Utah Department of Natural Resources for debris removal and disposal.
(7) Procure services from neighboring communities with mutual aid agreement, city engineering contractors, and private contractors and coordinate their operations with the Emergency Operations Center.

d. Recovery:

(1) Assist with recovery activities and assessment of damage to those systems.
(2) Demobilize and return resources to a state of readiness.

F. ESF#5: Communications Management.

1. The following information regarding ESF #5 Communications Management:

a. Primary Agencies:

(1) Public Information Officer (PIO).
(2) Perry City Emergency Management Committee.

b. Supporting Agencies:

(1) Perry City elected officials.
(2) Perry City Police Department.

(3) Bear River Health Department.
(4) Perry City Public Works Department.
(5) Local Media.

c. Response:

(1) Maintain liaison with Emergency Operations Center and field command post.
(2) Convene emergency public information staff; coordinate information between officials and the news media and implement rumor control.
(3) Obtain information and when authorized, by the Emergency Commander, release information to the news media through the proper channels (e.g., local media, Emergency Alert System, newspaper).
(4) Establish and maintain a joint public information center to ensure coordinated public information during emergency operations.
(5) Disseminate instructions to the public regarding protective action recommendations.
(6) Provide consumer protection information to the public.
(7) Assess the public affairs implications and support public officials with the dissemination of emergency protective actions.

d. Recovery:

(1) Coordinate returning to pre-disaster/emergency status.

G. ESF#6: Volunteer Management.

1. The following information regarding ESF #6 Volunteer Management:

a. Primary Agencies:

(1) Volunteer/Donation Coordinator.
(2) Perry City Emergency Management Committee.

b. Supporting Agencies:

(1) Perry City Elected Officials.
(2) American Red Cross, Northern Chapter.
(3) Salvation Army.
(4) Volunteer and private organizations.

c. Response:

(1) Identify and coordinate donated resources (i.e., personnel, facilities, equipment, supplies) in support of local operations.
(2) Track resources used during operations.
(3) Coordinate volunteer agency activities.

d. Response:

(1) Identify and release resources from service when no longer needed.
(2) Coordinate returning to pre-disaster status and replenish resources.

H. ESF#7: Evacuation, Mass Care, and Sheltering.

1. The following information regarding ESF #7 Evacuation, Mass Care, and Sheltering:

a. Primary Agencies:

(1) Perry City Emergency Management Committee.
(2) Perry City Police Department Office.
(3) Bear River Health Department.
(4) Perry City Elected Officials.
(5) American Red Cross, Northern Chapter.

b. Supporting Agencies:

(1) Box Elder School District.
(2) Salvation Army.
(3) Volunteer and private organizations.

c. Response:

(1) Agency member(s) participate and assume appropriate role in the incident area(s) and the Emergency Operations Center.
(2) Assess the incident and the need to evacuate or shelter in-place.
(3) Coordinate with ESF#1 and ESF#5 to implement procedures for public warning, traffic re-routing, and evacuation and shelter operations including pets and livestock.
(4) Identify and request special resources (such as neighborhood schools, etc.) needed for evacuation and sheltering operations.
(5) Coordinate the activities regarding evacuation, shelter and human services functions including persons with special needs (e.g. mass feeding, registration of victims and families, shelter operation, emergency financial aid, mental health and stress management support to victims and responder).

d. Recovery:

(1) Collect vital statistics and identify potential or actual continuing hazards affecting public health and offer appropriate guidance for mitigation and harmful effects in accordance with ESF#8 and report to appropriate local, state , and federal authorities.
(2) Determine the appropriateness of re-entry and implement re-entry activities.
(3) Assist evacuees in returning to their homes and address temporary and long-term housing needs.

I. ESF#8: Health and Medical.

1. The following information regarding ESF #8 Health and Medical:

a. Primary Agencies:

(1) Perry City Emergency Management Committee.

(2) Bear River Health Department/Environmental Services.
(3) Perry City First Responders.
(4) Utah State Medical Examiner's Office.

b. Supporting Agencies:

(1) Perry City Police Department.
(2) Brigham City Fire and Ambulance Departments.
(3) Volunteer and Private organizations.
(4) Local funeral home directors.
(5) Local Hospitals and Clinics.

c. Response:

(1) Agency members participate and assume appropriate role in the incident area(s) and Emergency Operations Center.
(2) Coordinate and provide leadership in the activities of public health, emergency medical response, and mortuary services.
(3) Provide triage, transportation, and emergency and non-emergency medical treatment to victims, including isolation and decontamination activities.
(4) Issue health and medical advisories to the public and emergency responders in accordance with ESF #5.
(5) Assist with shelter operations/rehabilitation sites and the recording and registration of victims and in accordance with ESF#7.
(6) Procure mutual aid resources for medical/health/mortuary supplies, equipment and personnel.
(7) Coordinate the response and the activities regarding public health functions for hazardous materials/radiological hazards, infectious and communicable disease, safety of food and drugs, vaccinations, medical/mental health and crisis counseling for victims, responders and persons with special needs, vector control, potable water/wastewater/solid waste, and inspections/damage assessments for contamination and health hazards.
(8) Coordinate with the Utah Department of Health and Division of Family Services.

d. Recovery:

(1) Assist with re-entry activities.
(2) Collect vital statistics and identify potential or actual continuing hazards affecting public health and offer appropriate guidance for mitigation and long-term health effects and report to appropriate local, State, and Federal authorities.

J. ESF#9: Hazardous Materials/Radiological Protection.

1. The following information regarding ESF #9 Hazardous Materials/Radiological Protection:

a. Primary Agencies:

(1) Brigham City Fire and Ambulance Department.
(2) Perry City Emergency Management Committee.

b. Supporting Agencies:

(1) Perry City Police Department.
(2) Perry City Public Works Departments.
(3) Utah Emergency Services and Homeland Security, Brigham City.
(4) Bear River Health Department, Brigham City.
(5) Utah Department of Environmental Health.
(6) Local hospitals and clinics.

c. Response:

(1) Set up a perimeter around the facility or spill and enact an access control system.
(2) Report the incident to the Utah Division of Emergency Services and Homeland Security Duty Officer in Brigham City or the Department of Environmental Health.
(3) Document all personnel who might have been exposed to radiation /hazardous material contamination.
(4) Coordinate with ESF#7 to implement procedures for evacuation, mass care and sheltering.
(5) Collect shipping papers and contact facilities' representatives for more information regarding material involved and relate to appropriate agencies.
(6) Provide emergency medical care to victim(s).

d. Recovery:

(1) Determine the appropriateness of re-entry and implement re-entry activities.
(2) Assist evacuees in returning to their homes and address temporary and long term housing needs.

K. ESF#10: Animal Protection and Control.

1. The following information regarding ESF #10 Animal Protection and Control:

a. Primary Agencies:

(1) Perry City Emergency Management Committee.
(2) Perry City Police Department.
(3) Bear River Health Department, Brigham City.
(4) Utah State University Extension Agents.

b. Support Agencies:

(1) Brigham City Fire Department.
(2) Box Elder County Humane Society.
(3) Local Veterinarians.
(4) Volunteer Agencies and Private Organizations.
(5) Media.
(6) Public Information Officer (PIO).

c. Response:

(1) Provide biosecurity and surveillance to contain and prevent spread of disease.
(2) Provide regulatory enforcement of quarantines.

(3) Control vectors that may be involved in the spread of disease.
(4) Provide vital needs and care to displaced animals.
(5) Communicate information and guidance to the public.
(6) Determine need for additional resources.
(7) Coordinate with Department of Natural Resources, United States Department of Agriculture, and other local, State and Federal agencies.

d. Recovery:

(1) Provide assistance with reuniting owners and their animals.
(2) Provide provisions for re-entry of animals (domestic and wild).

L. ESF#11: Disaster Assessment and Recovery.

1. The following information regarding ESF #11 Disaster Assessment and Recovery:

a. Primary Agencies:

(1) Perry City Recorder.
(2) Perry City Emergency Management Committee.

b. Supporting Agencies:

(1) Perry City Police Department.
(2) Bear River Health Department.
(3) Perry City Public Works Departments.
(4) Brigham City Fire and Ambulance Department.
(5) American Red Cross.
(6) Salvation Army.

c. Response:

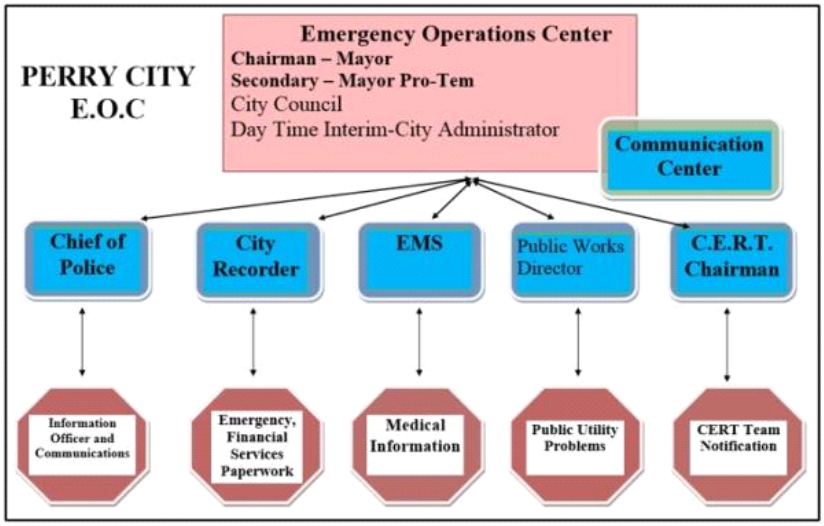
(1) Activate the Perry City disaster assessment process by identifying damage to roads, bridges, power lines, gas lines, water lines, etc.
(2) Report to the involved agencies the extent of agency involvement, estimate damages and gather information regarding the disaster's impact on the public and private sectors.
(3) Submit Local Government Initial Disaster Report (Appendix E) to Utah Division of Emergency Services/Homeland Security in Brigham City within 24 hours and update as needed.
(4) Receive and disseminate information to decision makers to prioritize recovery efforts and determine the need for state or federal assistance.

d. Recovery:

(1) Assist with the Preliminary Damage Assessment and disaster declaration processes as requested.

M. Chart.

1. The attached chart summarizes the emergency support functions and supporting agency responsibilities. The chart:



13.13.130 Emergency Management Plan Maintenance

A. Authority and Responsibility.

1. The Perry City Emergency Committee has the overall authority and responsibility for the development and maintenance of this plan. Typical items that are involved in the maintenance are:

a. Periodic review (frequency determined by the Emergency Commander) and updates to the plan.
b. Distribution of copies of the most recent plan to various government departments, support agencies, etc.
c. Discussion of the plan with the various departments and support agencies.
d. Amendments to the plan to reflect statutory or policy changes, lessons learned through drills or actual emergencies/disasters.

13.15 Public Safety Capital Facilities Plan

13.15.010 Executive Summary
13.15.020 Overview Of The Capital Facilities Plan
13.15.030 Overview Of Perry City
13.15.040 Existing Fire/EMT Facilities And Demands
13.15.050 Law Enforcement
13.15.060 Finance Element
13.15.070 Appendix (Perry City Fire Response Map)

13.15.010 Executive Summary

A. Purpose of CFP.

1. The purpose of the Public Safety Capital Facilities Plan ("CFP") is to provide Perry City (the "City") with substantive planning for future fire/EMT and law enforcement (collectively referred to as "public safety") capital infrastructure and demonstrate a basis for assessing impact fees for fire/EMT and for law enforcement services throughout the City. This document will address the future public safety infrastructure needed to serve the City through build-out including capital project costs, project timings, an inventory of existing facilities, and a financing plan which considers the use of impact fees and other revenues to fund the identified projects.
2. The CFP will also identify the target level of service standards that the City will provide to both existing and future development. The capital projects proposed in the CFP will ensure that these levels of service standards are provided to all existing and future recipients who benefit from public safety services. The CFP will also fulfill all financial requirements as promulgated under Title 11 Chapter 36, Utah Code (the "Impact Fees Act").

B. Fire and EMT.

1. National Fire Protection Association ("NFPA") is one administrative body that provides standards and guidelines for the planning of fire protection services. NRPA response time standards have been considered in the planning of the facilities and analysis of response time.

C. Fire/EMT Level of Service and Current Facilities.

1. Currently the City of Perry has a contract with Brigham City for fire services. In case of a fire the Perry City First Responder Unit ("PFRU") can serve any medical needs to people that are affected by the fire; any fire situations must be handled by Brigham City fire department. PVRU operates from the existing city offices in a limited amount of space for administrative procedures, and they also use one half of a maintenance bay [one full bay as of 2010] for storing the ambulance [actually a First Responder Vehicle] that they own. Since the 2000 Federal Census, the City's population has increased by approximately 45 percent, and City expects the population to steadily increase through build-out. With new development comes a more complicated and expansive roadway system with more residential zones, traffic, intersections, coinciding calls, and other factors that will increase the time to respond to outer areas of the City.
2. The City would like to expand and build their own fire facility within the city limits to provide faster services. The City will strive to maintain four minute response times for 90 percent of existing and future development, as recommended by the NFPA, and locate a fire station within 1.5 miles of all development within the City's boundaries.

D. Future Fire/EMT Facilities.

1. Perry City currently has 12 First Responders that are able to perform emergency medical procedures. In 2007 Perry plans to train the PFRU to be Quick Responders. The designation of "Quick Responder" is certification level below that of Firefighters. In the future the City would like to train the PFRU to be Level I Firefighters. Figure 1 summarizes the costs of the future fire/EMT capital facilities that the City will be required to fund.

E. Proposed Financing of Future Fire/EMT Capital Facilities.

1. Impact fees may be used to fund fire/EMT facilities, and may only recover the costs of capital infrastructure that are directly related to future growth. However, the future capital projects proposed in this CFP are also intended to cure existing system deficiencies. According to the Impact Fees Act, impact fees must exclude the costs of capital facilities that are intended to cure existing deficiencies. The cost of the future fire facility will be equally divided between current population and future growth so that future growth only pays their fair share.

FIGURE 1: EXISTING FIRE/EMT CAPITAL EXPENSES

Station	Construction Year	Current Year Costs	Construction Year Costs[1]
City Hall Station	2007	$ 1,500,000	$ 1,500,000
Totals		$ 1,500,000	$ 1,500,000

1. includes 3 percent construction inflation

F. Police.

G. Police Level of Service and Current Facilities.

1. Unlike fire protection, police protection does not rely on response times based on the time for responding units to arrive at a call from a fixed location. Officers patrol throughout a community and the units closest to a call are generally the first to respond to the call. Therefore a police station's location is determined by growth patterns and central locations rather than target response times.
2. Perry City provides its own police service. The City currently has a full time Police Chief, a full time Lieutenant, one full time Detective, three full time Officers, and two part time Officers. This gives Perry City a total of 6.25 full time or full time equivalent officers or a level of service of 1.43 sworn officers for every 1,000 residents in the City. The PCPD currently uses half of the upper floor, or 783 square feet, in the City office building to conduct their administration issues.
3. The police level of service used in this analysis is defined as the number of sworn officers per 1,000 residents. As the number of police calls increases as a result of future growth the City must hire additional sworn officers and administrative personnel to maintain the number of officers per 1,000 residents. The increase in officers will require the City to construct additional police facilities to accommodate its growing staff. The City has proposed adding a facility onto the future City Hall that would house the current police department and have additional room for police officers through buildout.

FIGURE 2: PROJECTED FUTURE POLICE EXPENSES

Police Facility Costs			
	Cost per SF	Total Sf	Total Cost
Existing Station	$ 100	783	$ 78,300
Buildout Need	100	2,303	230,265
Impact Fee Portion	**$ 100**	**1,520**	**$ 151,965**

H. Proposed Financing of Future Police Capital Facilities.

1. The City must construct additional law enforcement facilities for the PCPD to accommodate the future officers that the City will need to achieve its target level of service standard. Impact fees will allow the City to assess a fee to new development that is equitably based upon the costs related to the portion of the future law enforcement facilities that is intended to serve future growth. However, the future capital projects proposed in this CFP are also intended to cure existing system deficiencies, so the impact fees must exclude the costs for the portion of the law enforcement facilities that is intended to cure these deficiencies.

13.15.020 Overview Of The Capital Facilities Plan

A. Purpose of a Capital Facilities Plan.

1. The purpose of this Capital Facilities Plan is to identify the increased demands placed upon the City's existing public safety facilities by future development and evaluate how these demands will be met by the City. The CFP is also intended to outline the improvements which may be funded through impact fees.

B. Definition of "Public Safety Capital Facilities".

1. The Impact Fees Act defines a public safety facility as "a building constructed or leased to house police, fire, or other public safety entities"1 which refers to the "brick and mortar" improvements, the cost of land on which the buildings sit, and permanent fixtures with a useful life of ten or more years relating to existing and future fire and police stations. The Impact Fees Act also allows the inclusion of ladder trucks that cost at least $1.25 million if the City has commercial buildings of five stories or higher. At this moment Perry City can include the costs of constructing fire stations but does not qualify to assess an impact fee for ladder trucks.
2. All other vehicles, apparatus, station equipment, personal gear, and other costly and necessary equipment will be discussed as a basis for sizing future fire stations, but the costs and funding of these needs are not addressed in the CFP since they cannot be included in the calculation of the impact fees.

C. Required Elements for a Capital Facilities Plan.

1. According to the Impact Fees Act, local political subdivisions with populations or serving populations of more than 5,000 as of the last federal census must prepare a Capital Facilities Plan. Although Perry City had a population of 2,383 as of the 2000 Federal Census, the City has elected to prepare this comprehensive Capital Facilities Plan for public safety infrastructure to ensure adequate planning for the future growth. The City projects that the population will surpass 5,000 residents as soon as 2008.
2. Local governments must pay strict attention to the required elements of the Capital Facilities Plan which are enumerated in the Impact Fees Act. The following elements must be discussed in the CFP before a local political subdivision can legally commence public notice and adopt the CFP.

D. Inventory Valuation of Existing and Future Facilities.

1. The Capital Facilities Plan must inventory the City's public safety facilities. To the extent possible the inventory valuation should consist of the following information:

a. Each capital facility;
b. Estimated date of completion of each future facility;
c. Estimated useful life of each facility;
d. Remaining useful life of each existing facility; and
e. Replacement cost of each facility.

E. Demand Analysis.

1. The CFP must consider the level of service which is provided to a community's existing residents and ensure that future facilities meet these standards. The unit of measurement varies depending on which public facility is discussed. For example, the demand on public safety improvements may be measured in terms of calls received. The CFP is also required to include a clear nexus between estimated future demand and the proposed capital facilities required to be constructed or acquired to meet the future demand.

F. Financing Options.

1. The CFP must also include a consideration of all revenue sources, including impact fees, which may be used to finance system improvements. In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.

G. Noticing and Adoption Requirements – 11-36-202.

1. The Impact Fees Act requires that any entity within a first- or second-class county provide written notice of its intent to prepare or modify any CFP. Because Box Elder County is classified as a second-class County, Perry must meet this requirement.
2. If an entity prepares an independent CFP rather than include a capital facilities element in the general plan, the actual CFP must be adopted by enactment. Before the CFP can be adopted, a reasonable notice of the public hearing must be published in a local newspaper at least 14 days before the actual hearing. A copy of the proposed CFP must be made available to the public during the 14-day noticing period for public review and inspection. Copies must be posted in at least three designated public places which may include the City offices and each public library within the City's jurisdiction.
3. Following the 14-day noticing period, a public hearing will be held, after which the City Council may adopt, amend and adopt, or reject the proposed CFP. Following the adoption, Utah Code Section 10-3-711 and 712 requires that a summary of the enactment be published in order for the enactment to become effective.

13.15.030 Overview Of Perry City

A. General Description of Perry City.

1. Perry City is a rural community situated in the eastern edge of Box Elder County. Figure 2.1 shows the City's estimated current population of 4,381. Since it is impossible to predict the exact rates at which the City's population will increase, growth rates have been estimated to taper off as the City gets closer to its projected buildout year. The City expects build-out to occur in 2035 at an estimated population of 18,383 residents.

FIGURE 2.1: CITY-WIDE POPULATION PROJECTIONS

Year	Population	% Increase	Year	Population	% Increase
2007	4,381		2022	13,237	5.00%
2008	4,820	10.00%	2023	13,899	5.00%
2009	5,302	10.00%	2024	14,455	4.00%
2010	5,832	10.00%	2025	15,033	4.00%
2011	6,415	10.00%	2026	15,634	4.00%
2012	7,056	10.00%	2027	16,103	3.00%
2013	7,586	7.50%	2028	16,586	3.00%
2014	8,155	7.50%	2029	16,918	2.00%
2015	8,766	7.50%	2030	17,257	2.00%
2016	9,424	7.50%	2031	17,602	2.00%
2017	10,130	7.50%	2032	17,954	2.00%
2018	10,890	7.50%	2033	18,133	1.00%
2019	11,435	5.00%	2034	18,315	1.00%
2020	12,006	5.00%	2035	18,383	0.37%
2021	12,607	5.00%			

Source: J-U-B Engineering Population Estimates

B. Incremental Development by Zoning Class.

1. As the City continues to grow, residential density will increase; agricultural land will assist in increasing the population because in the future it is proposed that agricultural land will be developed to house residential units. Commercial units will assist in providing the business services that future residents will require. Residential development has buildout only 32 percent of the total buildout units, commercial however, has developed 61 percent of the total projected buildout units.

FIGURE 2.2: TOTAL DEVELOPED AND UNDEVELOPED RESIDENTIAL LAND

Type	Total Acres	Developed Acres	Undeveloped Acres	Percent Undeveloped
Mixed Use Residential	84	29	55	65%
Residential - 1/2 Acre	419	102	317	76%
Low Density Residential - 1/3 Acre	125	27	98	78%
Medium Density Residential	989	574	415	42%
Rural Residential - 1/2 Acre	387	62	325	84%
Agricultural	596	41	555	93%
Total	**2,599**	**835**	**1,764**	**68%**

FIGURE 2.3: TOTAL DEVELOPED AND UNDEVELOPED COMMERCIAL LAND

Type	Total Acres	Developed Acres	Undeveloped Acres	Percent Undeveloped
Commercial	299	61	238	80%
Mixed Use Commercial	166	46	120	72%
Neighborhood Commercial	135	128	7	5%
Manufacturing/Industrial	362	32	330	91%
Manufacturing/Industrial Limited	112	6	106	95%
Civic	18	17	1	6%
Institutional	8	8	0	5%
Mixed Use Office	67	7	60	90%
Environmental Sensitive	820	820	-	0%
Sewage Lagoon	282	282	-	0%
Neigborhood Park	45	13	32	71%
Total	**2,314**	**1,420**	**894**	**39%**

13.15.040 Existing Fire/EMT Facilities And Demands

A. Overview of Fire Station Planning.

1. Many state and national bodies, including the NFPA, have established response time guidelines for fire departments. While these guidelines can be used as benchmarks, communities are not required to adopt universal response times due to the wide variety of geographic characteristics that differ from community to community. Perry should develop a target response time which best suits the City based on the following criteria.

B. Service Area Size, Barriers, and Topography.

1. Development that spreads across large geographic areas, are removed from existing fire stations, or have limited entrance routes will receive abnormally large response times. Response times can be extended by natural or man-made obstacles, such as waterways with limited bridges, freeways, railroads, steep terrain and canyons, etc. which limits travel. Some areas may have very limited access points that require longer routes.

C. Land Development.

1. Land use and specific developments may increase the potential of fire outbreaks and medical emergencies. In analyzing future fire needs, the City must consider the patterns and types of growth, the timings of new development, and land uses or locations that may result in higher levels of calls. The type of land use within range of a particular station may affect the apparatus that it may house. For example, industrial land-uses require different fire suppression apparatus than residential land-uses, and stations closer to a freeway may house more vehicle extraction equipment than one in a residential area.
2. Fire stations may only be placed in non-residential land uses and generally along arterial roadways. Fire stations located in residential areas create disturbances to neighboring homes when responding to late night calls. Ideally, stations should be placed in areas that are predominantly commercial, but buffers may also be considered when stations must be located near residential neighborhoods.

D. Roadway Networks and Traffic Congestion.

1. As the population expands within the City and surrounding areas, the City's roadways will become increasingly more congested and intersections become busier. While expanded roadways and improved intersections will help ease the flow of traffic, responding fire units will still be forced to compete with traffic as they strive to meet their target response times. Properly designed roadways with adequate connectivity and well situated stations will enable responding fire and emergency medical units to reach their calls within the established target response times. In addition to more roadways, updated fire technology will also assist in the future fire department responding to calls for service.

E. Fire Station Sizing.

1. Fire stations must be sized according to their role in the system which dictates the amount of offices, firefighter housing and living areas, and the equipment and apparatus needs of each station.

F. Existing Fire Stations.

1. The Perry Volunteer Responder Unit is currently housed in the city office building; they use half of a maintenance bay to park the ambulance [actually a First Responder Vehicle] that the City owns. Currently capacity and space in the City office building is being used for PVRU until a dedicated Fire Station is provided. This main station will house all administrative offices for the PVRU.

FIGURE 3.1: CURRENT COST TO BUILD NEW FIRE STATION

Station	Construction Year	Current Year Costs	Construction Year Costs[1]
City Hall Station	2007	$ 1,500,000	$ 1,500,000
Totals		$ 1,500,000	$ 1,500,000

1. includes 3 percent construction inflation

2. PVRU relies upon the services of volunteer firefighters (there are approximately 12 volunteer firefighters in the PVRU). The City currently owns the following fire suppression and emergency medical apparatus.

FIGURE 3.2: CURRENT PVRU APPARATUS INVENTORY

Perry Fire Inventory	Total
Ambulance	1
Total	1

[Ambulance is actually a First Responder Vehicle]

3. The Main Perry Fire Station currently lacks the space to accommodate all the City's future apparatus needs. In addition to space limitations, some equipment could be more optimally placed according to primary areas served.

G. Current Response Time Coverage.

1. The City has considered the aforementioned factors and consequently established a response time level of service of a response to 90 percent of all calls within four minutes. Appendix 1 illustrates the City's current ability to meet a four minute response given the current roadway network which at the present time covers approximately 90 percent of the City.

H. Historic and Future Fire/EMT Call Volumes.

1. Impact fees are calculated by dividing the costs of fire/EMT facilities that have capacity to serve new growth by the future calls for service originating by new users. In order to accurately apply growth-related costs of capital facilities to future development, the additional call volumes that undeveloped land-uses will place on the current fire services offered to the City's residents must be determined.
2. The projection of future calls per land use is based upon the average current annual calls for service by unit of land use. As shown in Figures 3.4 and 3.5, the future fire/EMT calls are projected based upon the number of historic calls within each land-use category.

FIGURE 3.3: HISTORIC FIRE/EMT CALL DATA PER LAND-USE CATEGORY

Calls For Service	2002-2006	Per Month	Average per Year	Adjusted Calls*
Residential	260	4	54	260
Commercial	181	3	37	181

FIGURE 3.4: HISTORIC FIRE/EMT CALLS

Existing			
	Residential	Commercial	Total
Units	1,373	1,594	N/A
Calls For Service	54	37	91.29
Percent of Calls	59%	41%	100%
Average call per unit	0.0390	0.0240	N/A

FIGURE 3.5: FIRE/EMT CALL PROJECTIONS

Buildout			
	Residential	Commercial	Total
Units	5,763	6,100	N/A
Average Calls for Service per unit	0.0390	0.024	N/A
Projected Calls for Service	225	146	371
Percent of Total Calls	61%	39%	100.00%

I. RESPONSE TIME COVERAGE - 2035.

1. Future growth moving away from the main fire station will inhibit the PVRU's ability to provide adequate fire protection and emergency medical coverage to future development from one central fire station. As development continues to occur within the City, the need for vehicles and firefighters will increase.

J. Future Fire Station.

1. The needed station will house all the administrative offices, and will also have living quarters for the firefighters and service bays for the future engines and ambulances. The current contract with Brigham City has made the need for a new fire facility in the city of Perry more of a priority.

K. Cost of Future Fire Station.

1. Although the PVRU currently relies on the services of volunteer firefighters, the City will gradually move towards becoming a more professionally-based department as the City's population increases. Therefore, future fire stations should include living areas for professional firefighters and emergency technicians. The City is ultimately responsible for working with an architect to design stations which best accommodate the department's specific needs.

FIGURE 3.6: ESTIMATED COST OF FUTURE FIRE STATIONS

Station	Construction Year	Current Year Costs	Construction Year Costs[1]
City Hall Station	2007	$ 1,500,000	$ 1,500,000
Totals		$ 1,500,000	$ 1,500,000
1. includes 3 percent construction inflation			

2. The estimated building costs are average costs for a fire facility found in cities of relative size with Perry, but these costs may vary depending on the PVRU's specific needs. The amount of money budgeted to the PVRU and the projected generation of impact fee revenues directly affect the construction timing of the future capital facilities.

13.15.050 Law Enforcement

A. Existing Police Station.

1. Perry City currently has a limited amount of police facilities due to being located in half the upper floor of the city offices. According to the Impact Fees Act, jails, prisons, or other places of involuntary incarceration cannot be funded with impact fee revenues.

B. Current Police Level of Service.

1. Unlike fire protection, police protection does not depend on the distance of responding units to fixed locations. Officers generally patrol throughout the City, and the units closest to a call will typically be the call's first respondents. Therefore, the level of service for police services is based upon the number of sworn officers per 1,000 residents. Figure 4.2 shows the City's existing and target level of service standards, measured by sworn officers per 1,000 residents. The City currently has approximately 1.43 sworn police officers for every 1,000 residents; this includes one full time Chief of Police, one full time Lieutenant, one full time Detective, three full time Patrol Officers, and two part time Patrol Officers. Through build out the officers per 1,000 residents will decrease to 1 per 1,000 residents. The number per 1,000 residents will decrease because of redundant positions that don't necessarily need to be added to in the future such as Police Chief or administrative positions. The surplus/deficiency portion on Table 4.2 shows the number of officers that the City will need to add to their police department by buildout.

FIGURE 4.2: SWORN OFFICERS PER 1,000 RESIDENTS

	Sworn Officers	Current Population	Sworn Officers Per 1,000 Residents
Existing Level of Service	6.25	4,381	1.43
Target level of Service	18.38	18,383	1
Surplus/Deficiency	**(12.13)**		

2. The City has also established a floor space square footage standard for police service according to police facilities already constructed. The City would like to provide each of its officers with approximately 125 square feet of facility floor space. The existing and target level of service standards for floor space square footage per officer are shown in Figure 4.3.

FIGURE 4.3: FACILITY SQUARE FOOTAGE PER SWORN OFFICER

	Sworn Officers	Estimated Square Footage	Square feet per Officer
Existing Level	6.25	783	125.28
Target Level	18.38	2,303	125.28
Deficiency		(1,520)	

3. With a current level of service of 125 square feet per officer it will be required at buildout to have a police facility that is 2,303 square feet. Future development will be responsible for the costs of 1,520 square feet of the total future police facility.

C. Future Demand.

1. In order to accurately apply the growth-related costs of capital facilities to future development, the additional call volumes that undeveloped land-uses will place on the current police services offered to the City's residents must be determined. An in-depth analysis has been prepared to determine the number of developed units or acres of land in each land-use category, and the number of calls per unit or acre of land has been assigned to each land-use category. As shown in Figures 4.4 and 4.5, future police calls are projected based upon the number of historic calls within each land-use category. The average historic calls have been used in order to project future calls.

FIGURE 4.4: HISTORIC POLICE CALL DATA PER LAND-USE CATEGORY

Existing			
	Residential	Commercial	Total
Units	1,373	1,594	N/A
Calls For Service	789	96	885
Percent of Calls	89%	11%	100%
Average call per unit	0.575	0.060	N/A

FIGURE 4.5: POLICE CALL PROJECTIONS

Buildout			
	Residential	Commercial	Total
Units	5,763	6,100	N/A
Average Calls for Service per unit	0.575	0.060	N/A
Projected Calls for Service	3,313	366	3,679
Percent of Total Calls	90%	10%	100%

D. Future Capital Projects.

1. Based upon the City's projected increase in population through build-out, the City must hire approximately 12 additional full-time (or full-time equivalent) sworn officers to provide the City's target level of service to existing and future development. An increase in future residents will require the City to provide the PCPD with approximately 1,520 square feet of facility floor space, excluding incarceration areas.

FIGURE 4.6: COSTS OF FUTURE POLICE CAPITAL PROJECTS

Police Facility Costs			
	Cost per SF	Total Sf	Total Cost
Existing Station	$ 100	783	$ 78,300
Buildout Need	100	2,303	230,265
Impact Fee Portion	**$ 100**	**1,520**	**$ 151,965**

2. The estimated building costs per square foot are average costs for a similar police facility in cities similar to the size of Perry, but these costs may vary depending on the PCPD's specific needs. The amount of money budgeted to the PCPD and the projected generation of impact fee revenues directly affect the construction timing of the future capital facilities.

13.15.060 Finance Element

A. Existing Police Station.

1. As limited by statute, this chapter will discuss only the historic and proposed methods of financing existing and future capital facilities, excluding equipment, apparatus, salary, and all other operational needs.

B. Historic Funding of Public Safety Facilities.

C. General Fund Revenues.

1. The City's existing public safety infrastructure has been funded through general fund and impact fee revenues. General fund revenues include a mix of property taxes, sales taxes, federal and state grants, and any other available general fund revenues.

D. Funding of Future Public Safety Facilities.

E. Property Tax Revenues.

1. Property tax revenues are not specifically identified in this analysis as a funding source for capital projects, but inter-fund loans can be made from the general fund which will ultimately include some property tax revenues. Inter-fund loans will be repaid once sufficient impact fee revenues have been collected.

F. Grants and Donations.

1. Grants and donations are not currently contemplated in this CFP. However, the impact fees will be adjusted if grants become available to reflect the grant monies received. A donor will be entitled to a reimbursement for the value of the improvements funded through impact fees if donations are made by new development.

G. Impact Fee Revenues.

1. Impact fees have become an ideal mechanism for funding growth-related infrastructure. Impact fees are charged to ensure that new growth pays its proportionate share of the costs for the development of public infrastructure. Impact fee revenues can also be attributed to the future expansion of public infrastructure if the revenues are used to maintain an existing level of service. Increases to an existing level of service cannot be funded with impact fee revenues. Analysis is required to accurately assess the true impact of a particular user upon the City infrastructure and to prevent existing users from subsidizing new growth. The following paragraphs discuss other issues pertaining to impact fees.

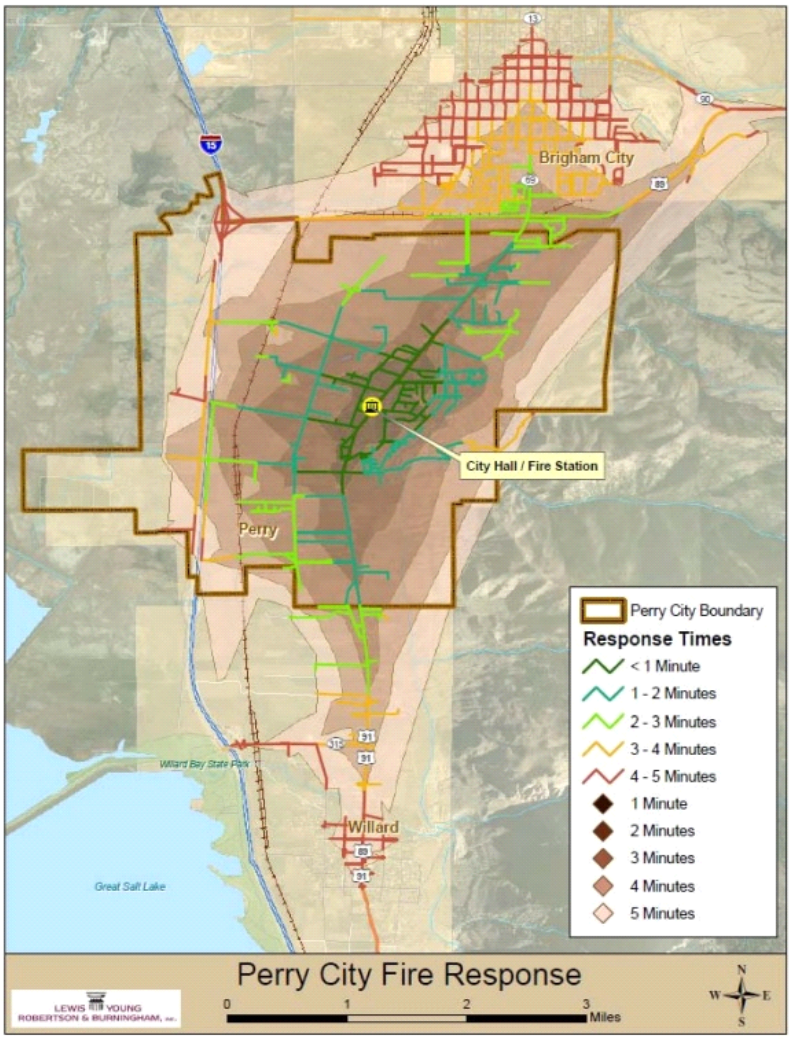
H. Equity of Impact Fees.

1. Impact fees are intended to recover the costs of capital infrastructure that relate to future growth. This method results in an equitable fee as future users will not be expected to fund any portion of the projects that will benefit existing residents. This method also addresses current deficiencies by assuming that facilities are sized optimally to cover the City without deficiencies or excess at build-out.
2. The impact fee calculations are structured so that impact fees will fund 100 percent of the growth-related facilities identified in the proportionate share analysis as presented in the impact fee analysis. Even so, there may be years that impact fee revenues cannot cover the annual growth-related expenses, and other revenues, most likely general fund revenues, will be used to make up any annual deficits. Any borrowed funds are to be repaid in their entirety through impact fees.

I. Impact Fee Credits.

1. Impact Fee Credits are handled between the City and developers and "allow a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities: a) are identified in the Capital Facilities Plan and b) are required by the local political subdivision as a condition of approving the development activity." Credits are handled on a case-by-case basis and will not be included in the analysis, although the Proportionate Share Analysis will identify the extent to which specific developers are entitled to a credit.

13.15.070 Appendix (Perry City Fire Response Map)


Brigham City
City Hall / Fire Station
Perry
Willard Bay State Park
Willard
Great Salt Lake
Perry City Boundary
Response Times
< 1 Minute
1 - 2 Minutes
2 - 3 Minutes
3 - 4 Minutes
4 - 5 Minutes
1 Minute
2 Minutes
3 Minutes
4 Minutes
5 Minutes
Perry City Fire Response
LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.
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14 Subdivision Regulations

14.01 General Subdivision Regulations
14.02 Existing Residential Condominiums: Option To Become Pruds

14.01 General Subdivision Regulations

14.01.010 Recording Of Final Plat Required Before Lots May Be Sold
14.01.020 Optional Process For Large Residential Property (10 Or More Acres)
14.01.030 Optional Processes For Subdivisions Using Metes And Bounds Descriptions: Small Residential (1 To 3 Lots) And Large Commercial (20 Or More Acres)

14.01.010 Recording Of Final Plat Required Before Lots May Be Sold

Except as permitted by Perry Municipal Code Section 14.01.030, a final subdivision plat is required for any subdivision of land, as per this Chapter 14.01 (Subdivisions) and state law, including Utah Code Sections 10-9a-601 et seq. A final subdivision plat shall be approved if it complies with state law and the applicable land use ordinances, standards, and guidelines. Once the following have occurred, the final subdivision plat may be recorded in the Office of the Box Elder County Recorder:

1. The Final Subdivision Land Use Authority has granted final approval; and
2. All signatures are on the final subdivision plat; and
3. An Engineering Cost Estimate for Subdivision Improvements has been submitted, and an Escrow Agreement has been signed (and an escrow has been established); and
4. All other final requirements and conditions have been fulfilled.After the final subdivision plat is recorded in the Office of the Box Elder County Recorder, the lots identified in the subdivision may be sold. The provisions set forth in PMC Sections 14.01.020 and 14.01.030 are options available to an applicant(s), and are discretionary for the City to allow.

14.01.020 Optional Process For Large Residential Property (10 Or More Acres)

In order to allow for the best long range planning and coordination of municipal services in the community, for a subdivision of property zoned for residential uses that is at least 10 acres, the subdivision approval and recording process shall be the same as set forth in PMC Section 14.01.010 (and elsewhere herein), unless the following optional process (with the following additional provisions) is desired by the applicant(s) and approved by the City:

1. If the Planning Commission has granted preliminary approval of the subdivision, then the applicant(s) has/have an extended time period of 12 months total (after preliminary approval) to obtain final approval of the subdivision (either as a whole or by phases) from the Final Subdivision Land Use Authority; and
2. The Planning Commission may grant (subject to a PMC Section 15.05.040E1 procedural petition to the City Council, as the Final Subdivision Land Use Authority) up to two additional extensions of six months each, up to a maximum total time period of 24 months to obtain final approval of the subdivision (either as a whole or by phases), if the Planning Commission concludes that substantial progress (defined as any activity such as building permits, construction, additional phases, etc.) has occurred, under the circumstances, regarding the subdivision; and
3. If the referenced deadlines are not met, then the applicant(s) may re-initiate a process towards preliminary approval of the remainder of the subdivision (that has not yet received final approval), but the City shall not impose any new requirements of any new ordinances, standards, or guidelines if substantial progress has occurred; and
4. Each phase of such a subdivision may consist of any two or more contiguous lots; and
5. The Planning Commission may recommend and the City Council, as the Final Subdivision Land Use Authority, may require that Cluster Zoning be utilized as a condition of allowing the optional process described in this Section.

14.01.030 Optional Processes For Subdivisions Using Metes And Bounds Descriptions: Small Residential (1 To 3 Lots) And Large Commercial (20 Or More Acres)

The subdivision of any lot or parcel of land by the use of a metes and bounds description shall not be permitted except as described in the following optional processes:

1. A residential (rural road) metes and bounds subdivision containing three (3) or fewer lots not requiring full public improvements may be permitted by the Planning Commission (as the Final Subdivision Land Use Authority), if:
    a. The Planning Commission approves of a rural road agreement, with a finding that no other nearby landowners or interested parties are adversely affected and that the relevant provisions of the land use ordinances, general plan, and transportation master plan are met; and
    b. All of the requirements of Utah Code Sections 10-9a-601 et seq. are met (with a public hearing being required); and
    c. All of the requirements for conceptual, preliminary, and final approval are met, other than (i) City Council approval and (ii) the final plat process; and
    d. All of the requirements for the zone in which the subdivision is located are met; and
    e. No proposed adjacent subdivision or future phase of an existing subdivision (which is owned by one or more of the same applicants, or which is owned by one or more of the parents, spouses, siblings, or children of the same applicants, or which was part of the same original parcel) will be considered for a metes and bounds subdivision; or
2. For a subdivision of property zoned for commercial uses that is at least 20 acres, the subdivision approval and recording process may be established in a development agreement entered into between the property owner(s) and the City, as per PMC Section 15.16.010.1, with the Community Development Department to be the Final Subdivision Land Use Authority for the metes and bounds subdivision process (and with the Department providing information regarding the application and approval process to the Planning Commission and City Council on a regular basis; and with a public hearing being required only if state law requires it); and to the extent there is an inconsistency between the applicable land use ordinances, standards, or guidelines (other than this Section and PMC Section 15.16.010.1) and the development agreement, the development agreement shall prevail; and
3. If either (i) a residential (rural road) metes and bounds subdivision, or (ii) a 20 or more acre commercial subdivision is permitted and approved by the City pursuant to Sub-Sections 1 or 2 herein, then a Metes and Bounds Subdivision Notice shall be recorded for each new lot within said metes and bounds subdivision, said notice to contain:
    a. The subdivision name; and
    b. The legal description of the lot; and
    c. The date of final approval; and
    d. The intended use(s), pursuant to the Land Use Chart (PMC 15.07.100).

    After a Metes and Bounds Subdivision Notice is recorded in the Office of the Box Elder County Recorder, the lot identified in the Notice may be sold; and
4. If a commercial subdivision is approved pursuant to Sub-Section 2 herein, then the following additional requirements exist:
    a. If streets are to be dedicated to the public, a street dedication plat (after a public hearing) shall be approved and recorded before or simultaneously with the Metes and Bounds Subdivision Notice(s) being recorded; and
    b. Within 12 months of a Metes and Bounds Subdivision Notice being recorded in the Office of the Box Elder County Recorder, pursuant to Sub-Section 3 herein, a regular subdivision plat process shall be initiated, resulting in the requirements of PMC Section 14.01.010 (including the recording of the final subdivision plat) being met within 18 months of the Metes and Bounds Subdivision Notice being recorded.

14.02 Existing Residential Condominiums: Option To Become Pruds

14.02.010 A Residential Condominium Development May Be Re-Designated As A PRUD
14.02.020 Requirements To Be Re-Desginated As A PRUD
14.02.030 Acting Upon An Application To Be Re-Designated As A PRUD; Record Plat
14.02.040 Administration Of The PRUD; Applicable Ordinances
14.02.050 Legal Effect Of The Re-Designation

14.02.010 A Residential Condominium Development May Be Re-Designated As A PRUD

A residential condominium development in Perry City shall be allowed to be re-designated as a "Planned Residential Unit Development," as long as the appropriate application is filed, with proof that the requirements have been met, and with the designated filing fee (as per PMC Chapter 4.09, but $500.00 if not listed therein).

14.02.020 Requirements To Be Re-Desginated As A PRUD

For a residential condominium development in Perry City applying to be re-designated as "Planned Residential Unit Developments," the following requirements should be met:

1. Permits for occupancy for all of the residential units must have been issued on or before April 1, 2013;
2. Covenants, Conditions, and Restrictions and/or a Homeowners Association Agreement must be in place for the residential condominium development;
3. The president of the Homeowners Association or equivalent organization must sign the application;
4. All of the owners of all of the residential units present at a regular homeowner's meeting shall also sign either the application or letters or statements attached to the application, each homeowner certifying that they would like their units and their development to be re-designated as a Planned Residential Unit Development, and that if Perry City grants the application, then each homeowner agrees to indemnify and hold the City harmless for its actions in granting the application;
5. The legal description of each unit shall be "clear to the ground" (including all levels or floors), and individual units may thus not be above or below each other; and
6. There may be no interior (or internal) fencing of any common area for any approved "re-designated" PRUD.

14.02.030 Acting Upon An Application To Be Re-Designated As A PRUD; Record Plat

Once an application has been filed which appears to have met the requirements, and after City staff (including the City Engineer) has reviewed the application and proposed plat, then the following procedures that apply:

1. Planning Commission. The application shall be placed upon the Planning Commission agenda, and the Planning Commission shall be the initial land use authority, and shall hold a public hearing;
2. City Council. After the Planning Commission makes a recommendation regarding the application, the City Council shall be the final land use authority and shall determine whether or not all of the requirements have been met, but the City Council shall grant the application if all of the requirements have been met.
3. Recording of Plat. If an application is granted, the new plat (re-designating the development as a PRUD) shall be recorded with the Box Elder County Recorder's Office.

14.02.040 Administration Of The PRUD; Applicable Ordinances

Any such residential condominium development which has been re-designated as a Planned Residential Unit Development shall continue to be subject to:

1. All applicable ordinances, including any ordinance regarding Planned Residential Unit Developments; and
2. The Covenants, Conditions, and Restrictions and/or a Homeowners Association Agreement, which shall be amended and recorded with the Box Elder County Recorder's Office to reflect the re-designation.
3. All minimum financial reserve requirements (of State and local law) are still in effect (as if a re-designation to a PRUD had not occurred). All minimum financial reserve requirements (of State and local law) for a PRUD shall also apply.

14.02.050 Legal Effect Of The Re-Designation

Except as specifically and expressly allowed or required by ordinance or other applicable law, or by an applicable agreement, the re-designation shall cause no change in ownership, and shall have no force or effect on the City, a homeowner, or other person or party. This Chapter shall be applicable even if there is no generally applicable ordinance regarding Planned Residential Unit Developments.

15 Land Use

15.01 General Land Use Provisions
15.03 Planning Commission Rules Of Procedure
15.05 Land Use Authorities And Appeal Authorities
15.07 Zoning, Including Procedures, Land Use Chart, Area Requirements, And Zoning Maps
15.09 Foothill Development Areas
15.11 Wetlands And Sensitive Soils Areas
15.13 Agriculture Protection Areas
15.15 Flood Control And Special Regulations
15.16 Escrow Agreements, CCc And R's And Development Agreements
15.17 Design Review Procedure
15.19 Streets, Trees, Parkways, And Parking
15.21 Streetlight Regulations
15.23 Landscape Regulations
15.25 Standards For Residential Fences, Pools, And Miscellaneous Structures
15.27 Sign Regulations
15.29 Conditional Use Permits
15.31 Excavation And Reclamation
15.33 Home Occupations
15.34 Regulations For Large Scale Utility Lines, Wireless Telecommunications Towers, Microwave Towers, And Miscellaneous Infrastructure
15.35 Nonconforming Uses

15.01 General Land Use Provisions

15.01.010 Outline
15.01.020 Purpose And Interpretation
15.01.030 Departmental Organization
15.01.040 Enforcement And Penalties
15.01.050 Pending Rule And Effect
15.01.060 Definitions
15.01.070 Land Use Agreements

15.01.010 Outline

The following outline applies to the land use regulations of the city:

1. Short title. This title shall be known as the Perry City "Land Use Ordinance" which shall include all land use maps, tables, charts, and diagrams adopted by the city council in its capacity as the legislative body.
2. Contents. Included in the "Land Use Ordinance" are Zoning, Subdivisions, Cluster Housing, Landscaping, Area Requirements, Signs, Fences, Home Occupations, Parking, Design Review, Land Use, Conditional Uses, Excavation, Reclamation, Nonconforming Uses and Noncomplying Structures, Planning Commission Rules, Land Use Authorities and Appeal Authorities, Zoning Administration, Land Use Definitions, and other written land use provisions, maps, and information pertinent to and for clarification of the above, and as per Utah Code Annotated 10-9a-103(16), which states: "a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan."
3. General plan. The city's general plan is set forth in Chapter 12.05.

15.01.020 Purpose And Interpretation

1. Purpose and intent. This title is designed and enacted for the purpose and intent of promoting the health, safety, order, prosperity and welfare of the present and future inhabitants of Perry City.
2. Interpretation. In interpreting and applying the provisions of the Land Use Ordinances, the requirements contained herein are declared to be the minimum for the purposes set forth.
3. No provision of this title or the municipal code shall be interpreted to nullify more restrictive provisions of any covenants, agreements, ordinances, codes, or laws.
4. Severability. Should any section, clause or provision of any "Land Use Ordinance" (as defined herein) be declared by the courts to be invalid, the same shall not affect the validity of the remaining portions of the written Land Use Ordinance provision(s) as a whole or any part thereof; the written Land Use Ordinance provision(s) to thus continue to be in full force and effect, other than the part(s) so declared to be invalid.

15.01.030 Departmental Organization

1. Department organized. The Community Development Department is created and shall consist of a Community Development Director, Building Official, Building Inspector (s), City Engineer, City Planner, Community Development Clerk and others, as designated by ordinance or by the city administrator. The Community Development Director shall be the director or head of said department. Unless otherwise designated, the City Engineer shall be the Assistant Community Development Director and may be assigned to chair, supervise or manage certain projects and meetings.
2. Staff. The Community Development Department shall serve as staff for the applicable land use or appeal authority of the city and shall place the appropriate issues and applications on the applicable agenda, and shall provide information to the City Recorder for items to be placed on the City Council agenda.
3. Assistance. The Public Works Director, the City Attorney, and/or other City officials may provide support to the Community Development Department on issues as necessary.

15.01.040 Enforcement And Penalties

Any person, group, firm or corporation, whether a principal, agent, employee or otherwise, violating, causing, or permitting violations of the provisions of this chapter shall be guilty of misdemeanor (Class B, unless otherwise identified). Such person, group, firm or organization shall be deemed to be guilty of a separate offense of each day during which any portion of any violation of this chapter is permitted or continued by such person, group, firm or corporation. A Land Use Authority or Appeal Authority may, if allowed by law, delay or refuse to act on a land use application until action required regarding a prior land use application is completed or may use any other remedies allowed by land use law. Perry City may by action of the City Council also institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, or maintenance or use.

15.01.050 Pending Rule And Effect

Any existing land use ordinances or regulations of the city are hereby superseded and amended to read as set forth herein. Any projects or development that were approved under previous ordinances or processes shall be binding and accountable under the ordinances in place upon the date of application of said project or development, except where expansion or site amendment is required. The provisions of Utah Code Annotated 10-9a-509(1)(a) are specifically authorized such that appropriate land use officials may temporarily prohibit approval of an application (according to the terms of the referenced statute), pending action on the relevant pending ordinance. "Formally initiating proceedings to amend city ordinances" or "when a pending ordinance exists" shall be defined as when a pending ordinance is first specifically referred to on an official city agenda or is in written form available to the public. If the "pending ordinance" has the date it became "pending" listed on it, that date shall be the official date.

15.01.060 Definitions

In addition to the definitions set forth Title 10. Chapter 9a of the Utah Code Annotated, the following definitions apply:

1. Accessory Use or Building. A use or detached, subordinate building on the same lot with, but of a nature clearly incidental and subordinate to, the principal use of the property or building.
2. Agent of Owner. Any person who can show written proof that he is acting for the property owner and with the property owner's knowledge and permission.
3. Agriculture. the tilling of the soil, the raising of crops, horticulture, and food production for humans or animals, but not including the keeping or raising of domestic animals or businesses such as fruit-packing plants, fur farms, animal hospitals, stables, kennels or other similar uses.
4. Alley. A public access-way less than twenty-six (26) feet in width, which is designed to give secondary access to lots or abutting properties; an alley shall not be considered a street, for the purpose of this Ordinance.
5. Apartment House. A building or portion thereof which is designed and built for occupancy by five (5) or more families.
6. Appeal Authorities. The land use appeal authorities that decide appeals when there is an error in administration or grant a variance to the requirements of an ordinance under special circumstances, and which replaced the Board of Adjustment. The Land Use Appeal Authorities include the Special Uses and Appeals Board and the Administrative Law Judge (see Chapter 15.05, Rules of the Perry City Land Use Authorities and Appeal Authorities).
7. Average Per Cent Of Slope. An expression of rise or fall in elevation along a line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a parcel or lot. A vertical rise of one hundred (100) feet between two points, one hundred (100) feet apart measured on a horizontal plane is a one hundred (100) per cent slope.

8. Basement. The portion of a building that is partly (twelve (12) inches or more) or completely below the grade or level of the abutting ground.
9. Block. The land surrounded by streets or other right-of-way, other than an alley, or land which is designated as a block on any recorded subdivision plat.
10. Board of Adjustment. A five (5) member board previously organized to decide appeals when there is an error in administration or grant a variance to the requirements of an ordinance under special circumstances, but which has been replaced by the Land Use Appeal Authorities; namely, the Special Uses and Appeals Board and the Administrative Law Judge (see Chapter 15.05, Perry City Land Use Ordinance).
11. Accessory Use or Building. A detached, subordinate building or other use on the same lot with, but of a nature clearly incidental and subordinate to, the principal building or use on the property. For a lot or parcel that has a dwelling as its principal use, the following shall always be an "Accessory Use or Building":

    a. Any building, structure, or enclosed container (other than an approved garbage receptacle) that covers at least 25 square feet of ground surface area, and
    b. Whether or not said building, structure, or container is permanent, immovable, affixed, or attached.

12. Building Accessory. A detached subordinate building on the same lot with, and of a nature customarily incidental and subordinate to, the principal building is a building accessory. See – Accessory Use or Building.
13. Building, Height of. The vertical distance from the average, finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to a point midway between the lowest part of the eaves or cornice and ridge of a pitch or hip roof is the building height.
14. Building Inspector. The person designated as the building official for the local jurisdiction by the governing body as having authority charged with administration and enforcement of the adopted building code. The building inspector may also be the zoning administrator, if so designated.
15. Building Official. A building official is the official, or his duly authorized deputy, charged with the administration and enforcement of this ordinance.
16. Building Permit Required. The construction, alternation, repair, or removal of any building, structure, or part thereof as provided or as restricted in this Ordinance shall not be commenced or continued except after the issuance of a written permit from the building inspector. Work not started within one hundred eighty (180) days will require a new permit.
17. Carport. A carport is any covered, private vehicle parking area not completely enclosed by walls or doors that is attached to a dwelling or accessory building. For the purposes of this Ordinance, a carport shall be subject to all the regulations prescribed for a private garage. A carport shall be considered part of a dwelling if the carport and dwelling have a roof in common.
18. City Attorney. The attorney employed by or officially representing the local jurisdiction.
19. City Engineer. The engineer employed by or under contract with and officially representing the local jurisdiction.
20. City Standards. The words "Perry City Standards" mean a set of standard drawings and specifications entitled "Minimum Standards for Public Utility and Street Improvements and related facilities for Perry City Corporation.
21. Cluster Housing. A subdivision of land in which the lots have areas less than the minimum lot area of the zoning district in which the subdivision is located, but which complies with the cluster subdivision provisions of the Perry City Land Use Ordinance and in which a significant part of the land is privately reserved or dedicated as permanent common open space to provide low-density character for the residential lots in the subdivision.
22. Conditional Use. The use of a building or land indicated by "C" on the land use chart which requires special conditions to be met for approval as defined in the Conditional Use Ordinance to prevent any detrimental effects to the public health, safety, and welfare or would impair the integrity and character of the zoned district. The applied-for use must be stated in the zoning ordinance (land use chart). The Planning Commission and City Council either approves, subject to the listed condition(s), or denies such uses. Each application is considered on its individual merits.
23. Condominium. The ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property.
24. Corral. A space, other than a building, less than one (1) acre in area, or less than one hundred (100) feet in width, used for the confinement of animals or fowl.
25. Court. An open space, unobstructed to the sky, other than a yard which is located at or above grade level and bounded on two or more sides by walls or a building(s).
26. Crosswalk or Walkway. A right-of-way dedicated to public use, to facilitate access through a subdivision block; designed for use by pedestrians and not for use by motor vehicles; may be located within or without a street right-of-way, at grade, or separated from vehicular traffic.
27. Cul-de-sac. The term "cul-de-sac" (dead-end street) means a street, existing or proposed, which has access from one open end and is terminated by a vehicular turn-around at the other end, as defined by Perry City Standards.
28. Density. The number of families, individuals, dwelling units or housing structures per unit of land; usually that unit is expressed as an acre. The control of density is one of the basic purposes of zoning. Gross density includes land for streets, schools and parks. Net density does not include area for public spaces.
29. Density, Control of. Density control is imitation on the occupancy of land. Density can be controlled through zoning by one or a combination of the following methods: use restrictions (single or multiple dwellings); minimum lot size requirements; floor area ratios; setback and yard requirements; minimum house-size requirements; establishing ratios between lot and house size; limitations on units per acre; and other means.
30. Design, Subdivision. These include:

    a. Street alignment, grades and width; and
    b. Width and alignment of easements and rights-of-way for drainage, water systems, sanitary sewer lines, and other utilities; and
    c. Minimum lot area, width, and depth, etc.

31. Development Impact Fee. A fee or charge imposed on a developer to pay for the costs to the community of providing services to a new development. It is a means of providing.
32. Division of Agricultural Land for Agricultural Purposes. A bona fide division of partition of agricultural land for agricultural purposes shall mean, for purposes of this ordinance, the division of a parcel of land into three (3) or more parcels which meet all of the following conditions:

    a. None of the parcels created can be smaller than five (5) acres in area for irrigated land and ten (10) acres for un-irrigated land.
    b. The purpose of the division shall be to use each of the lots for agriculture, not for investments, building development, recreational use, cabin or other housing use, livestock feed yard, or any other agricultural industry or business.
    c. Each of the parcels created have access to a public street or highway or to a private street approved by the Planning Commission and the governing body.
    d. Each of the parcels created shall be capable, in the opinion of the Planning Commission and the governing body, of producing an income from the sale of agricultural products sufficient to justify its existence as a separate agricultural-lot entity. Among the factors used in making a decision as to whether a division of land is or is not bona fide division or partition of agricultural land for agricultural purposes, the Planning Commission and the governing body may consider the availability of water for irrigation or stock-watering purposes; the class of the soil and depth of the soil mantel; the slope of the land; and, past history of agricultural production.
    e. The owner seeking a bona fide division of agricultural land for agricultural purposes shall record a "Restrictive Covenant Precluding the Non-agricultural Use of Land" at the County Recorder's Office in a form approved by the city attorney.

33. Driveway. A private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the driveway is located.
34. Dwelling. Any building or portion thereof designed or used as the more or less permanent residence, living space or sleeping place of one or more persons or families, but not including a tent, commercial assisted living center, hotel, motel, hospital, or nursing home.
35. Duplex. A building which is designed, built, or remodeled that is intended for use as a dwelling for occupancy by two (2) families.
36. Easement. A quantity of land set aside or over or under 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 particular person or part of the public. No permanent structures as defined and reviewed by the Planning Commission are allowed in any recorded easements.
37. Essential Facilities. Essential facilities are any utility, sanitary, and public safety facilities provided by a public utility or governmental agency for overhead or surface or underground services, excluding any building, electrical sub-station or transmission line of fifty (50) K or greater capacity.
38. Excavation Uses. Mines, gravel pits, sand pits, clay pits (including concrete batching plants and/or asphalt plants installed in connection with pits) rock quarries, rock crushers, and buildings or structures in connection, therewith (see Chapter 15.31, Perry City Land Use Ordinances for regulations).

39. Family. One or more persons related by blood, marriage or adoption, or a group of not more than four unrelated persons living together as a single nonprofit housekeeping unit.
40. Final Plat. A subdivision map prepared in accordance with the provision of the Subdivision Ordinance which is designed to be placed on record in the office of the County Recorder.
41. Fire Protection. Such water supply, water lines, fire hydrants and/or other protective devices as may be required in the provisions of the Perry City Land Use Ordinance for adequate elimination of fire hazards.
42. Flag Lot. A flag or L-shaped lot comprised of a staff portion contiguous with the flag portion thereof (subject to special conditions). See Chapter 14.01, Perry City Land Use Ordinance (Subdivision Ordinance) for regulations.
43. Flood Hazard. A hazard to land or improvements due to inundation or overflow of water having sufficient velocity to transport and/or deposit debris, scour the surface soil, dislodge or damage buildings and/or erode the banks of water courses.
44. Four-plex. A building which is designed, built, or remodeled and intended for use as a dwelling for occupancy by four (4) families.
45. Frontage. frontage is any area of a lot facing the street of public right-of-way. All property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.
46. Garage, Private. An enclosed vehicle parking area attached to a dwelling or an accessory building designed or used for the storage of not more than four automobiles, owned and used by the occupants of the main building to which it is accessory, provided, that on a lot occupied by a multi-family dwelling, the private garage may be designed and used for the storage of a minimum of one and one-half times as many automobiles as there are dwelling units in the multiple dwelling. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common.
47. General Plan. A long range generalized plan of the City of Perry for development and zoning approved by the Planning Commission and adopted by the Governing Body for the Local Jurisdiction, including maps, reports or both as required by law.
48. Geological Hazard. A hazard that is inherent in the crust of the earth or artificially created which is dangerous or potentially dangerous to life, property and/or improvements due to movement, failure and/or shifting of the earth is a geological hazard.
49. Governing Body. The elected legislative body of the local jurisdiction that is the City Council for Perry City.
50. Haul Road. A road designated as a haul road on the Circulation, Road or Master Transportation Plan or as defined by the Planning Commission. Haul Roads shall require special negotiation of construction standards with the City Engineer before any improvement of existing roads or development of proposed roads is approved.
51. Health Officer. The health officer or department employed or officially representing the local jurisdiction in health related matters.
52. Height of Building. See - Building, Height of.
53. Home Occupation. Every trade, profession, occupation, business or activity engaged in within a residence or dwelling with the object of economic profit, benefit or gain, directly or indirectly and carried on by persons residing on the premises and is ongoing in nature as opposed to temporary (Example: garage sales, lemonade stands) and is incidental and secondary to the use of the property as a residential dwelling. Yearly business license is required before conducting business.
54. Homeowner's Association. A non-profit organization operating under recorded legal agreements running with the land. Generally, each lot owner in a condominium or similar planned development becomes a member upon purchase and each lot is subject to a charge for a proportionate share of the expenses for the organization's activities, such as landscaping, maintaining common areas, recreation facilities, parking areas and enforcement of CC&Rs (Conditions, Covenants & Restrictions).
55. Household Pets. Animals or fowl ordinarily permitted in and around the house or yard, and kept for company or pleasure, such as dogs, cats, and canaries, but not including the keeping of normally dangerous animals, such as lions, tigers, etc. or domesticated farm animals such as pigs, horses, cows, goats, ducks, pigeons etc. (see Title 9, Perry City Animals Ordinance for limitations on household pets.)
56. Improvements. Work, objects, devices, facilities or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, streets, paving, grading, construction to required standards, water systems, sewer systems, sidewalks, curbs and gutters, drainage facilities, street trees, street signs, streetlights, traffic control or safety devices, fire hydrants, and such other facilities or construction as is required by the Subdivision Ordinance, subdivision regulations, or by the Planning Commission and/or City Council for the necessary, proper development of a proposed subdivision.
57. Infrastructure. Facilities and services needed to sustain industrial, manufacturing, residential and commercial activities. It includes sewer and water lines, streets and roads, communication lines and public facilities such as fire houses, parks, etc.
58. Inundation. Water of sufficient depth and/or motion to damage property by presence of water, moving debris or deposit of silt is known as inundation.
59. Kennel/Cattery. The keeping of three or more dogs/cats, with equipment and supplies for the business of breeding, raising, and/or boarding of dogs/cats for business purposes. A business license is required for a kennel or cattery.
60. Lateral Sewer. A lateral sewer is any sewer line that discharges into another sewer line and has only the building sewage as a tributary to it.
61. License (Business). A written business license certificate issued by the business licensing authority and approved by the City Council allowing a person to operate and maintain a home occupation or business under the provisions of the Perry City Business License Code and regulations issued hereunder.
62. Limited Number of Livestock. The keeping of livestock shall not exceed six (6) large animals per acre, such as any combination of the following examples: Horses, cattle, sheep, goats, pigs, etc. and shall not exceed 18 small animals per acre, such as chickens, turkeys, ducks, geese, pigeons, peacocks, rabbits and other small fur bearing animals, etc.
63. Local Attorney. The attorney employed by or officially representing Perry City.
64. Local Building Inspector. The building inspector employed by or officially representing Perry City.
65. Local Engineer. The engineer employed by or officially representing Perry City.
66. Local Jurisdiction. Local jurisdiction refers to Perry City.
67. Local Surveyor. The surveyor employed by or officially representing Perry City.
68. Lot. A parcel or unit of land described by metes and bounds and held or intended to be held in separate lease or ownership, or a parcel or unit of land shown by a parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract. A parcel of land occupied or to be occupied by a building or a group of buildings, together with such yards, open spaces, with width and area as are required by Perry City Ordinance; having frontage upon a street, or upon a right-of-way approved by an Appeal Authority. These regulations may be waived by a Land Use Authority or Appeal Authority, as allowed by any Planned Unit Development, Cluster Housing Development, or other City ordinance. Not more than one dwelling structure shall occupy any one lot.
69. Lot, Corner. A corner lot is any lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed one hundred thirty-five degrees.
70. Lot, Restricted. A lot requiring adherence to special conditions and/or requirements to be met before a building permit can be issued or has an "R" designation on the recorded subdivision plat and a listed condition to be met for a building permit. The slope of the lot may be a reason for the restriction.
71. Lot Right-of-Way. A strip of land of not less than sixteen (16) feet in width connecting a lot to a dedicated street or right of way for use as private access to that lot.
72. Lot, Unrestricted. A lot having an average slope less than is prohibited by the Foothill Development Ordinance, Chapter 15.09 (Perry City Land Use Ordinance), and having the buildable area designated on the subdivision plat in which the lot is located with no "R" designation with the lot number.
73. Main Building. The principal building or dwelling on a lot recognized as the primary use of the property on which it is located.
74. Master Plan. A plan adopted by Perry City Council describing a certain aspect of the city or infrastructure for future development or current use such as the Transportation Master Plan, Trails Master Plan, Master Plan for Dale Young Park, etc. as subsidiary plans that may or may not be included as components of the General Plan
75. Mining Operation(s). Mining Operation(s) means those activities conducted on the surface of the land for the exploration for development of or the extraction of mineral deposits and/or raw materials from its natural occurrences, including surface mining and surface effects of underground mining including on-site transportation and other primary processing.
76. Mobile Home. A detached, single-family dwelling unit not less than six-hundred square feet in area, designed for long-term occupancy, and to be transported on it own wheels or on flatbed or other trailers or detachable wheels; containing a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, and ready for occupancy except for utility connections and other minor work. Pre-

sectionalized, modular, or prefabricated houses not placed on a permanent foundation shall be regarded as mobile homes. If placed upon a permanent foundation, such structures which meet all applicable building and housing codes, shall not be considered as mobile homes, but shall be regulated as conventional housing; and mobile homes which are so placed on permanent foundations and meet all applicable building and housing codes shall be regulated as conventional housing.

77. Mobile Home Lot. A lot within a mobile home subdivision designed to be used for the accommodation of one (1) mobile home.
78. Mobile Home Park. An area designed and approved by Planning Commission and City Council for occupancy by mobile homes, to be under a single ownership or management for mobile home space rental or lease. All requirements of the Mobile Home Parks and Mobile Home Subdivisions Chapter shall be met.
79. Mobile Home Space. A space within a mobile home park designed to be used for the accommodation of one (1) mobile home.
80. Mobile Home Subdivision. A subdivision designed and intended for residential use where the lots are to be individually owned or occupied by mobile homes exclusively. All requirements of the Mobile Home Parks and Mobile Home Subdivisions Chapter shall be met.
81. Modular/Manufactured Home. A permanent dwelling structure built in prefabricated units, which are assembled and erected on the site, or at another location and brought as a unit to the site; or as integral parts which have been built or assembled prior to incorporation in the building. A modular/manufactured home is classed as a mobile home until it is placed on a permanent foundation and complies with all governing building codes.
82. Nonconforming Building or Structure. A building or structure or portion thereof, lawfully existing at the time this chapter became effective which does not conform to all the height, area, and yard regulations herein prescribed in the zone in which it is located.
83. Nonconforming Use. A use which lawfully occupied a building or land at the time the zoning ordinance became effective and which does not conform to the use regulations of the zoning district in which it is located.
84. Official Map. A map which has been adopted as the official map of the local jurisdiction, showing existing public streets, streets on plats of subdivision which have been approved by the Planning Commission, and/or other street extensions, widenings, narrowings, or vacations which have been accurately surveyed and definitely located.
85. Off-site Facilities. Public or private improvements not within the boundaries of the subdivision and which provide serve to said subdivision are off-site facilities.
86. Off-Street Parking Space. The space required to park one (1) passenger vehicle, which space shall meet the requirements of the Zoning Ordinance, Parking Ordinance and is located off of the public right of way.
87. On-site Facilities. Construction and/or placement of public or private improvements within the boundaries of the subdivision for which they provide service are on-site facilities.
88. Open Space. Areas reserved in parks, courts, playgrounds, golf courses, subdivisions and other similar open areas to meet the density requirements of planned unit developments.
89. Operator. Any person, firm, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind either public or private, owning, controlling, or managing mining operations or proposed mining operations including exploring for or developing of mineral deposit sites.
90. Oversized Facilities and Utilities. The words "oversized facilities and utilities" mean facilities and utilities which are designed, with added capacity, width, depth, etc., with the express purpose of making service available to other properties outside the legally described perimeter of the subdivisions or developments for which the facilities and utilities are constructed.
91. Owner. Any person, corporation, association, partnership, or other representative of any kind, either public or private, owning, controlling or other entity recognized by law, and his or its lessees, permitees, assignees, or successors in interest.
92. Parcel of Land. A contiguous quantity of land, in possession of, owned by or recorded as the property of the same person and/or entity. (Land recorded as the same ownership, but physically divided by a public highway, road or street is not considered contiguous and is therefore, two or more individual parcels.
93. Parking Lot. An open area, other than a street, used for the parking of more than four motor vehicles and available for public use, whether free, for compensation or as an accommodation for clients and customers.
94. Pedestrian Way. A right of way designed for use by pedestrians and not intended for use by any vehicle or animal that is ridden or led. It may be a crosswalk, walkway, sidewalk or path and may be located with or without a street right of way, at grade or grade separated from vehicular traffic.
95. Per Cent of Slope or Grade. An expression of rise or fall in elevation along a line perpendicular to the contours of the land, connecting the highest point of land to the lowest point of land within an area or within a lot.
96. Permanent Monument. Any structure of concrete, masonry and/or metal placed on or in the ground intending to remain as placed for the purpose of indicating the location of something, including those expressly placed for surveying reference and meet the requirements of the local jurisdiction for permanent monuments or markers.
97. Plan, Sketch. A generalized layout of a proposed subdivision or development, with accompanying general proposals and intentions of the developer, relating the proposed subdivision or development to its area, to public utilities, facilities, and services, and to special problems which may exist in the area.
98. Planned Unit Development (PUD). An integrated design for development of residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements.
99. Planning Commission. The administrative body charged with the development of the General Plan, formulation and administration of the zoning map and ordinance and the review of any other land-use matters designated by the Mayor and City Council. The Commission is an advisory board to the City Council and City Officials (see Chapter 15.03, Perry City Land Use Ordinance).
100. Plot Plan. A drawing of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, setbacks and other such information as may be required by the Planning Commission or Building Inspector.
101. Preliminary Plat. A drawing, to scale, representing a proposal for a subdivision of land, meeting the preliminary plat requirements (dimensions, topography, existing structures, etc.) of the Perry Municipal Code Title 14, Subdivision Ordinance, Including Special Exceptions and Flag Lots.
102. Principle Use. A principal use is any main use of land, a building, an area, or a structure that is distinguished from conditional, accessory, or secondary uses. (Example: A home is a principal use on a lot. Pools, detached garages or sheds are accessory uses.)
103. Protection Strip. A strip of land between the boundary of a subdivision and a street within the subdivision for the purpose of controlling the access to the street by property owners abutting the subdivision is a protection strip.
104. Public Road. Any road, street, alley, lane, court, place, viaduct, tunnel, culvert, or bridge laid out or erected as such by the public, or dedicated or abandoned to the public, or made such in an action for the partition of real property, and includes the entire area within the right-of-way.
105. Reclamation. Actions performed during or after mining operations to shape, stabilize, re-vegetate, or otherwise treat the land affected in order to achieve a safe, stable, ecological condition. The mined lands will be reclaimed to a useable condition which is readily adaptable to alternate land uses and create no danger to public safety. These rehabilitated or reclaimed conditions will be consistent with the Perry land use plan in the immediate area. The reclamation process may extend to affected lands surrounding the mined lands and may require backfilling, grading, re-soiling, re-vegetation, soil compaction, stabilization, and other measures.
106. Rural Road. A street (not completed to Perry City's minimum standards), existing, designated and approved by the Planning Commission and City Council, which is supplementary to a collector street and of limited continuity, which serves or is intended to serve the local needs of a neighborhood and gives access to abutting property. A Rural Road has less construction requirements for atemporary period as determined by City Council. Abutting property owners must sign agreements pertaining to the installation of improvements to the road at a later date.
107. Sign, Permanent. A sign constructed or erected for advertising, informational or directional purposes and intended to be used on an on-going basis.
108. Sign, Temporary. A sign used for advertising, informational, directional or political purposes and intended to be used for a short, defined time period. Temporary signs are intended to advertise seasonal products or special events. Temporary signs shall be removed as soon as the event is ended or products advertised are sold.
109. Site Plan Review. The process whereby local officials, Planning Commission and/or staff review the site plans of a developer to assure that the plans meet all ordinance requirements, the purposes and standards of the zone, provide for public facilities and protect adjacent property.
110. Special Use Application. An application for any of the following:

    a. A Conditional Use Permit; or
    b. A non-conforming use or non-complying structure; or

c. A limited non-conforming use or limited non-complying structure; or
d. A special exception; or
e. A zoning location/boundary policy decision; or
f. Any other special application.

111. Spot Zoning. There is no statutory reference to spot zoning in the Utah Code Annotated. The definition and legal status of spot zoning are founded entirely upon Utah case law. The cases relative to “Spot Zoning” are generally cases where a particular small tract of land within a large district is specially zoned so as to impose upon it restrictions not imposed upon the surrounding land. Thecreation of a small (single parcel) zoning district for a use that is generally incompatible with surrounding zoning is a logical suspect for a claim of “Spot Zoning.”
112. Story. The space within a building included between the surface of any floor and the surface of the ceiling next above.
113. Story, Half. A story with a least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor immediately below it.
114. Street. A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare, not less than fifty (50) feet wide which has been made public by right of use and which affords the principal means of access to abutting property.
115. Structure. Anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground; includes "building".
116. Subdivider. The word "subdivider" means an individual, corporation, or registered partnership owning or controlling any tract, lot, or parcel of land to be subdivided; or a group of two or more persons owning any tract, lot or parcel of land to be subdivided who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the purpose of the subdivision.
117. Subdivision. The division of any tract, lot or parcel of land into two (2) or more lots, plots, sites, or other divisions of land for the purpose, whether immediate or future sale, lease, or of building development, provided that said term `subdivision' shall not include a `bona fide division or partition of agricultural land for agricultural purposes' as defined herein, nor a division of land into two (2) or more parcels, each of which is twenty (20) acres or more in area. The word "subdivision" and any derivative thereof shall have reference to the term `subdivision' as herein defined.For the purpose of these regulations, a subdivision of land shall include:

    a. The dedication of a road, highway, or street through a tract of land, regardless of area, which may create a division of lots or parcels constituting a "subdivision" or,
    b. Re-subdivision of land heretofore divided or platted into lots, sites, or parcels.
    c. Division of land under P.U.D. provisions where street and/or access-to-lots are owned and maintained by a private lot owners association.

118. Subdivision, Cluster. A subdivision of land in which the lots have areas less than the minimum lot area of the district in which the subdivision is located, but which complies with the Cluster Subdivision provisions of the Zoning Ordinance and in which a significant part of the land is privately reserved or dedicated as permanent common open space to provide low-density character for the residential lots in the subdivision.
119. Subdivision Land Use Authority. The group, board, or council designated and given authority to approve and otherwise act on subdivisions and all matters related thereto, in behalf of Perry City, which currently is the City Council.
120. Townhouse - Condominium Development. A single family dwelling of one, two or three stories connected to another house by a common wall placed in a high density or commercial zone. Condominium standards apply with reduce density.
121. Transition Zone. Buffer lots for reduction of zones between developments. See note under sketch or concept plan.
122. Tri-plex. A building designed and built as a dwelling for occupancy by three (3) families.
123. Use, Accessory. A subordinate use customarily incidental to and located upon the same lot occupied by a main use. See – Accessory Use or Building.
124. Utilities. Public services including but not limited to culinary water lines, pressure and gravity irrigation lines, sanitary and storm sewer lines, natural gas lines, electric power, cable T.V., and telephone transmission lines, together with all poles, wires, underground conduit and junction boxes, guy wires and bracing, etc.
125. Variance.A device which grants a property owner relief from certain provisions of the zoning ordinance, because of particular physical surroundings, shapes, or topographical conditions of the property. Variances are granted when compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money. The petitioner must prove that a physical hardship exists, and that the request would not be alien to the design or intent of the area. Only the Administrative Law Judge (as an Appeal Authority) is vested with the authority to grant variances. Any appeal of the board decision must be made to the district courts. There is no legal way to grant a variance to alter the use of a piece of property.
126. Vicinity Plan. A map or drawing, to scale, showing the physical relationships of a proposed development to existing or proposed streets, buildings, and utilities; other relevant information such as special terrain or surface drainage; and existing zoning classifications of all land within three hundred (300) feet of the property proposed for development.
127. 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.
128. Yard. A space on a lot other than a court, unoccupied and unobstructed from the ground upward by buildings except as otherwise provided herein.
129. Yard, Front. A space on the same lot with a building, between the front line of the building 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 for the building.
130. Yard, Rear. A space on the same lot with a building between the rear line of the building and the rear lot line that extends the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building. The rear yard shall be located opposite of the front yard.
131. Yard, Side. A space on the same lot with a building that is between the side line of the building and side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and side of building. On corner lots, the property owner may choose either frontage as the side yard.
132. Yard, Street Side. A space on the same lot with a building and is between the side of the building and the street.
133. Zone. A district as described on the zoning map or in the zoning ordinance.
134. Zoning Administrator. The local official designated by the local governing body to enforce the regulations of the Zoning Ordinance. The Zoning Administrator may also be the Building Inspector or a City Council Member.
135. Zoning Map. The officially adopted map of Perry City specifying the districts and/or areas zoned and the zoning designation of each is the zoning map.
136. Zoning Ordinance. The Zoning Ordinance of Perry City defining zoned areas and permitted land uses within zones and other related information and requirements regarding land use within the City also known as the “Perry City Land Use Ordinance”.

15.01.070 Land Use Agreements

The city may review, approve, or otherwise enter development agreements, site improvement agreement, and any other agreement or document relating to land use. The city may also review, enter, and otherwise approve any covenants, conditions, and restrictions relating to any development regardless of whether or not the city is a party. Such agreements:

1. May contain, without limitation, vesting of zoning and uses, site plan and subdivision approval and recording processes, aesthetic standards and requirements, a requirement that the development agreement be recorded against the real property, and/or other requirements.
2. To the extent there is an inconsistency between the applicable land use ordinances, standards, or guidelines and any development agreement or similar document, the development agreement shall govern, except where health and safety regulations apply, the development or a component thereof has changed in any way, the site or use is being changed or amended, or the agreement is no longer valid or applicable.

15.03 Planning Commission Rules Of Procedure

15.03.010 General Provisions Regarding Planning Commission
15.03.020 Members Of The Planning Commission
15.03.030 Terms, Vacancies, Training, And Removal Of Members
15.03.040 Designation Of Officers And Staff
15.03.050 Procedures For Meetings
15.03.060 Ethics And Conflict Of Interest
15.03.070 Procedures To Be Followed By Applicants
15.03.080 Rules Governing Public Input
15.03.090 Planning Commission Votes
15.03.100 Decisions

15.03.010 General Provisions Regarding Planning Commission

15.03.010.1 Governing Statutes And Ordinances
15.03.010.2 Authority Limited To What Is Specially Identified
15.03.010.3 Functions Of The Planning Commission

15.03.010.1 Governing Statutes And Ordinances

The Perry City Planning Commission (herein referred to as "Planning Commission") shall be governed by the provisions of the Utah Municipal Code, Title 10, Chapter 9a, Sections 301 through 305 (Planning Commission), 1953, as amended, and by the other sections in Title 10, Chapter 9a, and by all other applicable state statutes and City ordinances (including Chapter 15.05 and this Chapter 15.03), and shall be an advisory body to the City Council, and shall serve as a "land use authority" and as a "quasi-legislative body," as per Chapter 15.05.

15.03.010.2 Authority Limited To What Is Specially Identified

The Planning Commission may only exercise authority which is specifically identified in the state statutes or in the City ordinances, and may not exercise any authority over business licensing, animal regulations, nuisances, or zoning enforcement, etc., unless specifically authorized by ordinance (this does not preclude participation in a conditional use permit process). The Planning Commission shall not act as an Appeal Authority and shall not act as a "final" land use authority (except in a limited capacity for limited review permits).

15.03.010.3 Functions Of The Planning Commission

The Planning Commission shall have the following duties and responsibilities:

1. Propose, review, and recommend amendments and updates of the Perry City General Plan to the City Council.
2. Propose, review, and recommend amendments of the Zoning Ordinance and Zoning Map, the Subdivision Ordinance and other ordinances related to building and land use to the City Council.
3. Receive and review annexation proposals and forward recommendations to the City Council.
4. Propose, review, and recommend amendments of the Perry City Annexation Declaration Policy to the City Council.
5. Receive and review subdivision requests and forward recommendations to the City Council.
6. Receive and review design review/site plan applications and forward recommendations to the City Council.
7. Receive and review limited review permit applications, as per Sections 15.05.040(C1) and 15.05.040(C2), including receiving and reviewing site plans for all residential building construction not located in an approved subdivision.
8. Receive and review conditional use permit applications and forward recommendations to the Special Uses and Appeals Board.
9. Provide information as requested by the City Council on various building problems and requests.
10. Exercise other actions authorized in the Perry Municipal Code or which are necessary to enable the Planning Commission to perform its functions or to complete directives from the City Council.

15.03.020 Members Of The Planning Commission

15.03.020.1 Number Of Members And Manner Of Appointment
15.03.020.2 Residency Requirement
15.03.020.3 Powers And Duties Of Alternate Planning Commission Members

15.03.020.1 Number Of Members And Manner Of Appointment

The Planning Commission shall consist of seven (7) permanent members and two (2) alternate members. The members shall be appointed by the Mayor with the advice and consent of the majority of the City Council. Members of the City Council may submit names of candidates for the Mayor to consider for appointments.

15.03.020.2 Residency Requirement

All of the permanent and alternate members of the Planning Commission shall be residents of Perry City for at least thirty (30) days when appointed and during the time of appointment. If a permanent or alternate member of the Planning Commission moves outside of the Perry City boundaries (and/or is no longer in compliance with Section 15.03.030.6), said member shall be immediately and automatically removed as a member of the Planning commission without the need to comply with any of the provisions of Sections 15.03.030.8 and 15.03.030.9.

15.03.020.3 Powers And Duties Of Alternate Planning Commission Members

Alternate members shall serve in the event a permanent member is unable to attend. A permanent member should contact an alternate member to take his/her place on the Planning Commission if he/she is going to be absent. An alternate member who is seated with the Planning Commission shall have the same powers to participate in discussions and vote as the permanent member he/she replaces. Alternate members are encouraged to attend each meeting and if not seated with the Planning Commission, may be recognized by the Chair to give comments before a motion is entertained. An alternate member does not vote unless seated in the place of a permanent member.

15.03.030 Terms, Vacancies, Training, And Removal Of Members

15.03.030.1 Terms And Vacancies
15.03.030.2 Commencement Of Terms: Time Of Appointment
15.03.030.3 Initial Training Qualifications For Permanent Planning Commission Members
15.03.030.4 Continuing Training Qualifications For Permanent Planning Commision Members
15.03.030.5 Not A City Official

15.03.030.6 No Land Use/Real Estate Compensation (On Owner Or Commission Basis)
15.03.030.7 No Compensation (From The City) For Members Of The Planning Commission
15.03.030.8 Procedures For Removal (For Cause) Of Planning Commission Members
15.03.030.9 Decision Regarding Removal Of A Planning Commission Member

15.03.030.1 Terms And Vacancies

Each permanent member of the Planning Commission shall be appointed for a four (4) year term, which runs from January 1 to December 31 four years later. Each alternate member shall be appointed for an indefinite term, not to exceed four (4) years from the date of appointment. Alternate members shall be considered first to fill permanent member vacancies. No member shall serve more than ten (10) consecutive years of combined service as an alternate and permanent member, as per Section 15.05.020(B5). Any vacancy in the membership of the Planning Commission (by reason of death, resignation, removal, disqualification, or other reason) shall be filled for the remainder of the un-expired term by appointment from the Mayor (and approval by the City Council), as per Section 15.03.020.1.

15.03.030.2 Commencement Of Terms: Time Of Appointment

Members of the Planning Commission, who are appointed for a full term, shall commence their terms of office at the first available meeting in January. Members of the Planning Commission, who are filling vacancies, shall commence their terms of office at the next available meeting after appointment. Before or during the last meeting of November each year, the Mayor (and City Council) shall complete the appointment process for vacancies of members of the Planning Commission whose terms expire in December, as per Section 15.03.020.1.

15.03.030.3 Initial Training Qualifications For Permanent Planning Commission Members

Each permanent member of the Planning Commission shall, before being appointed, or within one (1) year after being appointed, show proof of having taken the two day Certified Community Planner Seminar organized by the Utah Local Governments Trust or twelve (12) hours of equivalent training.

15.03.030.4 Continuing Training Qualifications For Permanent Planning Commision Members

Each member of the Planning Commission shall, in the second and subsequent years, after being appointed, show proof of completing at least six (6) hours of approved land use authority training during each one-year (January to December) time period as a member. The City shall provide "on line" or "in house" (initial and continuing) training alternatives and shall cover all costs of training (and travel, etc.).

15.03.030.5 Not A City Official

No member of the Planning Commission, when appointed or during the time of appointment, may be a member of the Governing Body, City Staff, employee, independent contractor, or serve in any capacity as staff for or a member of another land use authority or Appeal Authority of Perry City (but may be an elections worker, volunteer, or committee member).

15.03.030.6 No Land Use/Real Estate Compensation (On Owner Or Commission Basis)

No Member of the Planning Commission, when appointed or during the time of appointment, may receive any compensation in the field of selling, developing, building, appraising, insuring, and/or financing real estate, but may be employed with another governmental agency or business entity, as a non-owner (and non-full time commission basis) expert or employee who assists in these processes (with a maximum of one non-full time "commission basis" member of the Planning Commission to serve at any given time).

15.03.030.7 No Compensation (From The City) For Members Of The Planning Commission

Each member of the Planning Commission shall serve without compensation, except that each member is entitled to have the costs of training, including per diem and mileage costs, reimbursed or paid for by Perry City (and other reasonable expenses approved by the City Council).

15.03.030.8 Procedures For Removal (For Cause) Of Planning Commission Members

An alternate member of the Planning Commission may resign at any time and may be removed without cause (and without the need for any charges or formal action) by either: (1) the Mayor and/or (2) the City Council. A permanent member of the Planning Commission may resign at any time and may be removed for cause by the City Council upon written charges (and after a meeting regarding the issue). Such written charges may include high crimes and misdemeanors, dereliction of duties, failure to attend at least half of the scheduled meetings (in a six month period), willful violation(s) of City ordinances(s) and/or state or federal law, insubordination or disrespectful conduct, egregious violations of rules of ethical conduct, failure to complete required training curriculum as required by the Governing Body, or violation of the other qualifications and conditions set forth herein. The written charges shall be provided at least five (5) days before the meeting and the member of the Planning Commission may choose whether the meeting shall be open to the public or closed to just the member of the Planning Commission, his/her representative (if any), the Governing Body, their representative (if any), and a minutes clerk. If no choice is made by the member, the meeting shall be closed, as set forth herein.

15.03.030.9 Decision Regarding Removal Of A Planning Commission Member

A decision (to remove or not to remove, with or without conditions) by the City Council regarding a permanent member of the Planning Commission shall either be rendered in the presence of the member at the meeting or may be taken under advisement and issued within 20 days thereafter.

15.03.040 Designation Of Officers And Staff

15.03.040.1 Officers And Staff And Their Duties
15.03.040.2 Chair, Vice Chair, And Acting Chair Of The Planning Commission
15.03.040.3 Officer Terms, Vacancies, And Duties
15.03.040.4 Community Development Department To Act As Staff To The Planning Commission
15.03.040.5 Community Development Department To Provide Minutes, Agendas, And Information Regarding Land Use Applications To The Planning Commission

15.03.040.1 Officers And Staff And Their Duties

The officers of the Planning Commission shall consist of a Chair and a Vice Chair. The staff of the Planning Commission shall consist of the Community Development Department and the City Attorney (or an Assistant City Attorney).

15.03.040.2 Chair, Vice Chair, And Acting Chair Of The Planning Commission

During one of the meetings in January each year, the Planning Commission, by a majority of the quorum in attendance, shall recommend for appointment, from among the qualified permanent members of the Planning Commission (who have at least two years of service remaining or who are being re-appointed), a Vice Chair/Chair-Elect, for a two-year term, with no limit as to the number of consecutive years. The Vice Chair/Chair-Elect shall serve one year as Vice-Chair, followed by one year as Chair (and with a

Chair to be appointed in January, 2008 for a one year term in 2008). Each such recommendation for officer appointment shall be acted upon by the Governing Body as a group, at a meeting in January or as soon thereafter as possible, the Mayor and City Council Members each having one vote, and with the Mayor's vote and at least three City Council Members' votes being required to appoint, reject, or take other action. If the recommendation is rejected, the Planning Commission shall make another recommendation, and if rejected a second time, the Mayor and City Council shall make an appointment (without further recommendation).

15.03.040.3 Officer Terms, Vacancies, And Duties

Candidates for officer vacancies may be appointed in the same manner. The terms of office for officers shall be from January 1 to December 31, but shall "hold over" until their successors are appointed. The Chair, or in his/her absence or incapacity, the Vice Chair, shall approve all agendas, and shall preside over the meetings he/she attends, and shall execute all official documents of the Planning Commission for said meetings. If the Chair and Vice Chair are both absent and/or incapacitated, an Acting Chair, selected (from among the permanent and alternate members participating) by a majority of the quorum in attendance, shall fulfill the referenced functions. The Chair, Vice Chair, and Acting Chair may execute documents and act on behalf of each other and shall always vote, as per Section 15.03.050.2.

15.03.040.4 Community Development Department To Act As Staff To The Planning Commission

The Community Development Director ("Director"), as the head of the Community Development Department ("Department"), shall ensure that the City engineer(s), planner(s), and inspector(s), etc., provide adequate staffing and equal access to municipal resources for each member of the Planning Commission. The Director shall also work with the City Recorder to provide a Community Development Clerk and/or Minutes Clerk to assist the City planner(s) and other staff with accepting all applications and preparing all agendas and minutes for the Planning Commission, and to maintain records of the Planning Commission, including all applications and files of proceedings and actions taken in connection therewith.

15.03.040.5 Community Development Department To Provide Minutes, Agendas, And Information Regarding Land Use Applications To The Planning Commission

The Department shall, not less than three days prior to any meeting of the Planning Commission, transmit to each member of the Planning Commission an agenda (with the time of the meeting), a copy of the minutes of the previous meeting(s), and information pertinent to the requests to be acted upon by the Planning Commission at the meeting (including records of actions taken by the Department and/or other land use authorities, etc.). If the three day agenda deadline is missed, then the meeting is automatically cancelled. If the three day information deadline is missed, then the agenda item may be discussed, but not acted upon. The Department shall be responsible for posting the agenda and notifying interested parties of upcoming the Planning Commission meetings. The Department shall ensure that all granted/approved plats and other relevant land use documents are recorded in the County Recorder's Office, at the expense of the property owner or appropriate interested party.

15.03.050 Procedures For Meetings

15.03.050.1 Planning Commission Quorum
15.03.050.2 Planning Commission: Decisions By Majority (Roll Call) Vote.
15.03.050.3 Members To Vote On All Issues And To Recuse/Abstain When Conflicts Arise
15.03.050.4 Rules Of Procedure; City Attorney To Decide Rules Application
15.03.050.5 Time Of Planning Commission Meetings
15.03.050.6 Protecting Due Process Rights: Constitutional Takings
15.03.050.7 Reliance Upon City Council (Or Other City) Rules Of Procedure

15.03.050.1 Planning Commission Quorum

The procedures for meetings for the Planning Commission shall be as set forth in the following sections. A quorum of at least four (4) members of the Planning Commission (voting, not recused) is required to start or convene a meeting, to continue a meeting, and to act on any application or issue, except that if at least five (5) members of the Planning Commission are present, then at least three (3) members (voting, not recused) are required to act on any application or issue, as per Section 15.03.090.2(1). A quorum of three (3) members is allowed if:

1. There is at least one (1) permanent member vacancy on the Planning Commission; and
2. The meeting was listed on the annual meeting notice.

15.03.050.2 Planning Commission: Decisions By Majority (Roll Call) Vote.

All votes shall be by "Roll Call," and the Chair, Vice Chair, or Acting Chair shall always vote (and shall always vote last). A majority affirmative concurring vote of the quorum in attendance (excluding members recused, as per Section 15.03.050.3), with a minimum of three (3) affirmative votes, is required for any motion or vote to be approved. If only three (3) members are present and voting (not recused) and the vote is not unanimous (in favor or opposed), then the application or issue is automatically tabled to the next meeting. The Planning Commission shall operate in compliance with applicable federal, state, and municipal laws and regulations.

15.03.050.3 Members To Vote On All Issues And To Recuse/Abstain When Conflicts Arise

All members: (1) may ask applicants and interested parties questions; and (2) shall vote on all issues, except where they recuse themselves (also known as abstaining) for a conflict of interest or other ethical issue. Reasons to recuse include: (1) a financial conflict of interest; or (2) a situation in which a member was previously a member of another land use authority or Appeal Authority which acted on the issue (or on a related issue) now before the Planning Commission; or (3) another significant legal or ethical issue. A member may either vote or recuse regarding approval of minutes for a meeting he/she did not attend. To "recuse" means to leave the meeting (unless the issue is approval of the minutes) for the relevant issue and to not participate in any discussion, motions, or voting (unless the member is an applicant, in which case said member may be present and participate as an applicant). For most other ethical issues, disclosure (without recusing/abstaining) may be adequate. As per Section 15.03.050.4, the City Attorney (or Assistant City Attorney), as parliamentarian, shall decide any issues as to how the rules of ethics shall be applied, subject to a procedural appeal/petition. See also Section 15.03.060, entitled "Ethics and Conflicts of Interest."

15.03.050.4 Rules Of Procedure; City Attorney To Decide Rules Application

Roberts Rules of Order, newly revised, shall govern meeting conduct, unless other appropriate rules of procedure are adopted, or unless such rules conflict with other provisions of the Municipal Code. The Chair (or Vice Chair or Acting Chair) of the Planning Commission may administer oaths and compel the attendance of witnesses. The City Attorney (or Assistant City Attorney), as parliamentarian, shall decide any issues as to how the rules of procedure shall be applied, subject to a procedural appeal/petition.

15.03.050.5 Time Of Planning Commission Meetings

Meetings of the Planning Commission shall be held at least once per month, unless a meeting is cancelled due to lack of business. The Planning Commission may meet on first and third Thursdays, or at any other time, as needed. All meetings shall follow the requirements of the Open and Public Meetings Act, "The Sunshine Law," Title 52, Chapter 4 of the Utah Code Annotated, 1953, as amended. Special meetings may be called by the Chair or by three (3) of the other members of the Planning Commission at any time, provided that at least twenty-four (24) hours notice has been given each member and the press before a special meeting is held. In addition to the regular meetings, the Planning Commission may schedule field trips, work sessions, and executive sessions, etc., as allowed by law.

15.03.050.6 Protecting Due Process Rights: Constitutional Takings

Each application or petition shall be conducted as provided in the ordinance, and the Planning Commission shall respect the due process rights of each of the participants. Particular care shall be taken with regards to exactions, condemnations, "constitutional takings," and similar issues. See Section 15.05.040(E)(1) regarding avoiding unnecessary or excessive delays.

15.03.050.7 Reliance Upon City Council (Or Other City) Rules Of Procedure

The Planning Commission and the City Attorney may rely upon the City Council Rules of Procedure or other Perry City Rules of Procedure in interpreting a Planning Commission rule of procedure or to provide for a rule where no other rule exists.

15.03.060 Ethics And Conflict Of Interest

15.03.060.1 Definition: Conflict Of Interest
15.03.060.2 Action Required
15.03.060.3 Determination
15.03.060.4 Ethics Rules
15.03.060.5 Ethical Guidelines Chart

15.03.060.1 Definition: Conflict Of Interest

Any private benefit obtained directly or indirectly, creating material or personal gain or providing an advantage to self, relatives, friends, or groups and associates which hold some share of the Planning Commission member's loyalty. Mere membership in a group shall not be considered a conflict of interest unless such membership would prevent an objective consideration of the matter at hand by the Planning Commission member.

15.03.060.2 Action Required

Any Planning Commission member who experiences a conflict of interest, should declare his/her interest publicly, abstain from voting on the action and excuse him/herself from the room during consideration of the action (but may fulfill the role of applicant if he/she is an applicant). He/she should not discuss the matter privately with any other Planning Commission member, as per Section 15.03.050.3. The vote of a Planning Commission member experiencing a conflict of interest who fails to disqualify himself/herself shall be disallowed. No Planning Commission member should engage in any transaction in which he/she has a financial interest, directly or indirectly, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.

15.03.060.3 Determination

A Planning Commission member who has any question about a conflict should raise the matter with the other Planning Commission members and the City Attorney in order to determine whether a conflict of interest exists (see also Sections 15.03.050.3 and 15.03.050.4).

15.03.060.4 Ethics Rules

The Planning Commission shall abide by the provisions of the American Planning Association and shall adhere to the ethical rules set forth by state law (see Utah Code Annotated §§67-16-1 et seq. and §§10-3-1301 et seq., 1953, as amended), by City ordinance, or by other professional codes of ethics and conduct to:

1. Serve the public interest.
2. Support citizen participation in planning.
3. Recognize the comprehensive and long-range nature of planning decisions.
4. Expand choice and opportunity for all persons.
5. Facilitate coordination thorough the planning process.
6. Avoid conflicts of interest.
7. Render thorough and diligent planning service
8. Not seek or offer favors.
9. Not disclose or improperly use confidential information for financial gain.
10. Ensure access to public planning reports and studies on an equal basis.
11. Ensure full disclosure at public hearings.
12. Maintain public confidence.

15.03.060.5 Ethical Guidelines Chart

The Planning Commission shall also abide by the provisions of this Ethical Guidelines Chart:

Function or Role	Can Public Clamor be Considered?	Discretion in Acting on Agenda Item	Ex Parte Communication Allowed?
Quasi-Legislative	Yes	A Lot	Yes (No Disclosure Necessary)
Administrative	No, Must Follow Ordinances/Standards	Not Much	Yes (Disclosure is Necessary)
Quasi-Judicial*	No, Must Follow Ordinances/Standards	Not Much	No (Never Allowed)

*Conditional Use or Other "Special Use" Permit/Application (see Section 15.05.040(D1).

15.03.070 Procedures To Be Followed By Applicants

15.03.070.1 Deadline For An Application To Be On An Agenda
15.03.070.2 Mandatory Appearance At Meetings
15.03.070.3 Application Form
15.03.070.4 Information To Be Included On The Application

15.03.070.1 Deadline For An Application To Be On An Agenda

In order to be on a Planning Commission agenda, an application or request, with all necessary documentation, shall be filed with the Community Development Department at least

fourteen (14) days prior to the meeting, by 2:30 p.m. The Community Development Director shall be empowered to make a procedural exception and allow the 14-day time period to be reduced to as few as 10 days (prior to the meeting, at 2:30 p.m.) if the Director determines that a City official caused a delay or that there is an unusual emergency which is outside of the control of the applicant.

15.03.070.2 Mandatory Appearance At Meetings

Except for limited review permits, no consideration will be given and no action will be taken with regards to any land use application(s) on a Planning Commission agenda unless the applicant (or a representative of the applicant) is present at the time and place designated on the Planning Commission agenda; the Chair (or Vice Chair or Acting Chair) shall declare such agenda item(s) automatically tabled if an applicant or representative is not present by the time that the land use applications portion of the Planning Commission agenda is completed.

15.03.070.3 Application Form

Requests must be submitted on an application form provided by the City.

15.03.070.4 Information To Be Included On The Application

The following information to be included on the application:

1. The applicant's name, address, and phone number.
2. The City street address of the subject property (may be obtained from the County or City).
3. A statement of the request with all supporting evidence or facts.
4. A plot plan showing the lot dimensions and area, and the location, uses, dimensions, and set backs of all existing and proposed buildings.
5. A filing fee payable to Perry City.

   If applicable:

6. A legal description and current ownership plat of the property (may be obtained from the County Recorder or from the City).
7. A list of landowners and their addresses for all property within three hundred (300) feet of the property in question.
8. Anything else required by Section 15.05.040, especially by 15.05.040(B)(1).

15.03.080 Rules Governing Public Input

15.03.080.1 Chair To Recognize Speakers
15.03.080.2 One Individual Speaks At A Time
15.03.080.3 Time Limit To Speak
15.03.080.4 Limit Redundant Comments
15.03.080.5 Motion To Limit (Or End) Discussion
15.03.080.6 Public Hearing And Public Comments Rules

15.03.080.1 Chair To Recognize Speakers

No one speaks until recognized by the Chair (or Vice Chair or Acting Chair).

15.03.080.2 One Individual Speaks At A Time

Only one person speaks at a time. The members of the audience will not interrupt or attempt to ask or answer questions until the Chair recognizes them.

15.03.080.3 Time Limit To Speak

Once recognized by the Chair, the speaker may speak for or against the application or issue for three (3) minutes (more for complex issues). The Chair will recognize no person more than two (2) times in order to give more people the opportunity to address the issue.

15.03.080.4 Limit Redundant Comments

The Chair will attempt to limit redundant comments and moderate the discussion.

15.03.080.5 Motion To Limit (Or End) Discussion

In the event public discussion of any agenda item becomes too lengthy, the Chair or any member of the Planning Commission may call for a vote on the pending matter or make a motion to limit (or end) time for discussion. Upon receiving a second to the motion to limit (or end) time for discussion, reasonable time limits (or an end) may be imposed upon the public discussion by a majority of the Planning Commission members present and voting (three "yes" votes required to pass any matter).

15.03.080.6 Public Hearing And Public Comments Rules

The following are rules regarding public hearings and public comments, which may be posted on the agenda in a manner similar to the following:

1. Please speak only once (maximum of three (3) minutes) per agenda item.
2. Please speak in a courteous and professional manner.
3. Do not speak to specific member(s) of the Planning Commission, staff, or public (please speak to the Chair or to the Planning Commission as a group).
4. Please present possible solutions for all problems identified.
5. No decision may be made during this meeting if the item is not specifically on the agenda (with action on Public Hearings to be potentially taken later in the meeting).

15.03.090 Planning Commission Votes

15.03.090.1 Procedure From Calling Agenda Item To Time Of Vote
15.03.090.2 Planning Commission Abstaining Votes: For Any Vote Other Than Minutes Or Procedural
15.03.090.3 Reconsideration Of An Open-Ended, Failed Vote
15.03.090.4 Open-Ended, Failed Vote Becomes A Final Vote If Not Timely Reconsidered
15.03.090.5 Final Vote: Limited Reconsideration After The Meeting Is Over
15.03.090.6 Immediate Forwarding Of Final Votes To Higher Authority
15.03.090.7 Remand From Higher Authority For Further Action
15.03.090.8 Retention Of Recommendations Of Staff

15.03.090.1 Procedure From Calling Agenda Item To Time Of Vote

The following procedures shall be observed for regular Planning Commission agenda items, as well as for ordinances and resolutions:

1. The Chair (or Vice Chair or Acting Chair) of the Planning Commission shall read the agenda item and shall have Planning Commissioner(s), staff, or others make any necessary presentations.
2. If a motion and second are required and made on the item, the process shall proceed; otherwise, further action on the item is not required (in accordance with Robert's Rules of Order and rules established by resolution or ordinance).
3. Following a motion and second, the Planning Commission may further discuss the motion.
4. After discussion by the Planning Commission, the Chair (or Vice Chair or Acting Chair), may allow public comment, by invitation only, to discuss the item, and the Planning Commission may then further discuss the item.
5. Once discussion is completed, the Chair shall call for a vote on the motion.

15.03.090.2 Planning Commission Abstaining Votes: For Any Vote Other Than Minutes Or Procedural

In the event of a vote on any motion, land use application, ordinance, or other issue besides a vote on minutes or a simple procedural or scheduling item (referred to herein collectively as "vote") during a Planning Commission meeting which results in 1 or more Planning Commission members abstaining or refusing to vote (referred to herein collectively as "abstain(s)" or "abstention(s)"), each abstention shall not count as a yes vote or as a no vote, as long as a conflict of interest, personal bias, or other ethical disclosure (does not have to be specific) is declared before or at the time of the vote; otherwise, the abstention shall count as a no vote. Two examples are as follows:

1. In the event of a 2 yes, 1 no, and 2 abstentions (with ethical disclosures) vote, the vote shall not be counted as a "final, failed vote"; but rather, shall be an "open-ended, failed vote," due to a lack of the minimum 3 yes votes or 3 no votes, as per Section 15.03.050.2.
2. In the event of a 3 yes, 3 no vote, said tie vote shall be an "open-ended, failed vote," due to the lack of a majority vote, as per Sections 15.03.050.2 and 15.03.090.3.
3. In the event of a 2 yes, 2 no vote, said tie vote shall be an "open-ended, failed vote," due to a lack of the minimum 3 yes votes or 3 no votes, and due to the lack of a majority vote, as per Sections 15.03.050.2 and 15.03.090.3.

15.03.090.3 Reconsideration Of An Open-Ended, Failed Vote

In the event of a 3 yes, 3 no tie vote, or in the event of any other vote which does not receive a majority vote of at least 3 yes votes or 3 no votes (referred to herein collectively as an "open-ended, failed vote"), the vote may only be reconsidered in a "timely fashion," defined as follows:

1. At the same meeting and/or at a Planning Commission meeting within 36 days of said meeting, or if approved by a motion of the Planning Commission within said 36 days to be placed on a later Planning Commission meeting agenda (within 36 days of said motion); and if
2. The issue is properly placed on the agenda for said meeting; and if
3. All other legal requirements are met, including the number of members of the Planning Commission present and voting (not counting abstentions) is equal to or greater than the number of members present and voting at the prior meeting (not counting abstentions).

15.03.090.4 Open-Ended, Failed Vote Becomes A Final Vote If Not Timely Reconsidered

If the open-ended, failed vote is not reconsidered and voted on with a "final, approved vote" in a "timely fashion," it shall be deemed a final, failed vote and it shall: (1) be immediately forwarded to the appropriate higher authority, as per Section 15.03.090.6; and (2) not be reconsidered at any subsequent Planning Commission meeting, except as Section 15.03.090.5 herein.

15.03.090.5 Final Vote: Limited Reconsideration After The Meeting Is Over

In the event of a vote which receives a majority with 3 or more yes votes ("final, approved vote") or with 3 or more no votes ("final, failed vote"), the vote shall be deemed a "final vote" at the conclusion of the meeting and shall thus not be reconsidered, unless the Planning Commission votes to reconsider at a subsequent meeting (before a higher authority has acted), with a finding that:

1. The prior vote was illegal or in violation of a contract or other legal obligation, or that the new vote is required by law; and
2. The issue is properly placed on the agenda by three (3) or more members of the Planning Commission; and
3. A higher authority has not yet acted on the recommendation; and
4. All other legal requirements are met, including the requirements of Section 15.03.090.3(3).

15.03.090.6 Immediate Forwarding Of Final Votes To Higher Authority

All final votes shall be immediately forwarded to the appropriate higher authority (City Council, Special Uses and Appeals Board, etc.), except for limited review permits (for which the Planning Commission is the final land use authority).

15.03.090.7 Remand From Higher Authority For Further Action

If a higher authority remands an item to the Planning Commission for further consideration, the scope of the item remanded shall not be treated as "reconsideration"; but rather, as a new item.

15.03.090.8 Retention Of Recommendations Of Staff

All recommendations of the city staff that are not specifically excluded or overruled by a Planning Commission vote shall be deemed accepted and part of said vote.

15.03.100 Decisions

15.03.100.1 Recording Votes, Including Abstaining Votes
15.03.100.2 Reasons And Conditions Of Decisions
15.03.100.3 Recording Decisions In Minutes
15.03.100.4 Notice Of Decision To Applicants

15.03.100.1 Recording Votes, Including Abstaining Votes

Other than for minor procedural votes, the vote of each member shall be recorded as "For" ("Yes"), "Against" ("No"), or "Abstaining". When Planning Commission Members abstain from voting on any request in which they have a vested interest, conflict of interest, etc., the reason for abstaining may be included in the minutes.

15.03.100.2 Reasons And Conditions Of Decisions

The Planning Commission shall include the reasons for their decision and may modify or set conditions upon any decision being made.

15.03.100.3 Recording Decisions In Minutes

Each decision, including the vote and supporting reasons, shall be recorded in the minutes for the meeting at which the decision is made.

15.03.100.4 Notice Of Decision To Applicants

If requested or if required by law, the Community Development Department shall mail notice of the Planning Commission's decisions to an applicant, a copy of which shall be entered into the Planning Commission's records. Such notice may state a summary of the request, decision of the Planning Commission, reasons for the decision, and any conditions attached to that decision. Such notice may be a copy of the minutes of the relevant meeting(s).

15.05 Land Use Authorities And Appeal Authorities

15.05.010 Legislative Intent Of This Title
15.05.020 Appeal Authorities
15.05.030 Appeals To District Court Or To The Ombudsman
15.05.040 Land Use Authorities
15.05.050 Legislative Land Use Action
15.05.060 Land Use Powers Of The City Attorney, City Administrator, Governing Body, And Community Development Department
15.05.070 Perry City Land Use Charts

15.05.010 Legislative Intent Of This Title

15.05.010.1 Primary Intent Of This Land Use Ordinance Title
15.05.010.2 Intent With Regards To Legislative Land Use Powers
15.05.010.3 Intent With Regards To Administrative Land Use Powers
15.05.010.4 Intent With Regards To Appeals And Quasi-Judicial Land Use Powers
15.05.010.5 Land Use Powers Of The Planning Commission
15.05.010.6 Miscellaneous Intent; Compliance With Law

15.05.010.1 Primary Intent Of This Land Use Ordinance Title

The primary intent of this title is to designate the land use authorities and land use appeal authorities for all types of land use applications, and to otherwise clarify and make changes with regards to the procedures for and handling of land use issues by the City.

15.05.010.2 Intent With Regards To Legislative Land Use Powers

All of the legislative land use powers of the City Council shall be retained (they cannot be delegated). The City Council shall thus retain the right to amend or repeal this "Land Use Authorities/Appeal Authorities" ordinance at any time, if necessary. Some quasi-legislative "rule-making" authority for public works standards has already been delegated, but is subject to legislative review and action (at any time) by the City Council.

15.05.010.3 Intent With Regards To Administrative Land Use Powers

All primary administrative land use powers of the City Council shall be retained; namely, final approval of design review/site plan processes, subdivision plats (new, amended, and vacated), dedicating and vacating streets, and similar actions. The secondary administrative land use powers of the City Council shall be delegated to the City Staff (with final review by or appeals to the Appeal Authorities), such as escrow releases and Certificates of Existence for Nonconforming Uses and Non-complying Structures.

15.05.010.4 Intent With Regards To Appeals And Quasi-Judicial Land Use Powers

All of the appeals and quasi-judicial land use powers (for appeals of final decisions, interpreting land use provisions, variances, etc.) of the Board of Adjustment (which shall no longer exist), as well as other powers, shall be delegated to the new Appeal Authorities.

15.05.010.5 Land Use Powers Of The Planning Commission

The Planning Commission has the land use powers identified in the governing legislation (state law; see Section 15.03.010.1) and in Perry Municipal Code Chapters 15.03 and 15.05, especially Sections 15.03.010.2 and 15.03.010.3. Except when acting on limited review permits, the Planning Commission makes recommendations to the City Council or Appeals Board, etc.

15.05.010.6 Miscellaneous Intent; Compliance With Law

Unless qualified residents are not available, most of the Members of the Appeal Authorities shall be Perry City residents, and all of the Members of the Appeal Authorities shall be appointed by the Mayor (and approved by the City Council). All applicants, interested parties, land use authorities, other City officials, and Appeal Authorities, shall operate in compliance with applicable federal, state, and municipal laws and regulations.

15.05.020 Appeal Authorities

A. Designation of appeal authorities: membership and qualifications.

1. Governing legislation for the land use appeal authorities.

    a. The two Perry City Land Use Appeal Authorities (herein sometimes referred to collectively as "Appeal Authorities") shall be governed by the provisions of the Utah Code Annotated Title 10, Chapter 9a, Sections 701 through 708 (Appeal Authority and Variances), 1953, as amended, and by the other sections in Title 10, Chapter 9a, and by all other applicable state statutes and City ordinances (including this Chapter 15.05), said written provisions being referred to collectively as "governing legislation."

2. Two appeal authorities (appeals board ad administrative law judge).

    a. In accordance with Utah Code Annotated §10-9a-701, 1953, as amended, Perry City hereby establishes two Appeal Authorities for land use issues in Perry City and for the other responsibilities set forth in the governing legislation; namely, the Special Uses and Appeals Board (herein sometimes referred to as "Appeals Board") and the Administrative Law Judge. Once the Appeal Authorities are formed and individual Members are appointed, the Appeal Authorities shall fulfill all of the land use appeals and quasi-judicial functions previously fulfilled by the Board of Adjustment (which shall be abolished when this ordinance is adopted), as well as other functions. An individual may not be a Member of both Appeal Authorities at the same time.

3. Membership of the appeals board: qualified residents required.

    a. The Appeals Board shall be composed of seven (7) Members, each of whom shall be a resident of Perry City when appointed (except for the attorney Member, who shall not be a resident, when appointed or during the time of appointment), unless no Perry City resident meeting the qualifications is available. The seven (7) Members shall be as follows:

        (1) A Utah State Bar licensed attorney, who has significant experience in land use planning and parliamentary procedure; and
        (2) An individual with significant full-time experience in municipal planning, business licensing, or reviewing subdivision plats and commercial site plans, or who has been a member of a planning commission for at least four (4) full years; and
        (3) A Utah licensed/certified building inspector or an individual with significant full-time experience with public works, streets, utilities, etc.; and
        (4) An engineer or surveyor who is Utah licensed/certified and/or has at least ten (10) years experience as an engineer or surveyor (with at least a bachelor's degree); and

(5) A former Perry City Mayor or former Perry City Council Member; and
(6) Two additional Members, each with experience in one or more of the five sets of qualifications identified in Sub-Sections (1) through (5) above.

4. Qualifications of appeals board members.

    a. Members shall meet the qualifications of Section 15.05.020(A)(3), as well as the following:

        (1) Initial Training: Each Member of the Appeals Board shall, before being appointed, or within one (1) year after being appointed, show proof of having taken the two (2) day Certified Community Planner Seminar organized by the Utah Local Governments Trust or twelve (12) hours of equivalent training; and
        (2) Continuing Training: Each Member of the Appeals Board shall, after being appointed, show proof of completing at least six (6) hours of approved appeals authority training during each one-year (January to December) time period as a member. The City shall provide “on line” or “in house” (initial and continuing) training alternatives and shall cover all costs of training (and travel, etc.); and
        (3) Not A Perry City Official: No Member of the Appeals Board, when appointed or during the time of appointment, may be a Member of the Governing Body, a Planning Commissioner, City Staff, employee, independent contractor, or serve in any capacity as staff for or a member of a land use authority, or as the Administrative Law Judge, of Perry City (but may be an elections worker, volunteer, or committee member); and
        (4) No Land Use/Real Estate Compensation (on Owner or Commission Basis): No Member of the Appeals Board, when appointed or during the time of appointment, may receive any compensation in the field of selling, developing, building, appraising, insuring, and/or financing real estate, but may be employed with another governmental agency or business entity, as a non-owner (and non-full time commission basis) expert or employee who assists in these processes (with a maximum of one non-full time “commission basis” member of the Appeal Authorities to serve at any given time).

5. No compensation (from the city) except for the appeals boards chair.

    a. Each regular Member of the Appeals Board shall serve without compensation, except that each Member is entitled to have the costs of training, including per diem and mileage costs, reimbursed or paid for by Perry City (and other reasonable expenses approved by the City Council). The Chair shall be an independent contractor receiving 7 per cent of a City Council annual stipend per meeting attended, to change when City Council compensation changes

B. Appeals board: terms, appointment, and removal.

1. Terms of appeals board members.

    a. Each Member of the Appeal Authorities shall serve a four (4) year term, staggered so that no more than three (3) Appeal Authority Members’ terms expire in a given year, with the Administrative Law Judge to be appointed as per Section 15.05.020(F)(1)(a)(3)), and with the Appeals Board to be appointed as follows:

        (1) Attorney and Planning/Licensing Expert Members: The appointments of these positions shall be made in January or February, 2008 for four year terms, to run from January, 2008 to January, 2012, and these positions shall be re-appointed in November or December, 2011 and every four years thereafter for four year terms; and
        (2) Building Inspector/Public Works and Engineer/Surveyor Members: The appointments of these positions shall be made in January or February, 2008 for two-year terms, to run from January, 2008 to January, 2010, and these positions shall be reappointed in November or December, 2009 and every four years thereafter for four year terms; and
        (3) Former Mayor/City Council Member: The appointment of this position shall be made in January or February, 2008 for a four year term, to run from January, 2008 to January, 2012, and shall be re-appointed in January, 2012 and every four years thereafter for a four year term.

2. Appointment to the appeals board (by the mayor, with advice/consent).

    a. Each appointment to the Appeals Board shall be made by the Mayor, with the advice and consent of the City Council (the City Council being able to recommend names).

3. Procedures for filling appeals board vacancies (unexpired terms).

    a. Any vacancy in the membership of the Appeals Board (by reason of death, resignation, removal, disqualification, or other reason) shall be filled for the remainder of the unexpired term by appointment from the Mayor, with advice and consent from the City Council. The individual appointed shall have the same or similar qualifications as the Member being replaced, as per Section 15.05.020(A)(3).

4. Starting a term: "holding over".

    a. New Appeals Board Members appointed for a full term shall commence their terms of office at the first available meeting in January or February. Appeals Board Members filling vacancies shall commence their terms of office at the next available meeting after appointment. If a new Appeals Board Member has not yet been appointed, the Appeals Board Member still holding the position may “hold over” in his/her position through February 15 of the year in which the term expires.

5. Term limits for appeals board members.

    a. No Appeals Board Member may be appointed to serve a term which would provide for more than ten (10) consecutive years of service. Thus, a Member who served an initial term or unexpired term of two (2) years or less may still be re-appointed to subsequently serve two fullfour year terms. An Appeals Board Member who has not served on the Appeals Board forat least two (2) consecutive years does not have any consecutive years of service and may thus be re-appointed for up to ten (10) consecutive years of additional service.

6. Procedures for removal (for cause) of appeals boards members.

    a. An Appeals Board Member may resign at any time and may be removed for cause by the City Council upon written charges (and after a meeting regarding the issue). Such written charges may include those issues identified in Section 15.03.030.8. The written charges shall be provided at least five (5) days before the meeting and the Appeals Board Member may choose whether the meeting shall be open to the public or closed to just the Appeals Board Member and certain other people, and with a decision to be made, as per Sections 15.03.030.8 and 15.03.030.9.

C. Appeals board: authority and procedures.

1. Authority of the appeals board.

    a. The Special Uses and Appeals Board shall:

        (1) Hear and decide, as a final land use authority (or final business license authority), “special uses” and certain business license issues, such as:

            (B) All special exceptions (including for lot line adjustments, flag lots, cul de sacs, billboards and outdoor advertising, etc.); and
            (C) All conditional use permits (and expansions, revocations, etc., including child care, other home occupation permits with visiting clientele, and excavation operations); and
            (D) The zoning location and boundary policy; and

(E) The modification/enlargement of nonconforming uses/noncomplying structures; and
(F) The existence of "limited" nonconforming uses and "limited" noncomplying structures (for "permits by mistake" or "zoning estoppel" situations); and
(G) Any other special applications for which special land use expertise is needed for the City, or for any affiliated building authority or special district, etc.; and
(H) Certain business license issues, as per the business license ordinance, especially Section 5.01.090; and
(I) Any other powers and duties prescribed by law or assignment; All as identified in items 5A, 5B, and 5C in Section 15.05.040(D)(1) or by law; and with the Appeals Board to primarily review compliance with legal requirements and to provide reasonable deference to the Planning Commission (when it is acting as an initial land use authority); and

(10) Hear and decide "regular" appeals from decisions of land use authorities, in accordance with Utah Code Annotated §§10-9a-701 and -703, 1953, as amended, and the City's land use ordinances, including, but not limited to, the authority for appeals identified in Section 15.05.040(E)(3) and in items 1, 2, 3A, 3B, and 4 in Section 15.05.040(D)(1), and certain business license issues, as per the business license ordinance, especially Section 5.01.090, with the standard of review to be "on the record" if a public meeting or public hearing was held; otherwise, the standard of review to be "de novo"; and
(11) Do the following, in a quasi-legislative manner:

(L) Recommend to the City Council that a legislative process be initiated with regards to one or more specific land use ordinances or other written land use provisions; and
(M) Act as the "Public Works Standards Review Committee," as set forth in Sections 15.05.050.1 (items 7A and 7B) and 11.07.030 and 15.05.020(C)(1)(a) unless the Mayor, with advice and consent from the City Council, appoints other members for said Committee; and
(N) Recommend to the City Council proposed amendments to the business license, transient room tax, or municipal energy sales and use tax ordinances, as per Section 15.05.050.1 (Item 9).

2. General procedures of the appeal authorities; presumption of validity.

    a. The following procedures shall apply to the Appeal Authorities:

    (1) The Appeal Authorities shall comply with Utah Code Annotated §10-9a-701(5), 1953, as amended, regarding membership; and no Member of either Appeal Authority, when appointed or during the time of appointment, shall be a member of the City Staff, the Governing Body, a land use authority, or the other Appeal Authority of the City, as per Section 15.05.020(A)(4)(a)(3)) herein; and
    (2) All references to the "Board of Adjustment" in the municipal code and Land Use Ordinances are hereby amended to read the "Appeals Board" or "Administrative Law Judge," as applicable (as per Sections 15.05.010.4 and 15.05.020(A)(2)); and
    (3) Title 10, Chapter 9a, Part 7 of the Utah Code Annotated, 1953, as amended, and the applicable City ordinances shall govern all appeal deadlines, burden of proof, due process, standards of review, and matters of finality. For any appeal of a land use decision to an Appeal Authority, the deadline is 10 calendar days from the date of the land use authority's decision, as per Sections 15.05.040(E)(2) and 15.05.040(E)(3); and
    (4) An Appeal Authority shall presume all City ordinances and other written land use provisions to be valid, unless a Court rules to the contrary. If an applicant alleges that a written land use provision is unconstitutional, illegal, invalid, etc., then said claim may be stated for the record and preserved for a potential appeal to District Court.

3. Procedures of the appeal authorities: adjudicating variances/appeals.

    a. When an Appeal Authority is acting on a variance or on a regular, procedural, or limited appeal of a decision of a land use authority (and is not acting as a land use authority or as a quasi-legislative body), then the following procedures apply:

    (1) The City and the applicant shall each be treated as separate "parties" (and each is entitled to its own attorney or representative) before the Appeal Authority, and other interested person(s) may also be "parties," for purposes of the quasi-judicial proceeding; and
    (2) Copies of all records of proceedings, memoranda, or other documents (referred to collectively as "documents") provided by City Staff or a land use authority (referred to collectively as "City officials") to an Appeal Authority shall also be provided to the applicant and other interested parties (referred to collectively as "interested parties") at least three days in advance of the proceeding. Likewise, the interested parties shall provide, to the City officials and other interested parties, copies of all documents provided to the Appeal Authority at least three days in advance of the proceeding; and
    (3) The Appeal Authority shall have the authority to exclude copies of any and all documents not provided (at least three days) in advance to the Appeal Authority and/or to all interested parties; and
    (4) The City has the option of not taking a position on an issue. The City shall be represented in such a proceeding by the Chair or Director (or his/her designee) of the land use authority being appealed and/or by the City Attorney (or his/her designee); and
    (5) An Appeal Authority may affirm, reverse, or affirm in part and reverse in part any decision of a land use authority regarding land use decisions. An Appeal Authority may remand the matter to the appropriate land use authority with directions for specific areas of review or clarification, or may request direction from the other Appeal Authority before rendering a decision. Appeal Authority review of petitions of appeal shall be limited to consideration of only those matters raised by the petition(s), unless the Appeal Authority, by motion, enlarges the scope of the appeal to accept information on other matters it may legally hear.

4. When appeal authority decisions become effective.

    a. Decisions of an Appeal Authority become effective immediately (assuming the Appeal Authority issues an oral decision at a public meeting); otherwise, decisions of an Appeal Authority become effective as soon as they are made available in writing or to the public.

D. Appeals board: meetings, voting, and ethics.

1. Chair and acting chair of the appeals board.

    a. The Chair of the Appeals Board shall be the attorney Member of the Appeals Board, and shall approve all agendas, and shall preside over the meetings he/she attends, and shall execute all official documents of the Appeals Board for said meetings. If the Chair is absent, an Acting Chair, selected by a majority of the quorum in attendance, shall preside over the meeting, and shall execute all official documents of the Appeals Board for that meeting. In the alternative, the Chair and Acting Chair may execute documents on behalf of each other. The Chair or Acting Chair shall always vote, as per Section 15.05.020(E)(1). See Section 15.05.020(E)(3) for additional authority of the Chair. The compensation for the Chair of the Appeals Board is set forth in Section 15.05.020(A)(5).

2. Community development department to act as staff to appeal authorities.

    a. The Community Development Director ("Director"), as the head of the Community Development Department ("Department"), shall ensure that the City engineer(s), planner(s), and inspector(s), etc., provide adequate staffing and equal access to municipal resources for each Member of the Appeal Authorities. The Director shall also work with the City Recorder to provide a Community Development Clerk and/or Minutes Clerk to assist the City planner(s) and other staff with accepting all applications and preparing all agendas and minutes for the Appeal Authorities, and to maintain records of the Appeal Authorities,

including all applications and files of proceedings and actions taken in connection therewith. The City Attorney (or an Assistant City Attorney) shall also act as staff for the Appeal Authorities (for "special uses" and other applications), but not for appeals or variances (for which a special attorney could be retained, if needed).

3. Community development department to provide minutes, agendas, and information regarding land use applications to the appeal authorities.

    a. The Department shall, not less than three days prior to any meeting of an Appeal Authority, transmit to each Member of the Appeal Authority an agenda (with the time of the meeting), a copy of the minutes of the previous meeting(s), and information pertinent to the requests to be acted upon by the Appeal Authority at the meeting (including records of actions taken by the Department and/or Planning Commission, etc.). If the three day agenda deadline is missed, then the meeting is automatically cancelled. If the three day information deadline is missed, then the agenda item may be discussed, but not acted upon. The Department shall be responsible for posting the agenda and notifying interested parties of upcoming Appeal Authority meetings. The Department shall ensure that all granted/approved variances, plats, and other relevant land used documents are recorded in the County Recorder's Office, at the expense of the property owner or appropriate interested party.

E. Appeals board: meetings, voting, and ethics.

1. Appeals board: Quorum: Decisions by majority (roll call) vote.

    a. A quorum of at least three (3) Members of the Appeals Board is required to start or convene a meeting and to act on any application, appeal, or issue. All votes shall be by "Roll Call," and the Chair or Acting Chair shall always vote (and shall always vote last). A majority affirmative concurring vote of the quorum in attendance (excluding Members recused, as per Section 15.05.020(E)(2)) is required for any motion or vote to be approved. The Appeals Board shall operate in compliance with applicable federal, state, and municipal laws and regulations.

2. Members to vote on all issues: Members to recuse when conflicts arise.

    a. All Members: (1) may ask applicants and interested parties questions; and (2) shall vote on all issues, except where they recuse themselves (also known as abstaining) for a conflict of interest or other ethical issue. Reasons to recuse could include a financial interest or a situation in which a Member was previously a member of a land use authority which acted on the issue or on a related issue (which is now on appeal or otherwise before the Appeals Board). A Member may either vote or recuse regarding approval of minutes for a meeting he/she did not attend. To "recuse" means to leave the meeting (unless the issue is approval of the minutes) for the relevant issue and to not participate in any discussion, motions, or voting (unless the Member is an applicant, in which case said Member may be present and participate as an applicant). For some ethical issues, disclosure (without recusing/abstaining) may be adequate. As per Section 15.05.020(E)(3), the Chair or Acting Chair of the Appeals Board shall decide any issues as to how the rules of ethics shall be applied, subject to a procedural appeal/petition.

3. Rules of procedure: Chair to decide rules application.

    a. Roberts Rules of Order, newly revised, shall govern meeting conduct, unless other appropriate rules of procedure are adopted, or unless such rules conflict with other provisions of the municipal code. The City Attorney (or Assistant City Attorney or special attorney), as parliamentarian, may recommend regarding any issues as to how the rules of procedure shall be applied. The Chair or Acting Chair of the Appeals Board shall decide any issues as to how the rules of procedure (including rules of ethics) shall be applied, subject to a procedural appeal/petition, and may administer oaths and compel the attendance of witnesses.

4. Rules in ethics.

    a. Appeal Authority Members shall adhere to the same ethical rules as Planning Commissioners, or as set forth by state law (see Utah Code Annotated §§67-16-1 et seq. and §§10-3-1301 et seq., 1953, as amended) or by City ordinance (see Section 15.03.060). As per Section 15.05.020(E)(3), the Chair or Acting Chair of the Appeals Board shall decide any issues as to how the rules of ethics shall be applied, subject to a procedural appeal/petition.

5. Protecting due process rights; constitutional takings.

    a. Each appeal, variance, or other application or petition shall be conducted as provided in the ordinance, and each Appeal Authority shall respect the due process rights of each of the participants. Particular care shall be taken with regards to exactions, condemnations, "constitutional takings," and similar issues. See Section 15.05.040(E)(1) regarding avoiding unnecessary or excessive delays.

6. Time of appeal authority meetings.

    a. Meetings of the Appeal Authorities shall be held as needed, with at least one meeting of the Appeals Board to be held in January or February of each year. The Appeals Board may meet on the same evening as Planning Commission, or at any other time, as needed. The Administrative Law Judge may hold meetings on the same evening as City Council, or at any other time, as needed, but with no January/ February meeting requirement. All meetings shall follow the requirements of the Open and Public Meetings Act, "The Sunshine Law," Title 52, Chapter 4 of the Utah Code Annotated, 1953, as amended. Special meetings may be called by the Chair or by two (2) of the other Members of the Appeals Board at any time, provided that at least twentyfour (24) hours notice has been given each Member and the press before a special meeting is held. In addition to the regular meetings, the Appeals Board may schedule field trips, work sessions, and executive sessions, etc., as allowed by law.

F. Administrative law judge.

1. Administrative law judge: Qualifications, compensation, appointment.

    a. The Administrative Law Judge shall:

        (1) Be one individual, who shall not be a resident of the City; and who shall be either a Utah State Bar licensed attorney or an AICP certified planner (in either case, having significant experience in land use planning and administrative law); and
        (2) As an independent contractor, receive 7 per cent of a City Council annual stipend per meeting attended, to change when City Council Member compensation changes; and
        (3) Be appointed by the Mayor, with the advice and consent of the City Council (the City Council being able to recommend names), in January or February, 2008 for a two-year term, to run through January, 2010, and shall be re-appointed in January, 2010 and every four years thereafter for a four year term (maximum of 10 consecutive years, as per Section 15.05.020(B)(5)); and
        (4) Section 15.05.020(A)(4) and the relevant provisions of Sections 15.05.020(B)(2) to 15.05.020(B)(6) and 15.05.020(C)(2) to 15.05.020(E)(6) shall apply to the Administrative Law Judge.

2. Authority of the administrative law judge.

    a. The Administrative Law Judge shall:

        (1) Hear and decide "regular" appeals from decisions of the land use authorities (including enforcement actions), in accordance with Utah Code Annotated §§10-9a-701 and -703, 1953, as amended, and the City's land use ordinances, including, but not limited to, the authority for appeals identified in Section 15.05.040(E)(3) and in items (5)(A), (5)(B), (5)(C), (5)(D), and (6)(B) in Section 15.05.040(D)(1) (but also including appeals from

any other land use decision of any City official not identified in 15.05.040(D)(1)), with the standard of review to be "on the record" if a public meeting or public hearing was held; otherwise, the standard of review to be "de novo"; and
(2) Exercise statutory authority to hear and decide:

(C) Variances from the terms of the land use ordinances, in accordance with Utah Code Annotated §§10-9a-701, 702, and 703, 1953, as amended, with a limitation on authority of a maximum variation of 5.00 per cent from any numeric standard; and
(D) Limited appeals to interpret land use ordinances and maps (see Section 15.05.040(E)(5)); The Administrative Law Judge having original jurisdiction, as identified in item (6)(A) in Section 15.05.040(D)(1); and with the standard of review in each case (a or b) to be "de novo"; and

(5) Assist with resolving unnecessary or excessive delays and similar "procedural" appeals (if a seemingly unnecessary public hearing has been scheduled, or if a rule of procedure has been misapplied, or if it is unclear which authority is the appropriate land use authority or Appeal Authority for a given issue, etc.), as per Sections 15.05.040(E)(1) and 15.05.040(D)(1) (item (6)(A); and exercise other powers and duties prescribed by law or assignment; and
(6) Do the following, in a quasi-legislative manner: recommend to the City Council that a legislative process be initiated with regards to one or more specific land use ordinances or other written land use provisions; and
(7) Other duties as assigned.

15.05.030 Appeals To District Court Or To The Ombudsman

15.05.030.1 Appeals To District Court
15.05.030.2 Appeals To The Property Rights Ombudsman's Office

15.05.030.1 Appeals To District Court

No person may challenge in (appeal to) District Court any land use decision of the municipality in accordance with state law, or under a regulation made under authority of state law, until that person has complied with Utah Code Annotated §§10-9a-701 and -801, 1953, as amended, and otherwise exhausted all administrative remedies set forth in the land use ordinances (which includes having a decision from the appropriate Appeal Authority), within the time limits and according to the standards prescribed by law, as follows:

1. No adversely affected parties shall present a theory of relief in District Court that was not first presented to the appropriate Appeal Authority; and
2. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the same or separate Appeal Authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and
3. This land use ordinance does not provide for any specified type of land use decision(s) to be appealed directly to District Court; but rather, a land use decision may not be appealed directly to District Court (without a prior appeal to an Appeal Authority) unless specifically required by state or federal law; and
4. An appeal to District Court may only be made within 30 calendar days of the final decision or action of the appropriate Appeal Authority, which is the final decision or action of the City (see Section 15.05.020(C)(4), as to when an Appeal Authority decisions become effective). If the thirtieth day is a Saturday, Sunday, or holiday, then an appeal can be made on the next day the Court Clerk's office is open.

15.05.030.2 Appeals To The Property Rights Ombudsman's Office

Appeals to the Property Rights Ombudsman's Office may be taken (by an applicant or by a City official) at any time allowed by state law. The City, together with all of its employees, departments, land use authorities, Appeal Authorities, etc., shall fully comply with the lawful requests and directives of the Property Rights Ombudsman's Office.

15.05.040 Land Use Authorities

A. General Provisions,
    1. Land use authorities.
        a. As authorized by Utah Code Annotated §10-9a-302, 1953, as amended, all applications for building permits, land use permits, site plans, conditional use permits, home occupation permits, or other land use related permits shall be duly filed with the Community Development Department ("Department"), who shall forward the same to the appropriate land use authority(ies) as designated and set forth in this title. The designated land use authority(ies) shall review and take action as provided in this title, especially as set forth in Section 15.05.040(D)(1). Such review and any subsequent action by any land use authority on any application or request shall assure compliance with the requirements of the municipal code (and state and federal law).
    2. Legislative Action.
        a. Any request to amend the land use ordinances or maps (including zone changes), or request to amend the general plan or maps, or request for other legislative action, shall also be duly filed with the Department, who shall forward the same to the Planning Commission or City Council, etc., as is appropriate, and as provided for in Section 15.05.050.1. Appointment to the appeals board (by the mayor, with advice/consent)
B. Applications; fees; errors; enforcement.
    1. Land use applications.
        a. In accordance with Utah Code Annotated §10-9a-509.5, 1953, as amended, the municipality shall (in a timely manner) determine, among other things, whether an application is complete for the purposes of subsequent, substantive land use authority review. For applications requiring review by the planning commission, see Section 15.03.070.4.

(1) Completeness: In accordance with Utah Code Annotated §10-9a-509(1)(c), 1953, as amended, a land use application is generally considered submitted and complete when the application is provided:

(B) In a form that complies with the requirements of applicable ordinances; and
(C) With all pertinent information provided; and
(D) All applicable fees have been paid; and
(E) All of the applicable landowners (or their representatives) agree to the application; and

(6) Deadline to be on the Agenda: In order be on a land use authority agenda, an application or request, with all necessary documentation, shall be filed with the Department at least fourteen (14) days prior to the meeting, by 2:30 p.m. The Community Development Director ("Director") shall be empowered to make a procedural exception and allow the 14-day time period to be reduced to as few as 10 days (prior to the meeting, at 2:30 p.m.) if the Director determines that a City official caused a delay or that there is an unusual emergency which is outside of the control of the applicant; and
(7) Basis for Approval or Denial: A duly submitted and complete application that conforms to the requirements of the zoning map, other land use maps, and applicable land use ordinances in effect upon complete application is entitled to approval, except as provided in Utah Code Annotated §10-9a-509(1), 1953, as amended; and the municipality may not impose requirements not adopted in municipal code or by other applicable law; and
(8) Pending Ordinance Rule: As per Section 15.01.050, the provisions of Utah Code Annotated Section 10-9a-509(1)(a) are specifically reserved, such that the City may temporarily prohibit approval of an application, pending action on the relevant pending ordinance. "Formally initiating proceedings to

amend City ordinances" or "when a pending ordinance exists" shall be defined as "when a pending ordinance is first specifically referred to on an official city agenda or is in written form available to the public." If the "pending ordinance" has the date it became "pending" listed on it, that date shall be the official date; and

(9) Bound by Law: In accordance with Utah Code Annotated §10-9a-509(1)(c), 1953, as amended, the municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances; and

(10) Request for Determination: An applicant may request a written determination on an application as set forth in Utah Code Annotated §10-9a-509.5, 1953, as amended (the "reasonable diligence" or "rip cord" rule). See also Section 15.05.040(E)(1).

2. Development and permit fees.

   a. The City may impose development fees and permit fees to offset development costs, as follows:

      (1) Development Fees: Development fees are to offset the costs of processing any application or applicable action. Such fees shall be recommended by the City Staff and/or Planning Commission for adoption by ordinance or resolution by the City Council and reviewed from time to time for appropriate increase or decrease. Collection of fees shall be the responsibility of the City Recorder (or under the direction of the City Recorder); and

      (2) Building Permit and Other Land Use Fees: The municipality may impose building permit, plan review, appeal, variance, and other land use application fees in accordance with Utah Code Annotated §10-9a-510, 1953, as amended. The payment of a filing fee shall not guarantee a certain result, nor shall fees be refunded due to the lack of a favorable result, nor shall fees be refunded on the sole basis that an applicant prevails on appeal; and

      (3) Fee Waivers, Refunds, and Reductions: Except for impact fees or as otherwise limited by ordinance or resolution, the Director shall have the limited authority to grant waivers, refunds, or reductions (collectively referred to as "waivers") for any fee (for which the Director is responsible) by the greater of 5.00 per cent or $50.00 per permit, subject to legislative review by or petition to the City Council. The Director may only waive a fee if he/she determines that a City official caused the need for the waiver or that there is an unusual situation which is outside of the control of the applicant and which warrants the waiver. Waivers beyond these amounts may only be considered by the City Council, with a staff recommendation being provided by the Department (see Section 15.05.050.1, Item 8).

3. Errors and/or omissions by the city do not legalize violations: Limited exception (for certificate of limited nonconforming use/structure).

   a. Any inaction, failure, mistake, or other error/omission of any land use authority, building official, zoning enforcement official, or designee does not legalize a violation of the municipal code, unless: 1) a Court orders said relief, or 2) a Certificate of Limited Nonconforming Use or Certificate of Limited Noncomplying Structure is approved by the Appeals Board. Such a Certificate may only be approved after an application and review of the pertinent facts and standards (see Title 66 for standards, as well as case law for "permits by mistake" or "zoning estoppel"). The Administrative Law Judge or the District Court may require that a Certificate be approved (as part of an appeal). The City and the Appeal Authorities shall not have authority to enlarge, expand, or modify a Certificate of Limited Nonconforming Use or Certificate of Limited Noncomplying Structure (and such a structure may not be rebuilt if destroyed).

4. Invalid permits and licenses: Errors and/or omission by applicants.

   a. Officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title (Chapter 15.05) and the other Titles of Land Use Ordinances. Any such permit or license that is issued as follows shall be null and void (not valid):

      (1) When such is in conflict with the provisions of the Land Use Ordinances; or

      (2) Upon false or fraudulent information provided by the applicant; or

      (3) When a "complete" permit is not acted upon or work performed within the established time period (the time period is six (6) months if there is no other time period established), any vested rights thus being terminated.

5. Violations deemed nuisance.

   a. Any structure made or existing (or any use of land) in violation of any provision of the Land Use Ordinances, is a public nuisance and may be abated by enforcement action or by other appropriate proceedings.

6. Appeals, enforcement, and penalties.

   a. The City has authority as follows:

      (1) Appeal to District Court or to the Property Rights Ombudsman's Office: See Sections 15.05.030.1, and 15.05.030.2, and 15.05.040(E)(3); and

      (2) Enforcement: In accordance with Utah Code Annotated § 10-9a-802, 1953, as amended, if violations of the land use ordinances (enacted under the authority of state law) occur or are about to occur, the municipality or any adversely affected owner of real estate within the municipality may, in addition to other remedies provided by law, institute or seek relief as provided in Utah Code Annotated §10-9a-802, 1953, as amended; and

      (3) Zoning Enforcement Officials: The Mayor shall designate the officers charged with enforcement of the land use ordinances of the municipality and, absent the Mayor designating such, the Director, or his/her designee, is charged with the enforcement of the land use ordinances of the municipality; and

      (4) Complaints: Whenever a violation of this ordinance occurs (or is alleged to have occurred) any person may file a written complaint. Such complaint stating fully the causes and bases thereof shall be filed with the Director, who shall record properly such complaint and timely investigate and take action thereof as provided by this ordinance; and

      (5) Penalties: In accordance with Utah Code Annotated §10-9a-803, 1953 as amended, the municipality imposes the following penalties for any violation of any land use ordinance enacted under the authority of Title 10, Chapter 9a of the Utah Code Annotated, 1953, as amended, or otherwise enacted to regulate land use as follows:

         (F) Civil Penalty: In addition to other remedies as authorized by law, any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or permitting the violation of any land use provision established by law, shall pay a $250.00 penalty per violation for the first day of the violation, and $500 per violation per day for additional days, in addition to reasonable attorney's fees and costs incurred by the municipality, in any enforcement action; or

         (G) Misdemeanor: Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or permitting the violation of the provisions of any land use provision established by law, shall be guilty of a class C misdemeanor and punishable as provided by law; and such person, firm, or corporation, who intentionally violates this land use ordinance, shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of the land use ordinances is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

C. Limited review permits and temporary emergency exceptions.

1. Denial by department of limited review permits.

   a. If the Department denies a limited review permit, this becomes a final decision and the Planning Commission does not review the permit, but this decision of the Department may be appealed to the Appeals Board, as per Section 15.05.040(E)(2). See Sections 15.03.010.3(7) and 15.05.040(D)(1) (Item 3A) for more information regarding limited review permits.

2. Approval of limited review permits (involving planning commission).

    a. If the Department approves a limited review permit (or chooses to defer the decision to approve or deny to the Planning Commission), this single meeting review is limited to the Planning Commission doing the following (and the Planning Commission decision may be appealed to the Appeals Board, as per Section 15.05.040(E)(3)):

        (1) Receiving a copy of the application for the limited review permit (some of the applications being special commercial building permits for signs, fences, etc., which are effectively "miniature design review" processes); and/or
        (2) Asking the Department questions; and/or
        (3) Either (a) upholding approval of the application; or (b) denying the application, by citing one or more current or pending ordinances or written land use provisions other than the General Plan (by neither specifically upholding approval nor denying the application at the one meeting, the Planning Commission automatically upholds approval); and/or
        (4) Starting a process to update any applicable ordinance or written land use provision for future applications.

3. Temporary emergency exceptions.

    a. The Mayor (or the Mayor Pro Tem in his/her absence, inability, or refusal to act) has the authority to recommend, with or without an application (and with or without a recommendation from the Community Development Department or City Staff), in a public meeting, temporary emergency exceptions from any term or condition of the land use ordinance for a period of not to exceed three (3) months in duration. This time period may be recommended for extension up to three (3) additional months by the Mayor (or the Mayor Pro Tem), for a total duration for any one tract of land not to exceed six (6) months. In order to be effective, each such three (3) month temporary emergency exception shall:

        (1) Be based upon the Mayor (or the Mayor Pro Tem) determining that: (a) said temporary emergency exception is justified because of some unusual emergency, disaster, or "act of God" situation; and (b) the health, safety, convenience, order, and welfare of the inhabitants of the municipality shall not be materially affected (in an adverse way) if said exception is granted; and
        (2) Be reviewed and approved by the City Council, to verify that said temporary emergency exception is a legal and appropriate use of authority under the circumstances. The Mayor (or the Mayor Pro Tem) may recommend a temporary emergency exception in the same meeting that the City Council considers final approval of said temporary emergency exception (and the Mayor and City Council shall have broad discretion in this regard).

D. Tables designating land use authorities to act on applications.

1. Land use authorities: Administrative/Quasi-Judicial land use applications.

    a. See the following tables. The process ends when the double line is reached, unless there is an appeal. Each recommendation from staff or an initial land use authority is forwarded to the next higher land use authority, whether the recommendation is to deny or to approve. See Sections 15.05.020(C)(1) and 15.05.020(F)(2) regarding the authority of the Appeal Authorities.

Type of Standard Application* (Administrative)	Staff Reports	Initial Land Use Authority	Final Land Use Authority	Appeal Authority (Quasi-Judicial)
1. Routine Permits(including building permits, utility easements, regular traffic signs/markings, Home Occupation without visiting clientele, design review not involving a site plan change, temporary use/obstruction of city right of way, etc.); Escrow Release Requests	_____	_____	CDDep./Staff	Special Uses and Appeals Board
2. Non-Routine Permits(including changes to street names/signs, special traffic signs/markings); Temporary Emergency Exceptions	_____	CDDep./Staff or Mayor	City Council	Special Uses and Appeals Board
3A. Limited Review Permits,including certain commercial bldg. permits, res. site plans not in a subdivision, signs, etc. ***	_____	CDDep./Staff	Plan. Com. Ltd. review***	Special Uses and Appeals Board
3B. Design Review involving a (New or Amended) Site Plan**; Recommendations to Public Agencies or Neighborhood Planning Issues***	CDDep./Staff	Plan. Com.**	City Council	Special Uses and Appeals Board
4. Subdivisions/Street Dedications** (new, amend, vacate, dedicate, etc.)	CDDep./Staff	Plan. Com.** Public Hearing	City Council	Special Uses and Appeals Board

* Or for an amendment, modification, enlargement, or revocation of said type of application, unless otherwise indicated.
** Preliminary and final recommendations may be combined for simplified site plans and one to three lot residential subdivisions. For the design review/site plan process, a public hearing is not required, but is an option (for the Planning Commission). See PMC Sections 14.01.020 and 14.01.030 for optional processes for subdivisions.
*** This is a limited one meeting review (for limited review permits). See Sections 15.05.040(C)(1)/15.05.040(C)(2) for further information regarding this process. A recommendation as to a public right of way or other neighborhood planning issue may be given to UDOT or another public agency (or to otherwise take action on an issue, with or without a formal application).

Type of Standard Application* (Administrative)	Staff Reports	Initial Land Use Authority	Final Land Use Authority	Appeal Authority (Quasi-Judicial)
5A. Zoning Location and Boundary Policy**	CDDep./Staff	Plan. Com.**	**Special Uses/ Appeals Board	Administrative Law Judge
5B. Conditional Use Permits(including Home Occ. With visiting clientele, Excavation, etc.);Special Exceptions for Subdivisions and Residential (incl. lot line adj., flag lots)	_____	CDDep./Staff	Plan. Com. Public Hearing ****	Special Uses/ Appeals Board ****
5C. Nonconforming Uses, incl. Certif. of Exist. for				

Limited Nonconforming Uses/Structures (Sec. 15.05.040 (B)(3)), Modify "Regular" Nonconforming Uses/ Structures, etc.; Other Special Exceptions and Special Applications	_____	CDDep./Staff ****	Special Uses/ Appeals Board ****	Administrative Law Judge
5D. Certificate of Existence for Nonconforming Uses/ Noncomplying Structures (and Certif. of Legal Compliance)	_____	_____	CDDep./Staff	Special Uses/ Appeals Board ****
6A. Limited Appeals to Interpret Land Use Ordinances and Maps**; Variances***; Procedural Appeals (See Section 15.05.040(E)(1))	CDDep./Staff	_____	_____	Administrative Law Judge
6B. Nuisance Enforcement/Zoning Enforcement	_____	_____	CDDep./Staff	Administrative Law Judge

* Or for an amendment, modification, enlargement, or revocation of said type of application, unless otherwise indicated.
** Either an applicant or a land use authority may request an interpretation of a land use ordinance or map, as per item (6)(A) above (see Section 15.05.040 (E)(5)), including a special process for the interpretation of zoning locations and boundaries for "split parcels," etc., as per item 5A above (see Sections 15.07.030 and 15.07.040).
*** As per Utah Code Annotated §10-9a-702(3), 1953, as amended, this is for an applicant desiring "a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or. . beneficial interest . . ."
****The proposed amendment, modification, or enlargement of a Nonconforming Use or Noncomplying Structure requires a public hearing by the Special Uses and Appeals Board. The review, suspension, or revocation of a Conditional Use Permit does not require a public hearing.

2. Community development department as a land use authority.

    a. If the Community Development Department is acting as a land use authority, the Community Development Director shall make or consent to the final decision on behalf of the Community Development Department (see Section 15.05.060.5).

E. Appeals to appeal authorities.

1. Petition to avoid unnecessary or excessive delays: Procedural appeals.

    a. An interested party, including a City official, may petition (without filing fee) the next "higher" land use authority listed on the tables above to speed up the process (or to place the application on its agenda), if unnecessary or excessive delays or "tabling" has occurred (or may appeal to the Administrative Law Judge if the next "higher" land use authority does not provide relief or if the "final" land use authority is the authority causing the delay). Unnecessary or excessive delays or "tabling" may be considered to be a decision or action to not recommend approval (or to not approve). In the alternative, the next "higher" land use authority (or the Administrative Law Judge) may, on its own motion, provide such relief. The next "higher" land use authority or the Administrative Law Judge may also hear and decide similar procedural petitions/appeals (if a seemingly unnecessary public hearing has been scheduled, or if a rule of procedure has been misapplied, etc.). See Utah Code Annotated §10-9a-509.5, 1953, as amended, regarding the "reasonable diligence" or "rip cord" rule.

2. When final land use authority decisions become final: Time to appeal.

    a. Decisions of a final land use authority become effective and final immediately (assuming the land use authority issues an oral decision at a public meeting); otherwise, decisions of a final land use authority become effective and final as soon as they are made available in writing or to the public. If no appeal to the appropriate Appeal Authority has been taken within 10 calendar days of the effective date, then the decision of the final land use authority may no longer be appealed. If the tenth day is a Saturday, Sunday, or holiday, then an appeal can be made on the next day the City office is open.

3. Right to a regular appeal of a land use authority decision to an appeal authority: Automatic stay pending the appeal authority decision.

    a. An Appeal to an Appeal Authority may be taken by any person aggrieved or affected by any land use decision (whether or not listed on the chart in Section 15.05.040(D)(1)) of any officer, department, board, bureau, commission, or council of the municipality. Such appeal shall be taken within 10 calendar days of the effective date of the decision. A party may appear in person or by agent or by attorney. Upon the filing of a valid petition (by an aggrieved party) for appeal or review by an Appeal Authority, the decision of the land use authority is automatically stayed and suspended until the Appeal Authority has acted on the appeal (except that there is no automatic stay for temporary emergency exceptions). The Appeal Authorities shall thus "serve as the final arbiter[s] of issues involving the [administration] or application of land use ordinances," as per Utah Code Annotated §10-9a-701(3)(a)(ii), 1953, as amended.

4. Right of land use authorities to interpret (subject to appeal).

    a. The following rules as to the interpretation of written land use provisions and procedural rules:

        (1) As to all Titles other than Chapters 15.03, 15.05, and 80, each land use authority shall have the right to interpret a written land use provision, subject to being overruled by a higher land use authority (and subject to an appeal to the Administrative Law Judge), but with reasonable deference to be given to a lower land use authority and to an applicant; and
        (2) As to Chapters 15.03, and 15.05, the designated individual for each land use authority shall have the right to interpret a written land use provision or procedural rule therein, subject to (if appealed) being overruled by the Administrative Law Judge, but with reasonable deference to be given to an applicant, as follows:

            (C) Section 15.03.050.4 (City Attorney to interpret rules application in Planning Commission meetings); and
            (D) Section 15.05.020(E)(3) (Chair to interpret rules application in Special Use and Appeals Board meetings); and
            (E) The City Council Policies and Procedures book (City Attorney and Mayor to interpret rules application in City Council meetings); and

        (6) Any interpretation of a written land use provision or procedural rule by any land use authority or by the designated individual for any land use authority may be appealed, as applicable, according to the terms of Section 15.05.040(E)(1), Procedural Appeal, or Section 15.05.040(E)(5), Limited Appeal (to Interpret), with the Administrative Law Judge being the final arbiter, subject only to judicial review or review by the Property Right's Ombudsman's Office, as per Section 15.05.030.

5. Limited appeal to interpret written land use provisions: Binding.

    a. The authority of the Administrative Law Judge identified in Sections 15.05.020(F)(2)(a)(2)(B)) and 15.05.040(D)(1) (item (6)(A)) to "interpret land use ordinances and maps" (or other written land use provisions) is essentially an "interlocutory appeal" limited to the interpretation of the specific written land use provisions in question, unless the underlying land use application has received a final decision and has been simultaneously appealed pursuant to Section 15.05.020(F)(2) a and b) (and is thus also ripe for adjudication on the merits). Such limited appeal shall be taken before a formal decision or within 10

calendar days of the effective date of the decision (with an automatic stay, as described above). The Administrative Law Judge shall thus "serve as the final arbiter of issues involving the interpretation . . . of land use ordinances," as per Utah Code Annotated §10-9a-701(3)(a)(ii), 1953, as amended. The interpretation of specific written land use provisions is binding upon all applicants, land use authorities, and Appeal Authorities for all similar future cases, unless a new ordinance, map, or other written land use provision has been enacted or is pending, or unless a Court has applied a different interpretation.

F. Administrative law judge.

1. Public notice requirements for public hearings, if established in state law.

   a. If, for a certain type of land use application: (i) a public hearing is required by State law; and (ii) the public notice requirements for said public hearing are established by State law; then a public hearing shall be held after public notice is given, said public notice to at least meet the minimum requirements of State law.

2. Public notice requirements for public hearings, if not established in state law.

   a. If, for a certain type of land use application: (i) a public hearing is not required by State law, but (ii) is required by City ordinance (or desired by the land use authority); then the public notice requirements for said public hearing shall be as follows:

      (1) Publish at least once, and at least 8 days in advance, in the Box Elder News-Journal;
      (2) Place on the agenda of the land use authority; and
      (3) Mail notice, by placing it into the regular U. S. mail at least 10 days in advance, to:

         (D) The applicant(s), who may or may not be the current landowner(s) of the property(ies) in the application,
         (E) The current landowner(s) of the property(ies) in the application, and
         (F) All current "nearby landowner(s)" (of property(ies) within 300 feet of the property(ies) in the application), but inadvertent failure to send notice to 10 percent (or fewer) of the nearby landowner(s) shall not invalidate said public notice.

3. Previous public notice requirements for public hearings are repealed.

   a. Any previous public notice requirements for public hearings are repealed and replaced with these requirements.

15.05.050 Legislative Land Use Action

15.05.050.1 Summary Of Legislative Land Use Action
15.05.050.2 Petition To Avoid Unnecessary Or Excessive Delays: Procedural Petitions
15.05.050.3 Definition Of Quasi-Legislative Body
15.05.050.4 Incorporation By Reference Of Applicable Provision Of Chapter 43.04

15.05.050.1 Summary Of Legislative Land Use Action

See the following tables. The process ends when the double line is reached (unless there is an appeal to District Court, or unless the City Council decides to take action on the Public Works Standards or Architectural Design Guidelines). If the City Council has initiated or requested a legislative process, each recommendation from a "quasi-legislative body" is forwarded to the next level, whether the recommendation is in favor of or against the legislative proposal.

Administrative "Rule-Making" Action (Quasi-Legislative)**	**Initial Recommend.**	**Final Recommendation**	**Final Adoption**	**Legislative Review** (At any time)	**Judicial Review**
7A. ***Public Works Standards***	**_____**	**CDDep./Staff**	**PWS Rev. Comm.**	**City Council**	**District Court**
7B. ***Architectural Design Guidelines***	**CDDep./Staff or Ind. Contractors**	**Planning Comm. (Public Hearing)**	**PWS Rev. Comm.**	**City Council**	**District Court**

Type of Action (Legislative)**	**Initial Recommend.**	**Final Recommendation**	**Legislative Body (Final Action)**	**Judicial Review**
8. ***Moratoria; Fee Waivers; Development Agreements; Boundary Adjust.*** *(w/Other City);* ***Non-Land Use Ordinances/Resolut***	**_____**	**CDDep./Staff**	**City Council******	**District Court**
9. ***Business License, Room Tax, or Energy Sales/Use Tax Ordinances*** (Special Non-Land Use Ordinances)	**CDDep./Staff**	**Special Uses/ Appeals Board**	**City Council (Public Hearing)**	**District Court**
10. ***Land Use Ordinances/Resol.*;*** Zoning Map, incl. Changes; General Plan, incl. Attachments and G. P. Map; ***Annexation Policy Plans***; Annexation Petitions******	**CDDep./Staff**	**Planning Comm. (Public Hearing)**	**City Council *****	**District Court**

* A "land use ordinance," according to Utah Code Annotated §10-9a-103(16), 1953, as amended, "means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan."
** Or for an amendment to said type of action, unless otherwise indicated.
*** For an annexation policy plan or annexation petition, check special procedures required by state law for public hearings, public notices, etc., including public hearings, if required for the City Council.
**** A public hearing is held for boundary adjustments and certain non-land use ordinances, as required by law.

15.05.050.2 Petition To Avoid Unnecessary Or Excessive Delays: Procedural Petitions

An interested party, including a City official, may petition (without filing fee) the City Council to speed up the process or to place the legislative proposal on a "quasi-legislative body" (see Section 15.05.050.3 for a definition) agenda or the City Council agenda, if unnecessary or excessive delays or "tabling" has occurred. Unnecessary or excessive delays or "tabling" may be considered to be a decision or action to not recommend approval (or to not approve). The City Council may also, on its own motion, provide such relief, including determining that a "quasi-legislative body" has taken ample time, and advancing the legislative process to the next level, especially when the City Council has specifically requested a recommendation for a specific ordinance or legislative proposal. The City Council may also hear and decide similar procedural petitions (if a seemingly

unnecessary public hearing has been scheduled, or if a rule of procedure has been misapplied, etc.). See Utah Code Annotated §10-9a-509.5, 1953, as amended, regarding the "reasonable diligence" or "rip cord" rule. Also, see Section 15.05.020(F)(2)(a)(3)) and 15.05.040(D)(1) (item (6)(A).

15.05.050.3 Definition Of Quasi-Legislative Body

A "quasi-legislative body" may be any of the following when acting in a role of proposing, recommending, or adopting public works standards, architectural guidelines, land use ordinances and maps, the general plan, or other written land use provisions, as per the table above:

1. The Community Development Department; or
2. The City Attorney (or Assistant City Attorney); or
3. Other City Staff; or
4. An independent contractor providing land use planning, engineering, or other similar services; or
5. The Planning Commission; or
6. The Public Works Standards Review Committee; or
7. The Special Uses and Appeals Board.

15.05.050.4 Incorporation By Reference Of Applicable Provision Of Chapter 43.04

The provisions of Section 15.05.040 which are consistent with this Chapter 15.05.050 are incorporated herein by reference.

15.05.060 Land Use Powers Of The City Attorney, City Administrator, Governing Body, And Community Development Department

15.05.060.1 Land Use Powers And Duties Of The City Attorney And Assistants
15.05.060.2 No Land Use Powers For The City Administrator And Assistants
15.05.060.3 Limited Land Use Powers For The Mayor And City Council
15.05.060.4 Land Use Powers Of The Planning Commission
15.05.060.5 Department May Only Be Overruled By A Designated Higher Authority

15.05.060.1 Land Use Powers And Duties Of The City Attorney And Assistants

Chapter 15.03 and 15.05, as well as other Chapters in the Land Use Ordinances and Municipal Code, detail the powers of the Community Development Department, the Planning Commission, other land use authorities, the Appeal Authorities, etc. These titles also provide for specific delegations of procedural and advisory powers to the City Attorney, which may be delegated by the City Attorney to an Assistant City Attorney(s) and/or Acting Assistant City Attorney(s). In particular, Sections 15.03.050.4, 15.05.020 (D)(2), and 15.05.020(E)(3) detail the City Attorney's responsibility to act as a parliamentarian and as part of the City Staff. The City Attorney shall also review proposed plats, agreements, and applications, as provided for in Title 14 (Subdivisions) and elsewhere in the municipal code, state law, or federal law. The City Attorney may also provide an oral or written legal opinion to any land use authority or Appeal Authority at any time, subject to other provisions of the municipal code. Finally, the City Attorney may, without paying a filing fee, petition for a "procedural appeal," "regular appeal," or "limited appeal" (to interpret written land use provisions) at any time he/she determines that an appeal is warranted in the best interest of justice, and shall specifically state the reasons for the appeal in the petition.

15.05.060.2 No Land Use Powers For The City Administrator And Assistants

The City Administrator (and any Assistant City Administrator) shall not have any powers to decide land use issues and shall not be a member of any land use authority, Appeal Authority, quasi-legislative body, or legislative body of the City but, if concurrently appointed as the City Attorney, shall fulfill the land use duties and authority of the City Attorney

15.05.060.3 Limited Land Use Powers For The Mayor And City Council

The Mayor and City Council shall only exercise the land use powers expressly set forth in the municipal code (and in state and federal law).

15.05.060.4 Land Use Powers Of The Planning Commission

The Planning Commission has the land use powers identified in the governing legislation (state law; see Section 15.03.010.1) and in Perry Municipal Code Chapters 15.03 and 15.05, especially Sections 15.03.010.2 and 15.03.010.3. Except when acting on limited review permits, the Planning Commission makes recommendations to the City Council or Appeals Board, etc.

15.05.060.5 Department May Only Be Overruled By A Designated Higher Authority

No member of the Governing Body, City Administrator, City Attorney, or other City official may overrule, set aside, modify, or otherwise direct any decision of the Community Development Department, except as expressly set forth in the municipal code (and in state and federal law). The Department may thus only be overruled by a higher land use authority or by an Appeal Authority for administrative or quasi-judicial actions (or by a higher legislative body for legislative or quasi-legislative actions). In particular, and as indicated in Section 15.05.040(D)(1) (items (1), (5)(D), and (6)(B)), most routine permits, applications, and enforcement actions, for which the Department is the final land use authority, may be appealed to an Appeal Authority. Moreover, a "limited" appeal to interpret the written land use provisions, or a procedural appeal, may be made to the Administrative Law Judge. Other actions of the Department, such as consideration of subdivisions and site plans, are recommendations, and may be reversed or overruled by the Planning Commission and/or City Council as "higher" land use authorities, etc., as per Section 15.05.040(D)(1), etc.

15.05.070 Perry City Land Use Charts

15.05.070.1 Agricultural Uses
15.05.070.2 Residential Uses
15.05.070.3 Municipal Uses
15.05.070.4 Recreational Uses
15.05.070.5 Educational And Religious Uses
15.05.070.6 Medical Uses
15.05.070.7 Commercial Uses
15.05.070.8 Special Commercial Uses
15.05.070.9 Light Commercial Uses
15.05.070.10 Manufacturing- Industrial Uses

15.05.070.1 Agricultural Uses

Agricultural Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I

Accessory Uses and Buildings	P	P	P*	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Agricultural Experiment Station	P*	P*	~	~	~	~	~	~	~	P*	~	~	~	~	~	~	P*	P*
Animal Hospital	P*	~	~	~	~	~	~	~	~	P*	~	C	C	~	~	~	~	P*
Animal Kennel/ Cattery Breeding Establishments	P*	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Animal Training Schools	P*	P*	~	~	~	~	~	~	~	~	~	~	P*	~	~	~	~	~
Apiaries	P	P	~	~	~	~	~	~	P*	~	~	~	~	~	~	~	~	~
Aviaries	P	P	P*	P*	~	~	~	~	P*	~	~	~	~	~	~	~	~	~
Dairy or Creamery	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Domesticated Animals, Family Food-Production/Pleasure (See Note 1)*	P	P	P	C	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Egg Candling and Sales	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Fertilizer and Soil Condition Manufacturing and Sales	P*		~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Field Crops, Row Crops, Orchards, Hay Chopping	P	P	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	P	P*
Grazing	P	P	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
Fruit and Vegetable- Wholesale	P	P	~	~	~	~	~	~	~	P*	~	P	P	~	~	~	~	~
Fruit and Vegetable Stands- Retail	P	P	~	~	~	~	~	~	~	P*	P*	P	P	P*	~	~	~	~
Fruit and Vegetable long-term Storage	P*	P*	~	~	~	~	~	~	~	~	~	C	C	~	~	~	P*	P*
Greenhouses & Nurseries- Commercial	P*	P*	P*	~	~	~	~	~	~	P*		P*	P*	~	~	~	~	P*
Livestock Feed or Sales Yard	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Milk Processing Plant	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Soil Composting, Manufacturing, & Sales	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Stock Yard	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **C-Conditional Use** **P- Use Permitted in Zone** **~ Use not Permitted**

15.05.070.2 Residential Uses

Residential Uses	**A**	**AL**	**R 1 A**	**RE 1/2**	**R 1/2**	**R 1/3**	**R1**	**R2**	**ES**	**C**	**C1**	**NC2**	**NC3**	**MU-C**	**MU-O**	**MU-R**	**M/I L**	**M/I**
Accessory Buildings (See Area Requirements Chart)	P	P	P	P	P	P	P	P*	P*	P	~	P*	P*	~	~	P*	~	~
Apartment Buildings (5 or more units)	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	~	~
Boarding House, Bed/Breakfast note 4 *	~	~	~	~	~	~	~	~	~	~	~	C	C	P*	P*	P*	~	~
Condominiums, Town Houses (5+ units)	~	~	~	~	~	~	~	~	~	~		~	~	P*	P*	P*	~	~
Duplex, Tri-plex, Four-plex	~	~	~	~	~	~	~	P*	~	~	~	~	~	C	C	C	~	~
Home Occupations w/o visiting clientele	P	P	P	P	P	P	P	P	P*	~	~	P	P	P	P	P		~
Home Occupations w/ visiting clientele	C	C	C	C	C	C	C	C	C	~	~	C	C	C	C	C	~	~
Household Pets	P	P	P	P	P	P	P	P	P	~	~	P	P	P	P	P	~	~
Modular/Manufactured Homes	P	P	P	P	P	P	P	P	~	~	~	~	~	~	~	~	~	~
Single Family Homes	P	P	P	P	P	P	P	P	P*	~	~	~	~	~	~	~	~	~
Zero-lot Line Home	~	~	~	~	~	~	~	P	~	~	~	~	~	P*	P*	P*	~	~
Model Home	~	~	C	C	C	C	C	C	~	~	~	~	~	C	C	C	~	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **C-Conditional Use** **P- Use Permitted in Zone** **~ Use not Permitted**

15.05.070.3 Municipal Uses

Municipal Uses	**A**	**AL**	**R 1 A**	**RE 1/2**	**R 1/2**	**R 1/3**	**R1**	**R2**	**ES**	**C**	**C1**	**NC2**	**NC3**	**MU-C**	**MU-O**	**MU-R**	**M/I L**	**M/I**
Animal Pound	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*
Cemetary	P*	P*	P*	P*	P*	P*	P*	P*	~	~	~	~	P*	~	~	~	~	~
Garbage Transfer	P	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
Public Building or Utility	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Public Park	P	P	P	P	P	P	P	P	P	~	~	C	C	P	P	P	P	P

Sewage Disposal and/or Treatment Plant	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P	P

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.4 Recreational Uses

Recreational Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Dude Ranch	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Campground Commercial or Recreational	P*	P*	~	~	~	~	~	~	P*	~	~	~	P*	~	~	~	~	~
Golf Course	P*	P*	P*	P*	P*	P*	P*	P*	P*	~	~	~	~	~	~	~	~	~
Golf Driving Range	P*	P*	P*	~	~	~	~	~	P*	~	~	~	~	~	~	~	~	~
Gun Club	P*	~	~	~	~	~	~	~	P*	~	~	~	~	~	~	~	P*	~
Ice Rink	P*	P*	~	~	~	~	~	~	~	~	~	C	C	~	~	~	~	~
Private Park	P	P	P	P	P	P	P	P	P	~		~	~	P*	P*	P*	~	P
Public Stable	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P	~
Riding Academy	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	~
Rodeo Grounds	P*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Skeet Shooting Range	P*	~	~	~	~	~	~	~	P*	~	~	~	~	~	~	P*	~	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.5 Educational And Religious Uses

Educational and Religious Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Art Gallery	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	~	~	~
Place of Worship	P*	P*	P*	P*	P*	P*	P*	P*	P*	~	~	P*	P*	~	~	P*	~	~
College, University, Trade, Tech. School	P*	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	~	~	~
Day Care Center-Commercial	P*	P*	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	P*	~	~
Fraternity-Sorority	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	~	~
Library	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	~	~
Museum	~	~	~	~	~	~	~	~	~	C	C	P*	P*	P*	P*	P*	~	~
Private School	P*	P*	P*	P*	P*	P*	P*	P*	P*	~	~	C	C	P*	P*	P*	~	~
Wedding Reception Center	~	~	~	~	~	~	~	~	~	~	~	C	C	P*	~	~	~	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.6 Medical Uses

Medical Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Assisted Living	~	~	~	~	~	~	~	~	~	~	~	P*	P*	~	~		~	~
Clinic	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	~	~	~
Rehabilitation Center	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	~	~
Hospital	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	~	~	~
Rest Home	~	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	~	~
Sanitarium	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	C	C

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.7 Commercial Uses

Commercial Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Body and Fender Shop	~	~	~	~	~	~	~	~	~	~	C	C	C	~	~	~	~	P*
Cabinet Shop	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*
Vehicle Repair	~	~	~	~	~	~	~	~	~	~	C	C	C	~	~	~	~	P*
Vehicle Sales	~	~	~	~	~	~	~	~	~	~	P*	C	C	~	~	~	~	~
Vehicle Wash	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	~	~	~	~

Construction Yard (See Note#3)*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
Firearms Retail/Repair (See Note #2)*	C	C	C	C	C	C	C	C	~	P*	P*	P*	P*	P*	~	~	~	~
Fix It Shop	~	~	~	~	~	~	~	~	~	~	~	C	C	P*	~	~	~	P*
Grocery Store	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	~	~	~	~
Laundromat/Dry Cleaners	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	~	~	~	~
Machine Shop	~	~	~	~	~	~	~	~	~	~	~	P*	P*	~	~	~	P*	P*
Mortuary	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	~	~	~	~
Nursery (Plants)	P	P	~	~	~	~	~	~	~	~	~	P*	P*	~	~	~	~	~
Planing Mill or Welding Shop	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*
Sexually Oriented Business	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	~
Wholesale Outlet	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	~	~	~	P*
Small Retail (Less than 20,000 sq.ft.)	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	P*	P*	P*
Large Retail (More than 20,000 sq.ft.)	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	~	~	~	P*	P*

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.8 Special Commercial Uses

Special Commercial Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Alcohol Retail, Off Premises, Note 2 *	~	~	~	~	~	~	~	~	~	P*	P*	C	C	~	~	~	~	~
Hotel/Motel (w/ or w/o Alcohol), Note 2 *	~	~	~	~	~	~	~	~	~	C	C	~	C	C	~	~	~	~
Restaurant w/on Prem. Alcohol, Note 2 *	~	~	~	~	~	~	~	~	~	C	C	C	C	C	~	~	~	~
Restaurant Without On Prem. Alcohol	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	P*	P*	P*	P*
Other Alcohol On Premises, Business	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.9 Light Commercial Uses

Light Commercial Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Athletic Club	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	P*	P*	~	~
Bakery	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	P*	~	~
Bike Shop	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	P*	~	~
Book Store	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	P*	~	~
Convenience Store	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	P*	P*	P*	P*
Gift Shop	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	P*	~	~
Hardware Store	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	~	~	~	~
Professional Office Space	~	~	~	~	~	~	~	~	~	~	P*	P*	P*	P*	P*	P*	~	~
Recreation Center	~	~	~	~	~	~	~	~	~	~	P*	C	C	P*	P*	P*	~	~
Fast Food Restaurant	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	P*	P*	P*	P*
Fuel Stop	~	~	~	~	~	~	~	~	~	P*	P*	C	C	P*	P*	P*	P*	P*
Upholstery Shop-Retail	~	~	~	~	~	~	~	~	~	~	~	C	C	P*	~	~	P*	P*
Check Cashing Serv./Car Title Loans	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.05.070.10 Manufacturing- Industrial Uses

Manufacturing- Industrial Uses	A	AL	R 1 A	RE 1/2	R 1/2	R 1/3	R1	R2	ES	C	C1	NC2	NC3	MU-C	MU-O	MU-R	M/I L	M/I
Asphalt Plant	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
Fabrication Processes	~	~	~	~	~		~	~	~	~	~	~	~	~	~	~	P*	P*
Milling and Machinery Facilities	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
Packaging Processes	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
Printing Processes	~	~	~	~	~	~	~	~	~	~	P*	C	C	~	~	~	~	P*

Product Development	~	~	~	~	~	~	~	~	~	~	~	C	C	P*	P*	~	~	P*
Product Distribution	~	~	~	~	~	~	~	~	~	~	~	~	~	C	C	~	P*	P*
Research and Development Facilities	~	~	~	~	~	~	~	~	~	~	~	C	C	P*	P*	~	~	P*
Storage Units- N of 3000 S (See Note #3)*	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
S.U. -S of 3000 S (See Note #3)*	~	~	~	~	~	~	~	~	~	P*	~	~	~	~	~	~	P*	P*
Telecommunications Towers	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	C	C
Warehousing/ Large Scale Distribution	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	P*	P*
Gravel Pits	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~

***Notes-see Section 15.07.100.4** **P*- Use Permitted by Design Review** **P- Use Permitted in Zone**
C-Conditional Use **~ Use not Permitted**

15.07 Zoning, Including Procedures, Land Use Chart, Area Requirements, And Zoning Maps

15.07.005 Intent And General Provisions
15.07.010 Zoning Districts
15.07.020 Zone Descriptions
15.07.030 Rules For Locating Boundaries
15.07.040 Zoning Boundary Policy
15.07.050 Airport Overlay Zone
15.07.060 Neighborhood Commercial Zones
15.07.070 In-Fill Development (In NC2 And NC3 Zones)
15.07.080 Zoning Administration
15.07.090 Penalties
15.07.100 Land Use Chart
15.07.110 Area, Frontage, Setback, And Height Requirements
15.07.120 Zoning Map

15.07.005 Intent And General Provisions

15.07.005.1 Filing Of Zoning Ordinance And Zoning Map

15.07.005.1 Filing Of Zoning Ordinance And Zoning Map

This Zoning Ordinance and Zoning Map shall be filed in the custody of the City Recorder of Perry City and may be examined by the public subject to reasonable regulations established by the City Recorder.

15.07.010 Zoning Districts

15.07.010.1 List Of Zones

15.07.010.1 List Of Zones

The territory of the City of Perry is divided into the following zoning districts or potential districts. For the Land Use Chart which shows the restrictions and limitations within these districts or potential districts, refer to Section 15.07.100 of this Title.

A AGRICULTURAL
AL AGRICULTURAL LIMITED
R1 A RURAL RESIDENTIAL - 1 ACRE
RE 1/2 RURAL RESIDENTIAL - 1/2 ACRE
R 1/2 LOW DENSITY RESIDENTIAL - 20,000 sf
R 1/3 LOW DENSITY RESIDENTIAL - 1/3 ACRE
R1 LOW DENSITY RESIDENTIAL - 10,000 sf
R2 MEDIUM DENSITY RESIDENTIAL - 8,000 sf
C COMMERCIAL
C 1 COMMERCIAL - PRINCIPAL
IC INTERSTATE COMMERCIAL
NC2 NEIGHBORHOOD COMMERCIAL
NC3 NEIGHBORHOOD COMMERCIAL
MU-C MIXED-USE COMMERCIAL
MU-O MIXED-USE OFFICE
MU-R MIXED-USE RESIDENTIAL
M/I MANUFACTURING/INDUSTRIAL
M/I L MANUFACTURING/INDUSTRIAL LIMITED
ES ENVIRONMENTALLY SENSITIVE

15.07.020 Zone Descriptions

15.07.020.1 Agricultural
15.07.020.2 Agricultural Limited
15.07.020.3 Rural Residential
15.07.020.4 Rural Residential 1/2 Acre
15.07.020.5 Low Density Residential 1/2 Acre (20,000 Sf)
15.07.020.6 Low Density Residential 1/3 Acre
15.07.020.7 Low Density Residential 1/4 Acre (10,000 Sf)
15.07.020.8 Medium Density Residential (8,000 Sf)
15.07.020.9 Commercial (C)
15.07.020.10 Commercial (C1)
15.07.020.11 Interstate Commercial
15.07.020.12 Nc2 And Nc3 -Neighborhood Commercial
15.07.020.13 Mu-C Mu-O Mu-R Mixed Use Commercial, Office, And Residential
15.07.020.14 M/I- Manufacturing/Industrial Limited
15.07.020.15 M/I L- Manufacturing/Industrial Limited
15.07.020.16 Environmentally Sensitive
15.07.020.17 Caveat Regarding Zone Descriptions (And Development Standards)

15.07.020.1 Agricultural

The purpose of the Agricultural Zone is to promote and preserve conditions favorable to intensive agriculture. This zone is intended to include activities normally and customarily related to the production of livestock, crops, and related agricultural products and to protect the zone from the intrusion of uses detrimental to the continuation of intensive agricultural activities.

15.07.020.2 Agricultural Limited

The purpose of the limited agricultural zone is to promote and preserve in appropriate areas conditions favorable to light agriculture. This zone is intended to include activities normally and customarily related to the conduct of agriculture and to protect the zone from intrusions of uses, which will have an adverse effect on the continuation of light agricultural activities.

15.07.020.3 Rural Residential

The purpose of the rural residential zone is to provide for and protect residential development in a semi-rural environment. The keeping of limited numbers of livestock and the raising of crops can be considered normal activities in the rural residential zone.

15.07.020.4 Rural Residential 1/2 Acre

The purpose of the rural residential zone is to provide for residential development in a semi-rural environment. The keeping of one large animal per half acre, limited numbers of small animals/fowl and the raising of crops can be considered normal activities in this rural residential zone. The following clarifications apply to a RE zone:

1. One (1) large animal will be allowed per 20,000 sq of property on a parcel. (Example: Two large animals are allowed on 50,000 sq. of property. Additional animals are not allowed on portions of property less than 20,000 sq.) Large Animals are considered: Horses, cattle, sheep, goats, pigs, etc. Large animals must be contained in a corral or stock fence. If there is no main building, corrals or stock fences must have a thirty (30) foot minimum front setback, sixteen (16) foot minimum rear setback and eight (8) foot minimum side setbacks on a lot or parcel. If there is a main building, corrals or stock fences shall be sixteen (16) feet from the building and other setbacks will apply.
2. Nine (9) small animals/fowl will be allowed per 20,000 sq. of property on a parcel. (Example: Eighteen (18) small animals/fowl are allowed on 50,000 sq. of property.) Under special conditions, additional small animals/fowl may be allowed with the approval of a conditional use permit (reviewed on a yearly basis) and following the process for its issuance. Small animals/fowl are considered: Chickens, turkeys, ducks, geese, pigeons, peacocks, rabbits, mink, ferrets, or other small domesticated fur bearing animals.
3. Special Conditions that will be considered to allow more small animals/fowl would include but not be limited to: available housing or shelters (coops, pens, barns, etc.), fencing, control of animals/fowl, consent of neighbors and lack of complaints.

15.07.020.5 Low Density Residential 1/2 Acre (20,000 Sf)

The purpose of the low density residential zone is to provide appropriate locations where low density residential neighborhoods may be established, maintained and protected. The regulations are intended to prohibit those uses which would be intrusive to activities and uses usually associated with single-family neighborhoods.

15.07.020.6 Low Density Residential 1/3 Acre

The purpose of the low density residential zone is to provide appropriate locations where low density residential neighborhoods may be established, maintained and protected. The regulations are intended to prohibit those uses which would be intrusive to activities and uses usually associated with single-family neighborhoods.

NOTE: This zone allows a septic tank on a minimum 1/3 acre lot in the south annexed area of the city until such time as sewer collection lines are installed within 300 feet of a lot line, then the owner of said lot has one year to connect to the sewer collection lines.

15.07.020.7 Low Density Residential 1/4 Acre (10,000 Sf)

The purpose of the R-1 Zone, low density residential, is to provide appropriate locations where low density housing neighborhoods may be established, maintained and protected. The regulations are intended to prohibit those uses which would be intrusive to activities and uses usually associated with single-family neighborhoods.

15.07.020.8 Medium Density Residential (8,000 Sf)

The purpose of the medium density residential zone is to provide appropriate locations where medium density residential neighborhoods may be established, maintained and protected. The regulations are intended to prohibit uses that would be intrusive to activities and uses usually associated with medium density neighborhoods.

15.07.020.9 Commercial (C)

The purpose of the commercial zone is to provide an appropriate area for intensive commercial and light manufacturing. Development standards must minimize potential negative visual impact and objectionable effects to adjacent zones.

NOTE: Variables that determine if a proposed development should be included in the Manufacturing/Industrial Zone as opposed to the Commercial Zone include but are not limited to:

1. Number of employees
2. Square footage and height of building(s)
3. Square footage of hard space
4. Requirements for outside storage areas or service requirements
5. Potential negative environmental impact
6. Overall visual quality of the development

15.07.020.10 Commercial (C1)

This zone is unique to the area along the north border of Perry City, West of Highway 89 extending west to Interstate 15 and South from the border with Brigham City for approximately 2000 feet (as defined on the Zoning Map). The purpose of this zone is to provide space for development of business which focuses on retail and wholesale sales along with professional offices. The zone is considered prime business district and does not allow residential development or heavy commercial development such as processing plants, etc. Appropriate uses are defined in the Land Use Chart and will be approved through the Design Review process.

15.07.020.11 Interstate Commercial

The purpose of the Interstate Commercial Zone is to permit all commercial uses as listed in the Development and/or Inter-local Agreements between Perry City and the developers of the Pointe Perry Development. This zone applies only to the area of the Pointe Perry Development.

15.07.020.12 Nc2 And Nc3 -Neighborhood Commercial

The purpose of the neighborhood commercial zones is to permit the establishment of well designed retail commercial facilities along Highway 89 and minimize the effects of commercial development adjacent to residential uses (see Section 15.07.060 for specific zoning information and Chapter 15.29 for Conditional Use information).

15.07.020.13 Mu-C Mu-O Mu-R Mixed Use Commercial, Office, And Residential

The purpose of the mixed use zones is to provide an area for multi-family dwellings in combination with commercial uses such as offices or retail. Combining these uses will reduce traffic congestion by providing for an area adjacent to mass transit as well as making jobs available close to home.

15.07.020.14 M/I- Manufacturing/Industrial Limited

The purpose of the Manufacturing/Industrial Zone is to provide an area conducive to heavy manufacturing and industry that is in harmony with the environmental quality of the community.

15.07.020.15 M/I L- Manufacturing/Industrial Limited

The purpose of the Manufacturing/Industrial Limited Zone is to provide an area conducive to specific manufacturing uses, heavy commercial uses and industry that is in harmony with the General Plan.

15.07.020.16 Environmentally Sensitive

The purpose of the Environmentally Sensitive Zone is to promote environmental planning of areas which have severe physical limitations and have a complex ecological and environmental balance, including limiting development in sloped terrain (see "Sloped Terrain and Foothill Development," Chapter 15.09).

15.07.020.17 Caveat Regarding Zone Descriptions (And Development Standards)

Development standards must protect the Perry City water shed and water supply, limit erosion and storm water runoff, be compatible with existing wildlife winter range, accent the goals of the General Plan, not limit casual access to the foothills, and limit disruption of vegetation through a cut and fill process.

1. Grade is to be determined on individual lots and not averaged across the development.
2. Ratio of dwelling unit per existing grade:

   Over 20% grade - no development
   15 - 20% grade - 1 dwelling per 5 acres
   10 - 15% grade - 1 dwelling per 2 acres
   5 - 10% grade - 1 dwelling per 1 acre
   0 - 5% grade - 1 dwelling per 1/2 acre

15.07.030 Rules For Locating Boundaries

15.07.030.1 Basic Rules
15.07.040.2 Final Decisions And Appeals For Locating Boundaries
15.07.040.3 Zoning Boundary Divides A Parcel

15.07.030.1 Basic Rules

Where uncertainty exists as to the boundaries of any zone, the following rules shall govern:

1. Whenever the zone boundary is not accurately defined on the Zoning Map, but is indicated as being approximately along the center line of a street, alley, or block, or along a property line, then the center line of such street, alley, or block, or such property line shall be construed to be the boundary of such zone.
2. Wherever the zone boundary is indicated as being parallel to or an extension of features on the map, such as parallel line or such extensions shall be deemed to be the boundary of such zone.
3. Where such zone boundaries cannot be determined by the above rules, the boundary location may be found by the use of the scale appearing upon the Zoning Map.

15.07.040.2 Final Decisions And Appeals For Locating Boundaries

Where the application of the above rules does not adequately clarify the zone boundary location, the Board of Adjustment shall apply the basic rules and interpret and define the zone boundary of the Zoning Map.

15.07.040.3 Zoning Boundary Divides A Parcel

Where the zoning boundary divides a parcel of property, the Zoning Boundary Policy (Section 15.07.040 of this title) is to be applied to determine the zone of the parcel.

15.07.040 Zoning Boundary Policy

15.07.040.1 Purpose And Intent
15.07.040.2 General Guidelines For Zoning Boundary Policy
15.07.040.3 Final Decisions And Appeals Regarding Zoning Boundary Policy Applications

15.07.040.1 Purpose And Intent

The purpose and intent of this ordinance is as follows:

1. The purpose and intent of this ordinance is to address land use considerations on parcels split by zoning boundaries because different uses are allowed in the different zones. The intent of the land use extension recommendation by the Planning Commission is that land uses will be allowed to be extended into adjoining zones without changing the zone boundary or the zoning map. It is intended that land use extensions for developments are an intrinsic part of the proposal itself and the approval of the development includes the extension of the land use.
2. The Planning Commission's zoning and land use guidelines consist of statements which define how zoning and land use decisions should be made. They are to be used in addressing the needs of all the stakeholders and they provide a framework for future land use and zoning decision making. These guidelines represent the commitment the Planning Commission makes to the community.
3. Because these are general statements, there will be occasions when various policies conflict. In such cases, the Planning Commission will need to determine the precedence given on a case by case basis according to the specific needs of the issue that is pending.

15.07.040.2 General Guidelines For Zoning Boundary Policy

The following are guidelines for zoning boundary policy:

1. These guidelines may be applied during the Design Review process (Chapter 15.17) or the Subdivision process (Title 14) as a means to extend a land use when the following requirements are met:

a. The parcel for development is split by a zoning boundary. (The parcel boundaries and the zone boundaries are different or the parcel is divided into two or more zones).
b. The applicant has applied for a use that is allowed in one or more of the zones that are within the parcel.

2. One or a combination of these considerations will be made to recommend a method to deal with parcels split by zone boundaries:

a. A definite edge should be established between types of uses to protect the integrity of each use.
b. Land use extensions should reflect the existing use of the property to the largest extent possible, unless the area is in transition.
c. Where possible, properties which face each other across a local street should be the same or similar uses.
d. Primary frontage of the parcel and surrounding uses should be considerations when establishing uses for corner lots.
e. Non-residential uses abutting residential uses should be planned to help minimize the impact on an established residential area that is in close proximity to the nonresidential use.

3. One or a combination of the following methods for determining land use may be applied by the Planning Commission to make recommendations for the parcel in question:

a. The Planning Commission may recommend that the uses allowed in the majority zone of the parcel be extended to the entire parcel.
b. The Planning Commission may make a determination as to which zone is the most beneficial for Perry City in regards to the public good, aesthetic considerations, and/or special circumstances that are characteristic of the property and recommend that the land uses associated with the desired zone be extended as far as the Planning Commission deems necessary.
c. When there are conflicting lot size requirements in the zones contained in the parcel for development, the Planning Commission may recommend using a formula to average the size of the lots to be developed to conform to the average density allowed in all of the zones involved.

4. In making land use recommendations, the Planning Commission may give consideration to one or more of the following suggestions:

a. The right of the property owner(s) and the desire to use their property for a use that is allowed in part of the property should be recommended when appropriate.
b. Re-Zoning of a parcel to conform to ne zone should be recommended when appropriate.
c. Discouragement of small lot developments of multiple density uses.
d. Commercial uses should be located on collector or arterial streets.
e. Access to commercial, manufacturing and industrial uses should avoid residential streets.

15.07.040.3 Final Decisions And Appeals Regarding Zoning Boundary Policy Applications

After a recommendation from the Planning Commission, as per Sections 15.07.040.1 and 15.07.040.2 herein, the Special Uses and Appeals Board shall make a final decision, subject to an appeal to the Administrative Law Judge (within 10 calendar days; see Section 15.05.040(D)(1), items (5)(A) and (6)(A); see also Section 15.05.040(E)(5)).

15.07.050 Airport Overlay Zone

15.07.050.1 Purpose And Intent
15.07.050.2 General Provisions
15.07.050.3 Definitions
15.07.050.4 Airport Zoning Commision: For The Portions Of Perry City That Fall Within The Outer Approach Zone
15.07.050.5 Airport Board Of Adjustment: For The Portion Of Perry City That Falls Within The Outer Approach Zone
15.07.050.6 Schedule Of Uses
15.07.050.7 Airport Master Plan
15.07.050.8 Airport Overlay Zones
15.07.050.9 Regulations
15.07.050.10 Notifications
15.07.050.11 Airport Development Standards

15.07.050.1 Purpose And Intent

The purpose and intent of this ordinance is to state that an airport hazard endangers the lives and property of users in the Brigham City Airport and of occupants of land or to property in its vicinity. Such hazard also reduces the size of the area available for landing, taking off and maneuvering of aircraft, and it tends to destroy or impair the utility of the Brigham City Municipal Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Brigham City Municipal Airport;
2. That it is necessary in the interest of public health, public safety and general welfare that the creation or establishment of an airport hazard be prevented; and
3. That the prevention of those hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire lands or interests in land.

15.07.050.2 General Provisions

The following are general provisions of this ordinance:

1. These regulations reinforce specific provisions in the Brigham City Municipal Airport Master Plan (May 2, 1996), as amended and Brigham City General Plan (January 15, 1998), as amended.
2. The boundary of any officially recognized “Airport Overlay Zones” shall be as it appears on a map and/or other documents approved by the Brigham City Council.
3. Portions of Perry City fall within the OUTER APPROACH ZONE of the Brigham City Municipal Airport (see Brigham City Municipal Airport Overlay Zones map). The restrictions listed for the Outer Approach Zone in the schedule of uses and the restrictions sections of this ordinance identify the only impact for land within Perry City.
4. Perry City must notify developers when property falls within the portion of the Outer Approach Zone that is located within Perry City limits. Developers must notify potential purchasers (in writing) when property is within the Outer Approach Zone of the Brigham City Airport.

15.07.050.3 Definitions

Definitions used in this Ordinance unless the context otherwise requires:

1. Airport: The Brigham City Municipal Airport or any area of land designated and used for the landing and taking off of aircraft.
2. Airport Elevation: The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is 4,225.5 feet MSL as of the date of this ordinance.
3. Airport Hazard: Any structure or use of land that actually or potentially obstructs the airspace required for the safe flight of air craft in landing or taking off at an airport

4. 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 this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
5. Approach, Transitional, Horizontal, and Conical Zones: These zones are set forth in Section 15.07.050.8(3) of this Ordinance.
6. Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. F.A.R. 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.
8. Hazard to Air Navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
9. Height: For the purpose of determining the height limits in all zones set forth in Section 15.07.050.8(3) and shown on the zoning map, the datum shall be the mean sea level (MSL) elevation unless otherwise specified.
10. Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
11. Ldn: Yearly day-night average sound level.
12. MSL: Mean Sea Level.
13. Non-precision 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 non-precision instrument approach procedure has been approved or planned. It also means a runway for which a non-precision approach system is planned and is so indicated on an approved Airport Layout Plan or any other planning document.
14. Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Ordinance.
15. 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.
16. 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.
17. Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 500 feet beyond each side of the runway and 200 beyond the end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
18. Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.
19. Structure: An object, including a mobile object, constructed or installed by man, including but not limited to, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
20. Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet 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 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
21. Tree: Any object of natural growth.
22. Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
23. Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

15.07.050.4 Airport Zoning Commision: For The Portions Of Perry City That Fall Within The Outer Approach Zone

The Commission established is thus:

1. The Perry City Planning Commission is designated as the "Airport Zoning Commission" as prescribed in Utah Code Annotated §72-10-405.
2. In this Title and State law, any references to the "Airport Zoning Commission" shall mean the Perry City Planning Commission (for the Perry City Outer Approach Zone).
3. If the Planning Commission is empowered in this Title to take actions that are duties of the Airport Zoning Commission as prescribed in Utah law, the Planning Commission shall be presumed to be functioning as the Airport Zoning Commission.
4. 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 the Perry City Council or Utah law.
5. The Perry City Airport Zoning Commission shall act as the Airport Zoning Commission for Perry City (for the Perry City Outer Approach Zone).

15.07.050.5 Airport Board Of Adjustment: For The Portion Of Perry City That Falls Within The Outer Approach Zone

The Perry City Special Uses and Appeals Board is designated as the “Airport Board of Adjustment” as prescribed in Utah Code Annotated §72-10-408. In this Title and State law, any references to the "Airport Board of Adjustment" shall mean the Perry City Special Uses and Appeals Board (for the Perry City Outer Approach Zone). If the Board of Adjustment is empowered in this Title to take actions that are duties of the Airport Board of Adjustment as prescribed in Utah law, the Board of Adjustment shall be presumed to be functioning as the Airport Board of Adjustment. The Airport Board of Adjustment shall hear issues pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Perry City Council or Utah law. The Perry City Airport Board of Adjustment shall act as the Airport Board of Adjustment for Perry City (for the Perry City Outer Approach Zone).

15.07.050.6 Schedule Of Uses

The following table indicates the uses and conditions required within the 5 designated zones for the airport:

Table of Uses

	AIRPORT INFLUENCE AREA (AIA)	TRAFFIC PATTERN ZONE (TPZ)	OUTER APPROACH ZONE (OAZ)	INNER APPROACH ZONE (IAZ)	65 Ldn NOISE AREA (NA)
RESIDENTIAL					
Single-family, Multi-family, Accessory Apartments,	C(6)	C(4)	C(3,4)	X	X
Residential Facilities for Elderly /Handicapped					
PUBLIC					
Schools, Libraries, Churches	C(6)	C(4)	C(3,4)	X	X
Parking, Cemeteries	P	P	P	C(5)	C(2,5)
COMMERCIAL & INDUSTRIAL					
Offices, Retail Trade, Service Commercial, Wholesale Trade,	P	C(6)	C(4)	C(1)	C(1)

Warehousing, Light Industrial, General Manufacturing,					
Utilities, Extractive industry					
AGRICULTURAL & RECREATIONAL					
Cropland	P	P	P	P	P
Livestock Breeding, Parks, Playgrounds, Zoos, Golf Courses,	P	P	P	P	
Riding Stables, Water Recreation					
Outdoor Spectator Sports	P	C(3)	C(3,4)	X	X
Amphitheaters	C	C(3)	X	X	X
Open Space	P	P	P	P	P

(1) If allowed, navigation easements and disclosure must be required as a condition of development.
(2) Any structures 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. A navigation 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 be configured to comply with Part 77 requirements.
(6) Disclosure of airport proximity should be required as a condition of development.

15.07.050.7 Airport Master Plan

All uses and regulations pertaining to the Airport 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 Brigham City Council or as amended and is incorporated into this chapter by reference as it pertains to airport land uses.

15.07.050.8 Airport Overlay Zones

In order to carry out the provisions of this Ordinance, 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 Brigham City Municipal Airport. 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:

1. Airport Influence Area (AIA): An area which is recognized by the Brigham City Council as containing lands which might be affected by noise and/or safety hazards associated with aircraft operations associated with Brigham City Municipal Airport. The AIA extends from the airport to the outer edge of the conical surface.
2. Traffic Pattern Zone (TPZ): This zone extends from the centerline of Runway 34/16 to the outer edge of the horizontal surface.
3. 65Ldn Noise Area (NA): The area within the 65 decibel yearly day-night average sound level.

    a. Inner Approach Zone (IAZ): The area within the FAR “Part 77" Approach Surface for each Runway:
    b. b. Runway 16 Approach Zone: An approach zone is established at the end of Runway 16 for utility landings and take-offs. The approach zone shall have a width of 500' at a distance of 200' beyond the end of the runway, widening thereafter uniformly to a width of 1,010' at a distance of 1,700' beyond the end of the runway, its centerline being the continuation of the centerline of the runway. The approach zone shall rise 1' in height for each 20' in horizontal distance beginning at a point 200' from and at the centerline elevation of the runway and extending to a distance of 5,000' from the end of the runway.
    c. Runway 34 Precision Approach Zone: A precision instrument approach zone is established at the end of runway 34 for precision instrument approach zone shall have a width of 1,000' at a distance of 200' beyond the end of the runway; widening thereafter uniformly to a width of 1,750' at a distance of 2,700' beyond the end of the runway. The precision instrument approach zone shall rise 1' in height for each 50' in horizontal distance beginning at a point 200' from and at the centerline elevation of the precision instrument runway and extending to a point 10,200' from the end of the runway.
    d. Outer Approach Zone (AZ): The area within the FAR “Part 77" Outer Approach Surface for Runway 34 is established at 10,200 feet from the end of runway 34 with a width of 2,500 feet widening thereafter uniformly to a width of 16,000' at a distance of 50,200' beyond the end of the runway. This approach zone will rise 1' in height for each 40' in horizontal distance beginning at a point 10,200' from and at the centerline elevation of the precision instrument runway and extending to a point 50,200' from the end of the runway. This Zone is the only zone pertaining to Perry City.
    e. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
    f. Horizontal Zones: The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of Runway 34/16 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
    g. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

15.07.050.9 Regulations

The following regulations apply for this Ordinance:

1. Conforming uses only.
2. All uses in the Airport Overlay zones shall be subject to the regulations of this Ordinance and prescribed development standards within the Airport Master Plan as amended.
3. Creation of airport hazards prohibited.
4. No variance, permit, or use shall be allowed in the airport hazard area that would create or enhance an airport hazard.
5. Use and operational limitations within the Airport Overlay zones.
6. No use shall be permitted which:

    a. Creates or tends to create electrical interference to navigational devices and communication between aircraft and airports.
    b. Creates or tends to create gas, smoke, dust, glare, or other visual hazards in the atmosphere around airports or in the airport hazard area.
    c. Creates or tends to create structures that interfere with aircraft safety.
    d. Creates or tends to create any type of hazard for the airport that would inhibit or constrain safe and acceptable airport operations.

7. Height limitation: Except as exempted in Paragraph H of this Section otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance 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:

    a. Runway 16 Visual Approach Zone: 1' in height for each 20' in horizontal distance beginning at a point 200' from and at the centerline elevation of the end of the

runway and extending a distance of 5,200' from the end of the runway 16.

b. Runway 34 Precision Instrument Approach Zone: 1' in height for each 50' in horizontal distance beginning at a point 200' from and at the centerline elevation of the end of the runway and extending a distance of 10,200' from the end of the runway.
c. Transition Zone: 1’ in height for each 7' in horizontal distance beginning at any point 250' normal to and at the elevation of the centerline of the runway, extending 200' beyond each end thereof, and 500' normal to and at the elevation of the centerline of the runway, extending 200' beyond each end thereof, extending to a height of 150' above the airport elevation. In addition, there are established height limits of 1' vertical height for each 7' horizontal distance measured from the edges of all approach zones for the entire length of the approach zone and extending upward and outward to the points where they intersect the horizontal or conical surfaces.
d. Horizontal Zone: 150' above the airport elevation or a height of 4225.5 feet above mean sea level (MSL).
e. Conical Zone: Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (4,375.5 ft. MSL) and extending to a height of 350 (4,725.5 ft.MSL) feet above the airport elevation.

8. Exemptions to height limitation:

a. 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
b. Structures up to and including 35 feet in height above the ground level at its site where the ground elevation at its site is less than or equal to 35 feet below the height limitations defined in this Ordinance, 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 shall be used to determine its effect on safety in air navigation.

15.07.050.10 Notifications

The following regarding notification:

1. Except as provided in Paragraph B, 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:

a. Any construction or alteration of more than 200 feet in height above the ground level at its site.
b. Any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway at the Brigham City Municipal Airport.

2. Exemptions from Notification:

a. 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.
b. Any antenna structure of 20 feet or less in height except one that would increase the height of any antenna structure.

3. Time of Notice: The notice required under Paragraph A must be submitted at least 30 days before the earlier of the following dates:

a. The date the proposed construction or alteration is to begin.
b. The date an application for a construction permit is to be filed.

15.07.050.11 Airport Development Standards

The Brigham City Council may adopt by resolution or enact by ordinance.

15.07.060 Neighborhood Commercial Zones

15.07.060.1 Intent And Purpose
15.07.060.2 Types Of Neighborhood Commercial Zones
15.07.060.3 Approval Process
15.07.060.4 Area Requirements
15.07.060.5 Site Development Standards
15.07.060.6 Protection Of Adjoining Residential Properties
15.07.060.7 General Regulations
15.07.060.8 Building Permit Issuance
15.07.060.9 Time Limitations

15.07.060.1 Intent And Purpose

The purpose of the Neighborhood Commercial Zones is to permit the establishment of a well designed complex of retail commercial facilities for the community along Highway 89 to provide goods and services for the people to be served, minimize traffic congestion on public streets in the vicinity and allow uses which shall best fit the general environment and land use pattern of the area to be served. It is intended that the protective standards contained in this ordinance will minimize any adverse effect of the Neighborhood Commercial Zones on the nearby property values, preserve the aesthetic qualities of the area, and provide for safe and efficient use of the commercial property.

15.07.060.2 Types Of Neighborhood Commercial Zones

The following are the various types of neighborhood commercial zones under Perry City Municipal Code:

NC 2-

1. Permitted and/or Conditional Uses: Provides for the sale and supply of daily living needs of the people in the neighborhood as well as major segments of the community, professional offices, recreation centers, government offices, civic centers and churches. Mixed-use residential developments (buildings containing both a residence and a business) shall be the only residential uses allowed in the Neighborhood Commercial Zones and are allowed in the NC 2 Zone.
2. There shall be at least as much commercial space as is being used for residential living area in each building of a mixed-use residential development. Permitted uses in the NC 2 Zone are less intrusive to adjoining residential development than those in the NC 3 Zone. Consult the Land Use Chart, Title 50, for permitted uses allowed by Design Review and conditional uses allowed with the meeting of specific conditions.
3. Zone Area: The NC 2 Zone shall include the area from the Brigham City Boundary to 3000 South Street on both sides of Highway 89 for 300 feet measured from the Highway 89 Right of Way line. The City Center shall be located at approximately 2500 South Street.

NC 3-

4. Permitted and /or Conditional Uses: Provides for the sale and supply of a complete range of retail and wholesale goods and personal services for the entire community as well as centers for recreational entertainment and cultural activities for the region. Consult the Land Use Chart (Chapter 45.09), for permitted uses allowed by Design Review and Conditional Uses allowed with the meeting of specific conditions.
5. Zone Area: The NC 3 Zone shall include the area from 3000 South Street to the Willard boundary on both sides of Highway 89 for 300 feet measured from the Highway 89 Right of Way line. The area is relatively undeveloped at this time and the requirement for frontage road access to development will be enforced in this zone.

15.07.060.3 Approval Process

The following criteria are required for approval:

1. All permitted and/or conditional uses shall be listed and regulated according to the Land Use Chart, Chapter 15.15. Permitted uses shall be listed on the Land Use Chart as "Allowed by Design Review" and designated "P*". Conditional uses shall be listed on the Land Use Chart and designated "C. Conditional uses shall be regulated according to the Conditional Use Ordinance Chapter 15.29. The Planning Commission and City Council may be petitioned to have uses not specifically listed, added to the Land Use Chart, Chapter 15.15.
2. The Planning Commission shall review all proposed commercial development in all Neighborhood Commercial Zones as part of the Business License and Building Permit approval processes by following the Design Review process.

15.07.060.4 Area Requirements

The following area requirements apply:

1. No minimum or maximum lot area is required.
2. All setbacks and building placements shall be approved according to the Design Review process (Chapter 15.17) or conditions of the Conditional Use Ordinance (Chapter 15.29).

15.07.060.5 Site Development Standards

The following site development standards apply:

1. Unless otherwise set forth by ordinance, the site development standards in all Neighborhood Commercial Zones shall be the same as the "C" Commercial Zone. Provisions of the Perry City Ordinances for Landscaping, Signs, Fencing, Building Permits, Lighting, Conditional Uses, Land Use Chart, Area Requirements, and other relevant requirements shall regulate each individual commercial property development or improvement.
2. Written approval by the Utah Department of Transportation (UDOT) shall be required prior to a recommendation by the Planning Commission for the final approval of the development plan. Frontage roads for access shall be required where possible for any new development.

15.07.060.6 Protection Of Adjoining Residential Properties

Where Neighborhood Commercial development adjoins any lot in any residential zone, there shall be provided and maintained along such property line an ornamental masonry wall or equivalent of not less than six (6) feet in height. However, such wall shall be three feet in height along the property line which bounds the front yard of adjoining residential lots. Such wall shall be maintained with a minimum six (6) foot wide planting strip and landscaping with trees and grass or shrubs along the commercial property inside the wall.

15.07.060.7 General Regulations

The following are general regulations:

1. A Neighborhood Commercial Zone (NC) development may be established only upon land held in single ownership or under unified control or where the Planning Commission determines that commercial development on separate adjoining properties should be coordinated to form a physically unified commercial facility which will be compatible with the surrounding land uses.
2. At the time a Design Review Application is approved and prior to the building permits being issued, deed restrictions on the property or properties covered by the development shall be filed by the applicant or owners of subject property with the County Recorder and shall provide that development take place on such property or properties in accordance with the final site plan approved by the Perry City Council and on file with the City Recorder.
3. A Neighborhood Commercial Zone (NC) development shall not be established upon a tract of land which contains an existing non-conforming use unless the development planned for the tract includes the elimination of the non-conforming use or its integration into the planned development.
4. The Neighborhood Commercial Zone developments shall have an acceptable relationship to and further the purposes of the General Plan as determined by the Perry City Planning Commission. Refer to the Perry City General Plan for specific information.
5. Outdoor lighting shall be directed downward and shielded at the light source to minimize the illumination of adjacent property. Parking lots shall only be illuminated during the hours of operation. All lighting must meet UDOT requirements and specifications for use along Highway 89.
6. Hours of operation and delivery times allowed shall be determined by the Design Review process or Conditional Use Ordinance (Chapter 15.29) regulations with consideration for surrounding, existing uses.

15.07.060.8 Building Permit Issuance

The following are procedures for the issuance of building permits:

1. After proceeding through the Design Review or Conditional Use permit process and having met all requirements for recommended approval by the Planning Commission and final site plan approval by the City Council, the applicant or owner may apply for a building permit(s) and follow the regular procedure for the approval of the permit.
2. The final site plan shall be of a sufficient detail according to the Design Review Ordinance. No changes shall be made to the final site plan during the course of construction pursuant thereto without first obtaining prior approval of the Planning Commission and Building Inspector. Only changes which may be subsequently approved shall be added thereto.
3. Use and building permits shall be issued only for those uses and buildings indicated on the approved final development and /or site plan.

15.07.060.9 Time Limitations

The following time limitations apply:

1. A building permit shall be secured and construction begun in accordance with the approved final development plan within eighteen (18) months from the final approval date or other period of time as determined by the City Council.
2. In the event that construction is not started within the specified time limits, the Planning Commission shall review the development plan and the progress which has taken place. If deemed necessary, a recommendation to revoke the plan approval may be issued to the City Council.
3. All construction authorized in the approved final development plan shall be completed within eighteen (18) months of the date construction commenced. A plan for the stage development which will require more than the time limits contained herein may be approved by the City Council after recommendation by the Planning Commission.

4. 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 if necessary, make a recommendation to the City Council as to the status of the development and actions necessary to ensure the completion of the development in a timely manner or removal of any structures or development that has taken place and revocation of the approval for such development.

15.07.070 In-Fill Development (In NC2 And NC3 Zones)

15.07.070.1 Definition Of In-Fill Development
15.07.070.2 Exception To Non-Application Of Zoning Boundary Policy
15.07.070.3 Intent And Purpose On In-Fill Development
15.07.070.4 Criteria For Approval

15.07.070.1 Definition Of In-Fill Development

In-fill development is any new residential development of property within the NC2 and/or NC3 Zones that abuts or is surrounded by existing residential uses. The new residential development must be approved by the Planning Commission and City Council using the criteria presented in this chapter. This chapter of the Perry City Municipal Code shall apply only to those parcels currently wholly within or partially within the NC2 or NC3 Zones. The Zoning Boundary Policy (in Section 15.07.040) shall only apply to parcels split by zones other than NC2 or NC3 with the exception of Section 15.07.070.2.

15.07.070.2 Exception To Non-Application Of Zoning Boundary Policy

If less than one acre of a proposed development (which is split by NC2 or NC3 and another zone) is outside of the Neighborhood Commercial Zones, then the Commercial Zones Standards may apply to the entire development at the discretion of the Planning Commission and the Special Uses and Appeals Board.

15.07.070.3 Intent And Purpose On In-Fill Development

The intent and purpose of this chapter is to allow for new residential development next to existing residential uses in the NC2 and NC3 Zones along Highway 89, where residential is deemed to be a more consistent use than commercial development. In making this decision, the Planning Commission shall give consideration to the property owner's desires, the surrounding residential development, the preference for commercial development, elimination of accesses to Highway 89 (by using a side street or another parallel street for frontage) and/or any other similar conditions deemed appropriate.

15.07.070.4 Criteria For Approval

The following are criteria for approval:

1. All new in-fill development shall be subject to the Conditional Use Permit process and the Subdivision process, as needed, to determine if a development meets the criteria for this chapter. The two processes may be combined for purpose of discussion and public hearings.
2. The maximum size of any in-fill development project shall be 1 (one) acre, not including existing residential lots that are part of the development, and not including any land which is not a part of the NC2 and NC3 Zones. An in-fill development project shall not have any property line or right of way in common with any other in-fill development project.
3. The development shall not require new access from Highway 89, but may provide additional access from a side or parallel street, thus eliminating an existing Highway 89 access. Consolidating or moving access from Highway 89 in a manner that does not increase the total number of accesses does not constitute a new access. Property with frontage on Highway 89, not containing an existing dwelling, will not be considered for in-fill residential development.
4. A flag lot may be permitted only if no other option is available to provide the necessary frontage, while avoiding an access off of Highway 89. The requirements for flag lots shall still apply.
5. The new residential use must have the same existing residential use on two or more sides or on one side and across a street. Single family dwellings or multi-family dwellings shall be allowed only adjacent to a similar existing use (i.e. condos, townhouses, duplexes etc.) Multi-family dwellings (two-family, three-family, or four-family) shall not generally be allowed for in-fill development, but multi-family dwellings may be allowed adjacent to existing multi-family dwellings. The presence of an existing in-fill development project may not be used to qualify a proposed in-fill development project without a finding by the Planning Commission that the purpose and intent of this chapter would be achieved by said proposed in-fill development project.
6. Utilities for the in-fill development must either be available within public utility easements, public streets or through easements to be established.
7. Lot size, frontage, setback, and other requirements for single-family dwelling in-fill developments shall be the same as are required in the R1 residential zone. Lot size, frontage, setback and other requirements for multi-family dwelling in-fill developments shall be the same as are required in the R2 residential zone, except that minimum frontage requirements shall be 80 feet for a two-family, three-family, or four-family dwelling.
8. Fencing (in accordance with the Perry City Fence Ordinance) is required between Commercial and Residential Uses and shall be installed by the developer. When residential property is developed next to vacant commercial property, the residential developer shall provide the fence. When commercial property is developed next to existing residential, the developer of the commercial property shall provide the fence if there is no existing fencing. The required fencing shall be installed prior to occupancy permits being issued.
9. Conditions for in-fill development projects (including subdivisions and lots) may be required by the Planning Commission during the Conditional Use Permit and/or subdivision processes.
10. Lots or Developments approved by the Planning Commission using the in-fill criteria shall be designated with "R" for "Restricted" on the recorded plat and the reason for the restriction shall be stated on the plat by using the following or similar language: "Restricted lots in this subdivision are deemed such to put owners on notice that commercial development is an allowed and preferred use in the NC2 or NC3 Zone in which the restricted lots are located."

15.07.080 Zoning Administration

15.07.080.1 Zoning Administrator: Authority And Duties
15.07.080.2 Amendments To Zoning Ordinance And Map
15.07.080.3 Petition By Landowners For Annexation
15.07.080.4 Written Zone Change Application Required
15.07.080.5 Zone Change Fee Required
15.07.080.6 Procedure For Zone Change Amendment
15.07.080.7 Reversion To Original Zoning Designation
15.07.080.8 Development Agreement

15.07.080.1 Zoning Administrator: Authority And Duties

The Zoning Administrator shall be:

1. The Community Development Director or someone designated by him, unless otherwise directed by the Mayor or City Administrator,
2. Authorized to enforce this ordinance and all provisions thereof and shall do so by any legal means available, including but not limited to the following:
    a. Advise the Building Inspector of the issuance of building permits. (If the Zoning Administrator gives written notification to the Building Inspector that an

intended use, building, or structure would be in violation of this ordinance, such written notification shall be a presumption of illegality and the Building Inspector shall not issue a building permit for such use, building, or structure. If the offices of the Building Inspector and Zoning Administrator are held concurrently by one person, this person shall detail the violation in writing on the permit refusal notification).

b. Issue a permit of occupancy, or confer with the Building Inspector to issue an occupancy permit, to the effect that the proposed use, building or structure will conform to all ordinances of Perry City.
c. Inspect the uses of buildings, structures or land to determine compliance with this ordinance. Such inspections shall be made at reasonable times.
d. Issue Notices of Violation, or confer with the Building Inspector to issue notices of violation, wherever a building or land is being used contrary to the provisions of this ordinance. (This shall be done by serving notice in writing on any person engaged in said use and posting such notice on the premises.)
e. Inform the City Council of all ordinance violations and recommend specific courses of action with regard to each violation.
f. Maintain a file of ordinance violations and action(s) to be taken by order of the City Council on such violations.

15.07.080.2 Amendments To Zoning Ordinance And Map

The City Council may initiate Ordinance amendment recommendations. When the proposed amendment originates with the City Council, it shall be submitted to the Planning Commission for review and comment. The Planning Commission may initiate ordinance amendment recommendations to the City Council; also, any other person seeking to amend the ordinance or map shall make application for such amendment by filing the required material with the City Recorder for Planning Commission Review and recommendations to the City Council.

15.07.080.3 Petition By Landowners For Annexation

Whenever the owners of real property petition for annexation, the zoning of the real property shall also be considered.

15.07.080.4 Written Zone Change Application Required

For rezone requests, a written petition including the area boundary description, signed by the property owners requesting the change and surrounding property owners who support the request, designating the change desired and the reasons therefore shall be presented to the Planning Commission for review and recommendations to the City Council. For any zoning amendment, the petitioner shall complete and submit a Zone Change Application Form to the Planning Commission.

15.07.080.5 Zone Change Fee Required

A non-refundable Zone Change Amendment review fee shall be paid to Perry City in an amount determined by resolution of the City Council (see Chapter 4.09, Fee Schedule).

15.07.080.6 Procedure For Zone Change Amendment

The following is the procedure for zone change amendments:

1. The Planning Commission shall review the Zone Change Amendment Application/Petition and give notice of a public hearing, to be advertised in accordance with the Utah State Code (Article 10, Chapter 9a, Section 205 or as applicable) to consider such amendment as provided by law for zoning amendments. Written notification of this public hearing to consider re-zoning (and/or annexation) amendments shall be in accordance with state law. If mailing is part of the notice required by the City, the petitioner(s) shall reimburse Perry City for all postage costs incurred by this mailing.
2. Following the public hearing, the Planning Commission shall then submit its recommendations in writing concerning the proposed amendment to the City Council within forty-five (45) days from receipt of the amendment application. If the Planning Commission fails to make a recommendation at the end of forty-five (45) days, it shall be presumed that the proposed amendment is recommended for approval by the Planning Commission and the City Council shall then take action.
3. The Planning Commission shall recommend adoption of a proposed zone change amendment where the following findings are made:
    a. The proposed amendment is in accord with the goals of the General Plan of Perry City, including the Transportation Master Plan and other elements of the General Plan and the Capital Facilities Plan.
    b. A concept plan is submitted with the application/petition indicating the proposed use of the property. This plan shall be regarded as a Concept Plan only with more specific development plans to be reviewed with the Subdivision or Design Review process. Approval of the Zone Change Amendment shall not constitute approval of the concept plan for a particular proposed development.
    c. The proposed amendment will provide a significant benefit to Perry City, said benefit being something other than just additional housing.
4. After receipt of the written recommendations of the Planning Commission for re-zoning or annexation, the City Council shall (if required by state law) hold a regular public meeting regarding the issue.
5. After the required public hearing has been held by the Planning Commission on the proposed amendment and after the Planning Commission has given a recommendation, the City Council may:
    a. Adopt the zoning ordinance amendment as proposed;
    b. Amend the zoning ordinance and adopt or reject the zoning ordinance as amended;
    c. Reject the zoning ordinance amendment; or
    d. Refer the zoning ordinance amendment with a recommendation back to the Planning Commission for further review.
    e. Use any other option allowed by law.
6. Where an application for a zoning amendment has been denied by the City Council, any resubmitted application shall be processed in accordance with the procedure outlined above.

15.07.080.7 Reversion To Original Zoning Designation

The following regarding reversion to original zoning designation:

1. If development does not occur according to the proposed concept plan submitted at the time of the amendment approval, the public benefits expected from the development cannot be realized and the effect of the re-zoning is therefore without merit in terms of improving the public economic prosperity, general welfare, safety, health and convenience to the City residents. If in such cases the City finds that the zoning purpose has not been attained, the City may then declare its intent to revert back to the former zoning of the property or other appropriate zone so that future opportunities for similar development in the same general area may be shared by all properties deemed suitable and so that a speculative zoning monopoly is not created.
2. If building permits have not be obtained and construction of the development or an agreed upon phase thereof, in accordance with the approved concept and final development plans, has not commenced within two years from the date of the zoning amendment approval by the City Council or other time period that has been set by the City Council, Perry City may examine the reasons for the delay and progress of the developers to that point and revert the zoning designation back to the former zone or other appropriate zone of the property. The reversion of zoning shall follow the same procedure established by law for amending the zoning map.

15.07.080.8 Development Agreement

The following regarding development agreements (see also PMC Chapter 15.16):

1. The City Council may require a petitioner, at the time of a Zoning Amendment approval, to enter into a development agreement which specifies and details the petitioner's responsibilities and commitments in carrying out development contained in an approved concept plan and which lists the conditions and limitations of development imposed by Perry City in case of default by a petitioner or any successors in interest in the re-zoned property.
2. The agreement shall also contain the petitioner's acknowledgment that the commitment of zoning is predicated upon the good faith accomplishment of the approved development and if not started or constructed within the specified periods of time, Perry City may take steps to rescind zoning approval and revert the zoning to its former zone or other appropriate zone.

15.07.090 Penalties

15.07.090.1 Available Penalties

15.07.090.1 Available Penalties

Available penalties are set forth in Section 15.01.030.

15.07.100 Land Use Chart

15.07.100.1 General Regulations
15.07.100.2 Classification Of New And/Or Unlisted Uses
15.07.100.3 Abbreviations For Land Use Chart
15.07.100.4 Additional Information ("Notes") Regarding Land Use Chart
15.07.100.5 Guide For Land Use Chart
15.07.100.6 Legislative History For This Chapter (Reserved)

15.07.100.1 General Regulations

The following regarding the general regulations of the land use chart:

1. No building, structure or land shall be used and no building or structure shall be constructed, altered, enlarged, or maintained except as provided according to this Land Use Chart and Ordinance.
2. The City Council shall have the authority to amend definitions or add new definitions of land uses by Ordinance. New uses that are not similar to an existing use cannot be added to the Land Use Chart without a public hearing.

15.07.100.2 Classification Of New And/Or Unlisted Uses

For uses not listed in the Land Use Chart, the applicant for such use shall take the request for classification to the Planning Commission. The Planning Commission shall determine the appropriate classification based on the following guidelines:

1. Should the Planning Commission determine the new or unlisted use is the same as a use listed under another name in the Land Use Chart, the Planning Commission shall so document this information. The applicant may then proceed under the regulations applicable to the use.
2. Should the Planning Commission determine the use is not considered by comparison to the Land Use Chart, the applicant shall petition the City Council to amend the Zoning Ordinance to specify and locate an appropriate zone or zones for the new use.
3. A use that is not identified on the Land Use Chart is hereby determined to be a "use not permitted" in any zone in Perry City.

15.07.100.3 Abbreviations For Land Use Chart

The following abbreviations shall apply:

1. P Permitted Use
2. P* Permitted by Design Review and Approval
3. C Conditional Use - Permitted by Conditional Use Permit
4. ~ Use not permitted

See land use chart Section 15.05.070.

15.07.100.4 Additional Information ("Notes") Regarding Land Use Chart

The following is additional information regarding the land use chart:

1. For any lot in the RE ½ Zone or for 40,000 square feet or larger lots in the R1/2, R1/3,R1A, R1 or R2 zones, domesticated animals shall be permitted, by Conditional Use Permit, with an annual review, or as needed.
    a. One (1) large animal or nine (9) small animals/fowl per 20,000 square feet of property may be kept. Portions of less than 20,000 square feet, will not be considered acceptable.
    b. Large animals are considered: Horses, Cattle, Sheep, goats, llamas, or pigs. Large animals must have a corral or fence. They may not be fenced in the front yard.
    c. Small animals/fowl are considered: Chickens, ducks, geese, pigeons, peacocks, rabbits and other small fur bearing animals.
    d. Special conditions that will be considered to allow more small animals would include but not be limited to: housing or shelters available (coops, barns, pens, etc.) fencing, control of animals/fowl, complaints, and/or written consent of neighbors. A request for more than nine (9) small animals/fowl will be allowed only by Planning Commission approval of a Conditional Use Permit with a yearly review.
2. Sale of firearms and alcohol shall not be permitted within 1000 feet of any school or place of worship. A hotel or motel may have an "on premises" consumption of alcohol use that does not require more than seven percent (7%) of the floor space of the hotel or motel.Restaurants with "on premises" consumption of alcohol use are also permitted by conditional use in certain zones, as per the land use chart. Other than for a hotel/motel or a restaurant, as designated on the Land Use Chart, "on premises" consumption of alcohol is not available for any other business in any zone. No "on premises" alcohol business shall be permitted until a specific "on premises" alcohol business license ordinance has been adopted. Minimum of fifty units or more.
3. Storage Units shall not be defined as allowing "junk", surplus or other various accumulations of items, supplies or materials. Only supplies directly related to daily business of a construction yard may be stored at the site. All other items, supplies and materials must be stored within designated storage units.
4. In the NC2 and NC3 zones, only Single Family Dwellings existing as of December 11, 2008 will be permitted for Boarding, Bed and Breakfast as a Conditional Use. In the MUC, MU-O, MU-R zones, this type of use will be permitted by Design Review.
5. For the C1 Commercial Zone and the Mixed Use Zones, Professional Office Space may only occupy a maximum of 25 per cent of the total floor space of any development.

15.07.100.5 Guide For Land Use Chart

The following guide is an index for the attached land use chart:

1. Section 15.05.070.1: Agricultural Uses
2. Sections 15.05.070.2 and 15.05.070.3: Municipal and Residential Uses
3. Sections 15.05.070.4 and 15.05.070.5: Recreational, Educational and Religious Uses
4. Section 15.05.070.6: Medical Uses and Commercial Uses
5. Sections 15.05.070.8 and 15.05.070.9: Light Commercial Uses and Special Commercial Uses
6. Section 15.05.070.10: Manufacturing-Industrial Uses

15.07.100.6 Legislative History For This Chapter (Reserved)
15.07.110 Area, Frontage, Setback, And Height Requirements

15.07.110.1 Requirements For A, Es, Al, And R1a Zones
15.07.110.2 Requirements For RE 1/2, R 1/2, And R3MHP/R3MHS Zones
15.07.110.3 Requirements For R 1/3, R1, And R2 Zones
15.07.110.4 Requirements For M/I, M/I L, Mixed Use IC, C, C1, NC2, And NC3 Zones
15.07.110.5 City Staff To Make Recommendations During The Design Review Process
15.07.110.6 Septic Tanks Only Available As An Option If Allowed By Title 16

15.07.110.1 Requirements For A, Es, Al, And R1a Zones

REQUIREMENTS **ZONES**

	A and ES	**AL**	**R 1 A**
Minimum LOT AREA	5 Acres	2 Acres	1 Acre
Minimum FRONTAGE	200 Feet	150 Feet	120 Feet
Main Buildings			
Minimum FRONT SETBACK	30 Feet at building setback line	30 Feet at building setback line	30 Feet at building setback line
Minimum REAR SETBACK	20 Feet	20 Feet	20 Feet
Minimum STREET SIDE SETBACK (Corner Lot) *	20 Feet	20 Feet	20 Feet
Min. INTERIOR SIDE SETBACK	8 ft. on one side; min. 22 ft. both sides	8 ft. on one side; min. 22 ft. both sides	8 ft. on one side; min. 22 ft. both sides
Maximum HEIGHT	50 Feet	35 Feet	35 Feet
Accessory Buildings			
Minimum FRONT SETBACK	30 Feet at building setback line	30 Feet at building setback line	30 Feet at building setback line
Minimum REAR SETBACK	4 Feet	4 Feet	1 Foot
Minimum STREET SIDE SETBACK (Corner Lot)*	20 Feet	20 Feet	20 Feet
Min. INTERIOR SIDE SETBACK	4 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg	4 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg	4 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg
Maximum HEIGHT	50 Feet	35 Feet	35 Feet

*Corner 40 feet site triangle ordinance (in PMC Title 14) applies.

15.07.110.2 Requirements For RE 1/2, R 1/2, And R3MHP/R3MHS Zones

REQUIREMENTS **ZONES**

	RE 1/2	**R 1/2**	**R3MHP/R3MHS**
Minimum LOT AREA	20,000 sq. ft.; 1 acre if septic tank+	20,000 sq. ft.; 1 acre if septic tank+	MHP – 5000 sq. ft. MHS – 6000 sq. ft. Corner Lot–7000 s.f. Sep.tank not allowed
Minimum FRONTAGE	80 Feet Corner Lot – 90 ft.	80 Feet Corner Lot – 90 ft.	60 Feet Corner Lot – 70 ft
Main Buildings			
Minimum FRONT SETBACK	30 Feet at building setback line	30 Feet at building setback line	30 Feet at building setback line
Minimum REAR SETBACK	20 Feet	20 Feet	20 Feet

Minimum STREET SIDE SETBACK (Corner Lot) *	20 Feet	20 Feet	20 Feet
Min. INTERIOR SIDE SETBACK	8 ft. on one side; min. 22 ft. both sides	8 ft. on one side; min. 22 ft. both sides	8 ft. on one side; min. 22 ft. both sides
Maximum HEIGHT	35 Feet	35 Feet	MHP – 14 Feet MHS – 35 Feet
Accessory Buildings			
Minimum FRONT SETBACK	30 Feet at building setback line	30 Feet at building setback line	30 Feet at building setback line
Minimum REAR SETBACK	1 Foot	1 Foot	1 ft.; 5 ft. if back of bldg. is against side yard of adjacent lot
Minimum STREET SIDE SETBACK (Corner Lot)*	20 Feet	20 Feet	20 Feet
Min. INTERIOR SIDE SETBACK	4 Feet	4 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg	4 Feet
Maximum HEIGHT	25 Feet	25 Feet	MHP – 15 Feet MHS – 20 Feet

*Corner 40 feet site triangle ordinance (in PMC Title 14) applies.
+See PMC Section 15.07.110.6 regarding septic tanks.

15.07.110.3 Requirements For R 1/3, R1, And R2 Zones

REQUIREMENTS ZONES

	R 1/3	R 1	R 2
Minimum LOT AREA	15,000 sq. ft.; 1 acre if septic tank+	10,000 sq. ft.; 1 acre if septic tank+	8,000 sq. ft. for SFD 5,000 sq. ft. per unit for multi-family; 1 acre if septic tank+
Minimum FRONTAGE	80 Feet	80 Feet	80 ft. for SFD, 2DS, 3FD, or 4FD; +10 ft. for corner lot
Main Buildings			
Minimum FRONT SETBACK	30 Feet at building setback line	30 Feet at building setback line	30 Feet at building setback line
Minimum REAR SETBACK	20 Feet	20 Feet	20 Feet
Minimum STREET SIDE SETBACK (Corner Lot)*	20 Feet	20 Feet	20 Feet
Min. INTERIOR SIDE SETBACK	8 ft. on one side; min. 22 ft. both sides	8 ft. on one side; min. 22 ft. both sides	8 ft. on one side; min. 22 ft. both sides
Maximum HEIGHT	35 Feet	35 Feet	35 Feet
Accessory Buildings			
Minimum FRONT SETBACK	30 Feet at building setback line	30 Feet at building setback line	30 Feet at building setback line
Minimum REAR SETBACK	1 Foot	1 Foot	1 Foot
Minimum STREET SIDE SETBACK (Corner Lot)*	20 Feet	20 Feet	20 Feet
Min. INTERIOR SIDE SETBACK	1 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg.	1 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg.	1 ft. if located 6 ft. or > behind main bldg.; 8 ft. if < 6 ft. behind main bldg.
Maximum HEIGHT	25 Feet	25 Feet	25 Feet

*Corner 40 feet site triangle ordinance (in PMC Title 14) applies.
+See PMC Section 15.07.110.6 regarding septic tanks.

15.07.110.4 Requirements For M/I, M/I L, Mixed Use IC, C, C1, NC2, And NC3 Zones

REQUIREMENTS **ZONES**

	M/I and M/I L	Mixed Use Zones; IC, C, and C1	NC2 and NC3***
Minimum LOT AREA	By Design Review	By Design Review	By Design Review
Minimum FRONTAGE	By Design Review	By Design Review	By Design Review
Main Buildings			
Minimum FRONT SETBACK	20 Feet at building setback line	20 Feet at building setback line	20 Feet at building setback line
Minimum REAR SETBACK	By Design Review **	By Design Review **	By Design Review **
Minimum STREET SIDE SETBACK (Corner Lot)*	By Design Review **	By Design Review **	By Design Review **
Min. INTERIOR SIDE SETBACK	By Design Review **	By Design Review **	By Design Review **
Maximum HEIGHT	35 Feet (> w/ Fire Marshal approval)	35 Feet (> w/ Fire Marshal approval)	35 Feet (> w/ Fire Marshal approval)
Accessory Buildings			
Minimum FRONT SETBACK	20 Feet at building setback line	20 Feet at building setback line	20 Feet at building setback line
Minimum REAR SETBACK	By Design Review **	By Design Review **	By Design Review **
Minimum STREET SIDE SETBACK (Corner Lot)*	By Design Review **	By Design Review **	By Design Review **
Min. INTERIOR SIDE SETBACK	By Design Review **	By Design Review **	By Design Review **
Maximum HEIGHT	35 Feet (> w/ Fire Marshal approval)	35 Feet (> w/ Fire Marshal approval)	35 Feet (> w/ Fire Marshal approval)

*Corner 40 feet site triangle ordinance (in PMC Title 14) applies.
**Subject to design review imposing more stringent requirements, any commercial, manufacturing, industrial, institutional, public, or similar use(s) (collectively "commercial") approved adjacent to a residential/agricultural use(s) shall have: (1) a six feet high full privacy fence (compliant with PMC Chapter 15.23 and 15.25, Landscaping and Fences) along the property lines adjacent to the residential/agricultural use(s); and (2) rear and side setbacks adjacent to the residential/agricultural use(s) that are at least:

(a) 25 feet, where a single level commercial floor height does not exceed 12 feet above grade; or
(b) 25 feet, plus an another ½ foot for every additional foot of height of the structure above grade, for multiple floors or for where the single level floor height exceeds 12 feet above grade; and
(c) Any measurement is from the lowest point of the roofline nearest to the residential property.

*** Additional requirements for residential uses allowed (by the Land Use Chart, PMC Section 15.07.100) in the NC2/NC3 Zones are set forth in PMC Sections 15.07.060 and 15.07.070 ("In-fill Development" Ordinance).

15.07.110.5 City Staff To Make Recommendations During The Design Review Process

During the Design Review process (PMC Chapter 15.17), determination of area requirements, frontage, setback distances, height and layout of buildings, and other review criteria may depend upon recommendations by/from the Community Development Department and other City Staff (the City Fire Marshal, City Engineer, City Building Inspector, etc.).

15.07.110.6 Septic Tanks Only Available As An Option If Allowed By Title 16

Despite the references to "septic tanks" in the "Minimum Lot Area" parts of the tables in this Chapter, septic tanks are only available as an option if allowed by: (1) State law; (2) the local/ regional health department; and (3) the Perry Municipal Code, especially Chapter 12.09 (Wastewater).

15.07.120 Zoning Map

View Zoning Map.

Adopted by Ord. Zoning Map on 11/21/2014

15.09 Foothill Development Areas

15.09.010 Purpose
15.09.020 Special Terms
15.09.030 Scope And Application
15.09.040 Density, Lot Size, Width, And Characteristics
15.09.050 Road, Access And Fire Requirements
15.09.060 Pruds- Planned Residential Unit Development
15.09.070 Development Standards
15.09.080 Review And Approval Procedure
15.09.090 Final Approval
15.09.100 Construction, Grading And Contour Maps

15.09.010 Purpose

15.09.010.1 Legislative Intent
15.09.010.2 Purpose

15.09.010.1 Legislative Intent

The City Council of Perry, Utah deems, that in order to preserve the peace, health, safety, welfare and promote the best interest of the inhabitants of the Perry City, these Foothill Development Regulations be created, which shall provide standards, guidelines, and criteria, having the effect of minimizing flooding, erosion, and other environmental hazards and protecting the natural scenic character of the foothill areas not suitable for development, and insuring the efficient expenditure of public funds.

15.09.010.2 Purpose

The standards, guidelines, and criteria to be achieved by the overlay zone shall include, but not be limited to the following:

1. The protection of the public form natural hazards of storm water runoff and erosion by requiring drainage facilities and the minimal removal of natural vegetation.
2. The minimizing of the threat and consequential damages of fire in foothill areas by establishing fire protection measures.
3. The preservation of natural features, wildlife habitat and open space.
4. The preservation of public access to mountain areas and natural drainage channels.
5. The preservation and enhancement of visual and environmental quality by use of natural vegetation and the prohibiting of extensive excavation and terracing
6. The establishment of traffic circulation facilities that insure ingress and egress for vehicles including emergency vehicles into all developed areas at any time of the year with minimal cut, fill, or visible scars.
7. The encouragement of variety of development designs and concepts that are compatible with the natural terrain of the foothill areas, that will preserve open space and natural landscape.
8. The establishment of land-use management criteria that will encourage protection of natural elements while allowing a harmonious and satisfying residential environment.
9. Encouragement of regard for the view of the foothills as well as the view from the foothills.

15.09.020 Special Terms

15.09.020.1 Average Slope
15.09.020.2 Area
15.09.020.3 Development Site
15.09.020.4 Natural Vegetation
15.09.020.5 Useable Land

15.09.020.1 Average Slope

As used in this Chapter, the words “Average slope” Shall mean and be determined by the use of the following formula:

$$S: \frac{.00229\ I \times L}{A}$$

S: Average slope of the site before development or construction
A: Total number of acres in the parcel
L: Summation of the length of all contour lines in feet
I: Contour intervals in feet
In the determination of the average slope

In the determination of the average slope of a development site:

15.09.020.2 Area

The term “Area” need not include the area of lands having a greater slope than thirty (30) percent. If such areas are excluded, they shall not be included as part of the development site for purposes of determining the number of dwelling units allowed.

15.09.020.3 Development Site

The term “Development Site” shall mean and include the Total perimeters of a subdivision, a planned unit development, or tract, lot, or parcel of land intended to be used as commercial use.

15.09.020.4 Natural Vegetation

This term shall include orchards, trees, shrubs, lawns, and grass or other natural vegetation.

15.09.020.5 Useable Land

This term shall describe that land within a lot which has a slope of thirty percent (30%) or less. This portion of the building lot must be a minimum of eight thousand (8,000) square feet.

15.09.030 Scope And Application

15.09.030.1 Application In All Zones

15.09.030.2 Reconciliation With Similar Provisions
15.09.030.3 Lack Of Retroactive Application
15.09.030.4 Road Grades

15.09.030.1 Application In All Zones

The provisions of this Title shall apply to all zoning districts in Perry City.

15.09.030.2 Reconciliation With Similar Provisions

This Title sets forth additional provisions to those set forth in the Subdivision Ordinance, Title 14 and other Title of the Land Use Ordinances. In the event of conflict between such foregoing designated Title of this Ordinance, the more restrictive provisions shall apply.

15.09.030.3 Lack Of Retroactive Application

The provisions of this Ordinance shall have no application to Subdivisions, Planned Unit Developments, or other construction projects which have been granted preliminary or concept approval prior to the adoption of this Ordinance.

15.09.030.4 Road Grades

Road grades identified in this chapter are peculiar to this Foothill Ordinance and may be different from the minimum standard in other development areas.

15.09.040 Density, Lot Size, Width, And Characteristics

15.09.040.1 Single Family Dwelling Units

15.09.040.1 Single Family Dwelling Units

The following regarding single family dwelling units:

1. Minimum Lot Size: Any average slope area less than 20.1% is not affected by this ordinance. The minimum lot size with respect to lots upon which single family dwelling units are located in subdivisions or otherwise shall be determined by reference to the following tables:

    a.

Average Slope of Development Site:	20.1-30%	30.1%+
Minimum Lot Size:	20,000 sq ft	80 ft at front yard setback line
Minimum Lot Width:	not permitted	

2. Yard Regulations: See regulations for residential zones in Perry City Database Section 9.
3. Maximum Impervious Material Coverage: The maximum impervious material coverage such as roofs, paved driveways, sidewalks, etc. that shall be allowed on lots upon which single family dwelling units are located shall be forty five (45%) percent. Exceptions may be granted after review and recommended by the Perry City Engineer and the Planning Commission and final approval by the City Council.
4. Usable Area: Single family dwelling structures shall be located only upon usable land and whose building area shall be at least eight thousand (8,000) square feet in space and shall have minimum dimensions, either length or width, of sixty (60) feet.
5. Lot and Access Design: Single family dwelling structures shall not be located farther than two hundred and fifty (250) feet from the nearest public street. However, the Perry City Council may grant an exception to such requirements provided that the following conditions are complied with as a condition precedent to the granting of such exceptions:

    a. Recommendation from the Planning Commission.
    b. Road and access requirements as defined in Perry City Public Works Standards and Technical Specifications and Section 15.09.050 of this document.

15.09.050 Road, Access And Fire Requirements

15.09.050.1 Dwelling Access To Fire Department Apparatus

15.09.050.1 Dwelling Access To Fire Department Apparatus

Every dwelling structure shall be accessible to fire department apparatus by way of an access roadway having an all-weather driving surface no less than sixteen (16) feet of unobstructed width with adequate roadway turning room and having a minimum of thirteen (13) feet, six (6) inches of vertical clearance. Dead end access roads in excess of two hundred (200) feet in length shall be provided with approved provisions for the turning around of fire department apparatus.

The following also apply:

1. The required width of access roadway shall not be obstructed in any manner including the parking of vehicles. Where no space is provided for parking along access roads, said roadway shall be kept unobstructed.
2. Property owners shall be required to identify and mark fire lanes to the satisfaction and approval of the Fire Chief as follows:

    a. Signs shall be posted near the entrance of access roadways. Spacing and placing of signs shall be as directed by the Fire Chief.
    b. Signs shall be a minimum of seventeen (17”) inches by twenty four (24”) inches (17”x 24”) in one inch (1”) reflective block lettering with one (1) half inch (½”) stroke on a contrasting background.
    c. Signs shall read “No Parking- Fire Department Access Road.”

3. Where access roadways are adjacent to required fire hydrants, such access roads within twenty (20’) feet of either direction of the fire hydrant shall be a minimum of thirty (30’) feet in width.
4. The access road shall be extended to a maximum of one hundred and fifty (150’) feet in length of all portions of the exterior walls of the first story of any building.
5. The maximum grade for access roadways of greater than one hundred and fifty (150’) feet in length shall be ten percent (10%). However, grades up to twelve percent (12%) are allowable with approval of the Fire Chief and the City Engineer.
6. The owner shall be responsible for establishing the base grade of the access roadway before the waster system is installed. The owner or possessor of the lot shall clear the right-of-way for the water system and establish the fire hydrant location and the owner shall then install the water system and set the fire hydrant to the grade established by Perry City. If there are any changes to the access roadway or right-of-way areas which do not allow for a minimum of forty two (42”) inches cover over the water line or not more than a four (4”) inch vertical difference between the flange of the fire hydrant and the finished surface of the access roadway, the owner shall be responsible for all expenses associated with the relocation or adjustment to the water system.
7. The property owner or possessor of the premises shall maintain, according to Perry City road standards, the access roadway with adequate snow removal so as to provide free and uninhibited access by emergency and service vehicles.

8. A fire hydrant shall be installed by and at the expense of the property owner and shall be connected by an eight (8") inch water main in connection with Section 10 of the Uniform Fire Code. Fire hydrants shall be located on all required access roads as required by Perry City and shall be located within five (5') feet of the required access roadway.
9. If, in the opinion of the Fire Chief, fire hydrants are vulnerable to vehicular damage, appropriate crash posts shall be required. NO obstruction shall exist within a three (3') foot working area of each fire hydrant. Crack posts shall be a four (4") inch cement-filled pipe having a minimum of three (3') feet height above grade with two (2') feet of pipe below grade set in concrete. Hydrant shut-off valves shall be located as per Perry City standards.
10. A turnaround shall be provided at the end of the access road in accordance with Perry City standards.
11. Lost shall not be allowed or approved where the static water pressure from the Perry City water system serving the proposed lot or lots is less than twenty (20) psi at the highest use facility during peak usage. The Fire Department may require a minimum flow rate (GPM). All water line installations shall be installed to the specifications of Perry City at the expense of the property owner.
12. The property owner shall grant an easement to Perry City along the course and full width of the access roadway permitting access to Perry City emergency and service vehicles and inspection personnel.
13. The property owner shall grant a utility easement to Perry City extending from the public street to the fire hydrant and having a minimum width of sixteen (16') feet for the purpose of using, operating, maintaining, and repairing of such hydrant and water line.
14. It shall be unlawful for the property owner or possessor of a dwelling structure located farther than two hundred (200') feet from the nearest public street to fail to maintain such access roadway to Perry City standards and keep free from snow and encroachments that would inhibit the free movement and access of emergency and service vehicles.
15. All improvements, such as water, roads, sewer, etc., as required by the Perry City Engineer and Planning Commission using Perry City ordinances and standards, shall be installed at the lot owner's expense.
16. Such other conditions and standards may apply as the governing body deem necessary.

15.09.060 Pruds- Planned Residential Unit Development

15.09.060.1 Maximum Available Units Per Acre

15.09.060.1 Maximum Available Units Per Acre

The maximum allowable units per acre that shall be allowable in the PRUD shall be determined by reference to the following table:

Average Slope of the Development Site	Maximum Allowable Dwelling Units Per Site Acre
0-15%:	6
15.1%-30%	4
30.1%+	None allowed

15.09.070 Development Standards

15.09.070.1 Intent

15.09.070.1 Intent

It is intended by this Section that the development standards and provisions, as set forth herein, shall be required in connection with all building and construction in the Perry City Environmental Sensitive Zone. The following apply to this Chapter:

1. Drainage and Erosion:
    a. Lots shall be arranged so as to insure adequate setback from drainage channel.
    b. Lots shall be arranged so as to insure that an adequate buildable area is located outside of the one hundred (100) year flood plain.
    c. Facilities for the collection of storm water runoff shall be required to be constructed on the development site.Such facilities shall be the first improvements constructed on the development site.
    d. Such facilities shall be designed so as to retain safely and adequately the maximum expected storm water runoff for a ten (10) year storm, as per the Perry City Engineering standards, for a sufficient length of time so as to prevent flooding and erosion during and after storm runoff flow periods.
    e. Such facilities shall be so designed as to divert surface water away from cut surfaces or sloping surfaces of a fill.
2. Vegetation and Re-vegetation:
    a. All areas on development sites cleared of natural vegetation in the course of construction of off-site improvements shall be replanted with vegetation which when established shall have characteristics of erosion control equal to or exceeding the original vegetation.
    b. New plantings shall be protected with organic cover.
    c. The use of persons or firms having expertise in the practice of vegetation (i.e., landscape architects or nurserymen) shall be employed to supervise the planning and installation of re-vegetation cover.
    d. Vegetation shall be removed only when absolutely necessary (e.g. for the construction of buildings, roads, and filled areas).
    e. Vegetation shall be planted in all disturbed areas within three (3) weeks of the completion of off-site improvements or as soon as weather permits. Such vegetation shall be of a perennial and low combustibility nature and which when established, shall be sufficient to stabilize the soil.
3. Fire Protection:
    a. Spark arresters shall be installed in every fireplace constructed either indoors or outdoors. Screen opening in such arresters shall not be in excess of ¼ square inch in size.
4. Grading, Cuts, and Fills:
    a. Exposed unstable surfaces of an excavation or fill shall not be steeper than one (1) vertical or two (2) horizontal units.
    b. All permanent fill shall be located and controlled so that earth settling, earth slippage, or erosion shall not damage or cover streets, curbs, gutters, sidewalks, or buildings.
    c. All fill and degrees of compaction shall comply with the standards of the Uniform Building Code then in effect.
    d. The maximum vertical height of all fill cuts shall be ten (10') feet except in circumstances where the City Engineer and the Planning Commission recommend specific changes for approval to the Perry City Council.
    e. All structures except retaining walls or soil stabilization improvements shall have a setback from the crest of the cut or base of the fill a minimum distance equal to the depth of the fill or the height of the cut unless a structurally sound retaining wall is built for the cut or fill of the slope. Retaining walls may be a part of the dwelling unit.
5. Streets and Ways:
    a. Streets, roadways, and probate access ways shall follow as nearly as possible the natural terrain. The following additional standards shall apply:

b. At least two (2) ingress and egress routes shall be provided for each subdivision or multiple building project. Phased projects can meet this criteria in long range plans.
c. Points of access shall be provided to all developed, partially developed, or undeveloped areas for emergency and firefighting equipment. Driveways located upon each lot extending from a public street shall have a maximum grade of ten (10%) percent and a minimum width of thirty (30') feet unless a greater maximum grade of up to twelve (12%) percent for a length of greater than one hundred and fifty (150') feet or lesser minimum width is approved by the City Engineer, the City Council, and City Fire Chief and shall be of sufficient width and design to admit and accommodate firefighting equipment.
d. Cul-de-sacs shall not exceed six hundred (600') feet in length from the nearest intersection and shall have a turn-around with a radius of fifty (50') feet. Stub streets that are longer than the width or length of any adjacent single lot or two hundred (200') feet, which is less, shall have a temporary turn-around at the end thereof.
e. Centerline curvatures shall not be less than one hundred (100') feet radius on any curved street pattern.
f. Variations of the street design standard developed to solve special hillside visual and functional problems may be presented to the Planning Commission for consideration. Examples of such variations may be the use of split roadways to avoid deep cuts, modifications of surface drainage treatments, or sidewalk design.
g. In a PRUD, all streets or right-of-ways for vehicular traffic, which have not been dedicated for public use, shall be subject to the following limitations:

i. The maximum grade of such streets or right-of-ways greater than one hundred and fifty (150') feet in length shall be eight (8%) percent except as hereafter provided.
ii. The City Engineer and Fire Chief may grant approval for the construction of such streets or right-of-ways greater than one hundred and fifty (150') feet in length and having a grade exceeding ten (10%) percent, but the grade of such streets shall not exceed twelve (12%) percent unless a special condition is recommended by the City Engineer and approved b y the City Council.
iii. The provisions of this Section shall not apply to streets or right-of-ways already constructed or which have heretofore been granted preliminary approval by the Planning Commission.

6. Architectural Design:

a. Building proposed for construction in the Perry City Foothill Overlay Zoning District shall be designed to be visually compatible with the natural beauty of the foothills and canyon areas. The use of building materials in colors that will blend harmoniously with the natural setting is encouraged. Such materials as natural woods, brick (earth tones), and stone are considered to be most appropriate.
b. The Planning commission shall review the design and selected exterior materials and colors for all structures other than single family dwellings. Building permits for such structures shall not be granted until building materials and colors have been approved by the Planning Commission.

7. Bond:

a. In addition to the provisions requiring posting of a bond as set forth in the Ordinances of Perry City, a corporate surety or cash bond or an escrow agreement held in a bank or savings loan association chartered by the United States Treasury Department or other guarantees will be required by the City Council to guarantee the completion of re-vegetation projects, the stabilization of gradings, cuts, and fills, and construction of such projects shall continue for one (1) year after the completion date of such projects, improvements, and facilities.

8. Exceptions:

a. Exceptions to the requirements and provisions as outlined in this Section may be approved by the City Council, provided that the developer or owner of such development site can demonstrate to the satisfaction of the City Council that the requested exceptions shall not be detrimental or injurious to: the property or improvements adjacent thereto; the general well-being of the neighborhood; or in violation of the stated purpose of this Chapter.

15.09.080 Review And Approval Procedure

15.09.080.1 Approval By Planning Commission For Environment Sensitive Development Area

15.09.080.1 Approval By Planning Commission For Environment Sensitive Development Area

A single family dwelling or individual lot, not included as part of a development parcel (PRUD, Subdivision, etc.), will be allowed in the Environment Sensitive Development Area as approval must first be granted by the Planning Commission as provided in this Section. The application shall contain information, plans, and reports as are required by the Planning Commission. The following regarding applications:

1. Application:

a. All applications required in this Section shall first be submitted to the Planning Commission for review and recommendation by the Planning Commission. All of the required information necessary for each approval process shall be submitted to the Planning Commission at least fifteen (15) days prior to the Planning Commission meeting at which it is to be considered. All site plans, as required in this Section, shall be drawn to scale of one (1") inch equals fifty (50') feet (1"=50'), said site plans shall show topographical contours at two (2') foot intervals.
b. In respect to site plans having a scale less than one (1") inch equals fifty (50') feet (1"=50'), the site plan shall show topographic contours at five (5') foot intervals.

2. Applications for Conceptual Approval (Planning Commission):

a. PRUD Project: All applicants for approval of PRUD Project shall comply with the provisions of Section 15.09.070 of this ordinance except that such application shall also include topographic contours and an estimate of average slope of the PRUD development site. In addition, conceptual approval must first be granted prior to application for preliminary approval.
b. Subdivisions: All applications for approval of a subdivision shall comply with the provisions of Perry City Subdivision Ordinance. In addition, conceptual approval must first be granted prior to application for preliminary approval. All applications for conceptual approval shall be accompanied by a site plan drawn to scale by an architect, registered land surveyor, engineer, or landscape architect who is licensed to practice in the State of Utah. Said plan shall provide the following information:

i. Location of the proposed subdivision with identification of abutting streets.
ii. Topographic contours
iii. An estimate of the average slope of the proposed subdivision.
iv. The number of lots.
v. The location and size of proposed lots.
vi. Location, width and grade of all proposed streets, and radii of any cul-de-sac.
vii. Location of existing or proposed schools, churches, and/or parks.

c. Commercial Developments: All applications for commercial developments shall comply with the provisions of Development Regulations and Design Review of the Perry City Municipal Code. Conceptual approval shall be accomplished by a site plan drawn to scale by a professional landscape architect, registered land surveyor, architect, or engineer licensed to practice in the State of Utah. Said plan shall provide the following information:

i. Location of the proposed commercial site with identification of abutting streets.
ii. Topographic contours.
iii. An estimate of the average slope of the proposed commercial site.

iv. Location, width and grade of all proposed streets, and radii of any cul-de-sac.

d. The Planning Commission shall consider said application for PRUD projects, subdivisions, or commercial developments. If the Planning Commission recommends approval of the conceptual phase of the development, the Planning Commission may attach such conditions as may be deemed necessary to secure the purpose as set forth in this Chapter.

3. Preliminary Approval:

a. In addition to the information as required for preliminary approval of PRUD projects or commercial developments, provisions of Perry City Subdivision Ordinance, such additional information as set forth in this subsection may be required by the Planning Commission and or the City Council.

b. Preliminary approval shall first be granted prior to application for final approval. All reports as submitted herein shall be prepared by persons or firms licensed to practice their specialty or expertise in the State of Utah. The following regarding preliminary approval:

i. Report of Soil Characteristics: Data regarding the nature, distributions, and strength of soils within the project area. The soil report shall include:

(1) Unified classification of all soils with an estimate of susceptibility to erosion, plasticity index, liquid limit, shrink-swell potential, and general suitability for development.
(2) Estimate of the normal highest elevation of the seasonal high water table.
(3) Flood history and potential, proximity to known flood plain in areas, and drainage channels.

ii. Report of Geologic Conditions: An application shall include the following information:

(1) Definition of any zone deformation with respect to active faults and other mass movements of soil and rock.
(2) Identification of anomalies of the terrain characteristics of the geological materials which would have any potential impact upon the use of the site.
(3) Determination of ground water characteristics.
(4) Written recommendations for construction of proposed improvements to avoid impact of any potential geologic hazards.

iii. Grading and Drainage Report. Preliminary approval shall include a plan for grading and a report on the method by which surface water and natural drainage will be accommodated. The plan shall be prepared by a professional engineer licensed to practice in Utah and shall include the following information:

(1) Indication of existing and proposed contours.
(2) Indication of the present and proposed slope for each graded area.
(3) Location and identification (by species) of existing vegetation and indication of vegetation proposed for removal and re-vegetation proposal.
(4) Existing and proposed drainage patterns. Locations of any drainage channels on the proposed site that have been identified by the State Geologist.
(5) Location and depth of all proposed fills and cuts.
(6) Description of the methods to be employed to achieve stabilization and compaction.
(7) Location and capacities of proposed drainage, structure, and erosion control measures.
(8) Computation of maximum run-off for a ten (10) year storm before and after development.
(9) Location of existing buildings or structures on the site and location of existing buildings and structures on adjacent properties which are within one hundred (100') feet of the site or which may be affected by any proposed grading or construction.

4. The Planning Commission shall consider said application and shall recommend to the City Council approval or disapproval of the application. If the Planning Commission recommends approval of the preliminary phase, the Planning Commission may attach such conditions as may be deemed necessary to secure the purposes as set forth in this Chapter.
5. After receiving recommendations for approval or disapproval by the Planning Commission, the City Council may approve or disapprove, for any reason, the application. If the City Council approves the final phase, they may attach such conditions as may be deemed necessary to secure the purpose as set forth in this Chapter.

15.09.090 Final Approval

15.09.090.1 Final Approval

15.09.090.1 Final Approval

The following regarding final approval:

1. The final application that shall be filed with the Planning Commission shall be an application for final approval. Such application shall include the applicable information required by the provisions of subdivision ordinance of Perry City, Utah. Application for final approval may only be made after preliminary approval has been granted by the Planning Commission.
2. The Planning Commission shall consider said application and shall recommend to the City Council approval or disapproval, for any reason, of the application. If the Planning Commission recommends approval of the final plan, the Planning Commission may attach such conditions as may be deemed necessary to secure the purposed set forth in this Chapter.

15.09.100 Construction, Grading And Contour Maps

15.09.100.1 No Construction Before Final Approval

15.09.100.1 No Construction Before Final Approval

There shall be no construction development, or grading upon the development site until final approval has been granted by signatures of the Planning Commission and City Council as provided in this section. Before the construction of single family dwelling units upon lots shall be allowable, a plot plan drawn to scale (at least one (1" inch= ten (10')) or (1"=10') for such lots shall be submitted to the Building Inspector, which plot plan shall show lot lines, existing and proposed contours at two (2') foot intervals, locations or proposed single family dwelling units, walks, driveways, and patio areas.

15.11 Wetlands And Sensitive Soils Areas

15.11.010 Wetlands And Sensitive Soils Requirements
15.11.020 Penalties

15.11.010 Wetlands And Sensitive Soils Requirements

15.11.010.1 Requirements For Delineated Wetland Areas
15.11.010.2 Requirements For Non-Delineated Wet And/Or Sensitive Soil Areas

15.11.010.1 Requirements For Delineated Wetland Areas

The following are requirements for delineated wetland areas:

1. Areas of Perry City deemed to be Wetland or acknowledged as being wetland by the U.S. Army Corps of Engineers, shall be subject to the requirements set forth by the Corps of Engineers. A soil study may be required and shall be paid for by the owner/developer and any other requirements, as deemed necessary by the City Engineer, a Land Use Authority, or an Appeal Authority, shall be completed prior to the approval of any development.
2. Development or building of any structure or issuance of any building permit in areas deemed to be wetland according to delineation provided by the U.S. Army Corps of Engineers shall be prohibited until a proper permit procedure has been followed and a permit for the proposed development is issued by the U.S. Army Corps of Engineers.
3. A Land Use Authority or Appeal Authority shall not approve any development in violation of the Clean Water Act.

15.11.010.2 Requirements For Non-Delineated Wet And/Or Sensitive Soil Areas

The following are requirements for non-delineated wet or sensitive soil areas:

1. A Land Use Authority or Appeal Authority may require soil studies to be done on any property that comes before it for any type of development purposes, if it is apparent that the property has wet or sensitive soil areas within the development. These costs are to be paid for by the owner/developer.
2. If a soil study determines the land could be wetlands, delineation must be arranged for and paid for by the owner/developer. The procedure above for delineated wetland areas will then be followed.

15.11.020 Penalties

15.11.020.1 Available Penalties

15.11.020.1 Available Penalties

Available penalties are set forth in Section 15.01.030.

15.13 Agriculture Protection Areas

15.13.010 Purpose And Intent
15.13.020 Definitions
15.13.030 Procedural Requirements

15.13.010 Purpose And Intent

15.13.010.1 Purpose
15.13.010.2 Intent

15.13.010.1 Purpose

The purpose of the Agriculture Protection Ordinance is to establish an Agriculture Protection Area Advisory Board, adopt procedures for filing of and consideration for proposals to create agriculture protection areas, provide for filing fees and to enact other related provisions.

15.13.010.2 Intent

The Mayor and Perry City Council as the legislative body of Perry City declare the following as basis for the adoption of the Agriculture Protection Ordinance:

1. The Utah Legislature, by enactment in its 1994 General Session of SB 227, as codified in the Utah Code Annotated Title 17, Chapter 41, provided a procedure for creating Agricultural Protection Areas.
2. The Perry City Council finds that it is in the best interest of the residents of Perry City to make provision for the establishment of Agricultural Protection Areas as required under the Utah Code, and to create acreage limitations, fee schedules and other procedures regarding review and consideration of proposals to create Agriculture Protection Areas.

15.13.020 Definitions

1. **Agriculture Protection Area**. A geographic area created under the authority of this ordinance that is granted the specific legal protection afforded by this ordinance.
2. **Advisory Board.** The Agriculture Protection Advisory Board appointed by the Box Elder County Commission.
3. **Agriculture Production.** Commercial production of crops, livestock and livestock products including the processing or retail marketing of any crops or livestock or livestock products when more than fifty percent (50%) of the processed or merchandised products are produced by the farm operator.
4. **Crops, Livestock, and Livestock Products.** The raising of useful plants and animals with reasonable expectation of profit including forages, sod, grains, feed crops, domestic animals, honey bees, poultry, fur-bearing animals, fish, trees, fruit, vegetables, nursery/bedding plants, floral and ornamental stock and the use of land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.
5. **Political Subdivision.** A city, county, school district, or special service district is a political subdivision.
6. **Proposed Sponsors.** The owners of land engaged in agricultural production that are sponsoring the proposal for the creation of an Agriculture Protection Area.
7. **State Agency.** Each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel or other administrative unit of the state is known as a state agency.

15.13.030 Procedural Requirements

15.13.030.1 Perry City Planning Commission
15.13.030.2 Minimum Size For Agriculture Protection Areas
15.13.030.3 Fees For Accepting And Processing Applications For Designation Of Agriculture Protection Areas
15.13.030.4 Filing Procedure

15.13.030.1 Perry City Planning Commission

The Perry City Planning Commission will perform the duties set forth in Section 17-41-303 of the Utah Code Annotated, or any later amendment or enactment of that section.

15.13.030.2 Minimum Size For Agriculture Protection Areas

Pursuant to Utah Code Annotated Section 17-41-301 (5) or any later amendment or enactment of that section, at least two (2) contiguous acres must be included in each Agriculture Protection Area established with Perry City.

15.13.030.3 Fees For Accepting And Processing Applications For Designation Of Agriculture Protection Areas

Any person or persons filing an application for a proposal to create an Agriculture Protection Area pursuant to this ordinance and the Utah Code shall pay a fee at the time of filing. The amount of the fee shall be established by resolution of the Perry City Council. In addition, any person or persons filing a proposal for creation of an Agriculture Protection Area shall reimburse Perry City for the publishing of notices, mailing or costs associated with the advertising required under Utah Code or any subsequent amendment or enactment of that statute.

15.13.030.4 Filing Procedure

All applications for proposals to create an Agriculture Protection Area within Perry City shall be filed in the office of the Perry City Recorder on a form provided by Perry City for that purpose. The procedure shall follow Utah Code Annotated Section 17, Chapter 41 as outlined on the following page. All proposals must accompanied by the filing fee established by the Perry City Council.

15.15 Flood Control And Special Regulations

15.15.010 Flood Damage Prevention

15.15.010 Flood Damage Prevention

A. Statutory authorization, findings, of fact, purpose, and methods.

1. Statutory Authorization.

a. The Legislature of the State of Utah has delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, Perry City, Utah, does ordain as follows:

2. Findings of fact.

a. The flood hazard areas of Perry City 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 hazards 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.

a. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;
(2) Minimize expenditure of public money for costly flood control projects;
(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(4) Minimize prolonged business interruptions;
(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
(7) Insure that potential buyers are notified that property is in a flood area.

4. Methods of reducing flood losses:

a. In order to accomplish its purposes, this ordinance uses the following methods:
b. 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;
c. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
d. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
e. Control filling, grading, dredging and other development, which may increase flood damage;
f. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

B. Definitions.

1. 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.

a. Alluvial Fan Flooding. Flooding occurring on the surface of an alluvial fan or similar landform, which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
b. Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
c. Area of Shallow Flooding. A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
d. Area of Special Flood Hazard. Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.
e. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
f. Basement. Any area of the building having its floor sub-grade (below ground level) on all sides.
g. Critical Feature. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
h. Development. Means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
i. Elevated Building.

(1) A non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and
(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

j. Existing Construction. 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."
k. Existing Manufactured Home Park or Subdivision. 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.
l. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on

which the manufactured 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).

m. Flood or Flooding. 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.

n. Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency(FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
o. Flood Insurance Study. Is the official report provided by Federal Emergency Management Agency (FEMA). The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.
p. Floodplain or Flood-Prone Area. Any land area susceptible to being inundated by water from any source (see definition of flooding).
q. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
r. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
s. Flood Protection System. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
t. Flood Proofing. 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.
u. Floodway (Regulatory Floodway). 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.
v. Functionally Dependent Use. 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.
w. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
x. Historic Structure.

(1) That is listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(E) by an approved state program as determined by the Secretary of the Interior or;
(F) directly by the Secretary of the Interior in states without approved programs.

y. Levee. 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.
z. Levee System. 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.
aa. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.
ab. Manufactured Home. 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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
ac. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
ad. Mean Sea Level. For the 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.
ae. New Construction. For the purpose 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.
af. New Manufactured Home Park or Subdivision. 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.
ag. Recreational Vehicle.

(1) Which is built on a single chassis;
(2) 400 square feet or less when measured at the largest horizontal projections;
(3) designed to be self-propelled or permanently towable by a light duty truck; and
(4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

ah. 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 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.
ai. Structure. A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
aj. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

ak. Substantial Improvement. 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 "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) 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 conditions or
(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

al. Variance. Is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

am. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 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.

an. Water Surface Elevation. 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 floodplains of coastal or riverine areas.

C. General Provisions.

1. Lands to which this ordinance applies.

a. The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Perry City.

2. Basis for established the areas of special flood hazard.

a. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Wasatch County," 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. Perry City automatically adopts all effective FEMA Flood Insurance Rate maps and all effective FEMA Flood Insurance Studies.

3. Establishment of development permit.

a. A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

4. Compliance.

a. 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.

a. 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.

a. In the interpretation and application of this ordinance, all provisions shall be:

(1) considered as minimum requirements;
(2) liberally construed in favor of the governing body; and
(3) deemed neither to limit nor repeal any other powers granted under State statutes.

7. Warning and disclaimer or liability.

a. 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. General limitations on construction activities in designated flood areas.

a. New construction of any building or structure (other than a flood control building or structure) is prohibited and no permit shall be issued for any development in any area identified as “Zone A” on any current “flood insurance rate map” published by the Federal Emergency Management Agency.

D. Administration.

1. Designation of the floodplain administrator.

a. The Mayor’s designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

2. Duties and responsibilities of the floodplain administrator.

a. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
(2) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Utah National Flood Insurance Coordinator, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
(8) When base flood elevation data has not been provided in accordance with 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. Permit procedures.

a. Application for a Development Permit 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:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
(3) 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);
(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
(5) Maintain a record of all such information in accordance with Article 4, Section (B)(1).

b. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

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

4. Variance procedures.

a. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
b. The Appeal Board 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 Appeal Board 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 upon request.
e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
f. 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.
g. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board 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).
h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
i. 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.
j. 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) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
(E) a 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.

(6) 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.

k. 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.

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

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during

conditions of flooding.
(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
(6) 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,
(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

2. Specific standards.

    a. 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:

        (1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
        (2) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydro static 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 floodproofed shall be maintained by the Floodplain Administrator.
        (3) 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. Certification.

    a. It is hereby found and declared by Perry City that severe flooding has occurred in the past within its jurisdiction and will certainly occur within 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.
    b. Therefore, an emergency 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.

15.16 Escrow Agreements, CCc And R's And Development Agreements

15.16.010 Development Agreements

15.16.010 Development Agreements

15.16.010.1 Optional Process For Development Agreements For Commercial Property (20 Or More Acres)

15.16.010.1 Optional Process For Development Agreements For Commercial Property (20 Or More Acres)

Development agreements for commercial property (totaling 20 or more acres), if allowed by the City pursuant to the optional process, shall be as follows:

1. For a development of commercial property that is at least 20 acres, a development agreement may be entered into between the property owner(s) and the City; and
2. The development agreement may contain, without limitation, vesting of zoning and uses, site plan and subdivision approval and recording processes, aesthetic standards and requirements, a requirement that the development agreement be recorded against the real property, and/or other requirements; and
3. To the extent there is an inconsistency between the applicable land use ordinances, standards, or guidelines and the development agreement, the development agreement shall prevail.

15.17 Design Review Procedure

15.17.010 Intent And Purpose
15.17.020 Application
15.17.030 General Provisions
15.17.040 Procedure For Approval
15.17.050 Other Requirements
15.17.060 Approval By City Council

15.17.010 Intent And Purpose

15.17.010.1 Intent And Purpose
15.17.010.2 Compliance With Municipal Code

15.17.010.1 Intent And Purpose

The intent of the Design Review Procedure is to assure that a detailed design review process is followed for permitted uses in any zone that require special consideration to be harmonious with the goals of the Perry City General Plan.

15.17.010.2 Compliance With Municipal Code

Each Design Review application shall be reviewed to assure that all ordinances and policies of Perry City are complied with for the welfare, health and safety of Perry residents and for the protection of adjoining properties.

15.17.020 Application

15.17.020.1 Application
15.17.020.2 Compliance With Municipal Code
15.17.020.3 No Physical Change To A Site

15.17.020.1 Application

A Design Review Application shall be required for all uses designated by the Perry City Land Use Chart* (Chapter 15.15, Perry City Municipal Code) with an asterisk "*" indicating the use is allowed by Design Review or whenever required by the Planning Commission or City Council for protection of the public interest.

15.17.020.2 Compliance With Municipal Code

Each application shall be reviewed and evaluated for compliance and must meet all applicable Perry City Ordinances (Ex. Fence, Sign, Parking, Landscape, etc.).

15.17.020.3 No Physical Change To A Site

If there is no physical change to the site, building or parking, for example, some home occupations; the Design Review Process will not be necessary, although a Design Review Application will need to be completed and Planning Commission review and approval will be necessary.

15.17.030 General Provisions

15.17.030.1 Compliance With Municipal Code
15.17.030.2 Effect On Adjacent Property
15.17.030.3 City Council Surety For Completion

15.17.030.1 Compliance With Municipal Code

All development approved with the Design Review process shall comply with the adopted building codes and the ordinances and policies of Perry City.

15.17.030.2 Effect On Adjacent Property

The property adjacent to the proposed development shall not be adversely affected. To this end, the Planning Commission shall recommend and the City Council shall require such conditions as are necessary to protect existing permitted uses or potential permitted uses adjoining the proposed development.

15.17.030.3 City Council Surety For Completion

The City Council may require the developer to provide a surety of cash bond or other acceptable surety in an amount determined by the City Council guaranteeing completion of the project in accordance with the conditions of the building permit or Design Review Application approval. When completed in accordance with the approved plan, the bond shall be released. If uncompleted at the end of two (2) years from the date of final acceptance, the City Attorney will review the progress and Perry City may proceed to use the bond to meet the conditions required for the approved use.

15.17.040 Procedure For Approval

15.17.040.1 Obtain Perry City Land Use Ordinances
15.17.040.2 Preparation Of Site Plan And/Or Concept/Preliminary Plan
15.17.040.3 Time Limit On Approval
15.17.040.4 Public Hearing
15.17.040.5 Planning Commission Recommendation
15.17.040.6 Preparation And Submittal Of Final Site Plan
15.17.040.7 Submittal Of Final Site Plan To Perry City Staff Professional Consultants
15.17.050.8 Approval Of Final Site Plan By Planning Commission

15.17.040.1 Obtain Perry City Land Use Ordinances

Information as to standard zoning and Perry City General Plan requirements is to be secured by the developer. Any person wishing to obtain approval for a permitted use that requires Design Review within Perry City shall secure from the City Recorder or City Office or other authorized representative of the Planning Commission, information pertaining to the City Standards and to the City's ordinances and policies regarding streets, landscape, parks, drainage, zoning, parking, traffic circulation, signs, fences, subdivision of land, and/or other General Plan requirements affecting the proposed development.

15.17.040.2 Preparation Of Site Plan And/Or Concept/Preliminary Plan

The following is required of any site plan or concept/preliminary plan:

1. Seven (7) full size 24" X 36", Sixteen (16) 11" X 17" copies and one electronic PDF copy of the Site Plan or the Concept/Preliminary Plan (or the number of copies required as determined by the City Staff), a plat map showing the location of the development and a Planning Commission Hearing Application with payment of the fee will be required to be received at the City Office fourteen (14) days prior to the Planning Commission Meeting when the application is to be reviewed. The Perry City Staff will review the application and make recommendations to the Planning Commission.
2. The site plan or concept/preliminary plan need not be prepared by a design professional but the more detailed and accurate the information that is provided to the Planning Commission, the more valid the information and direction the developer will receive back and the Design Review Process may proceed in a more timely fashion.
3. Graphic Standards: The Site Plan or Concept/Preliminary Plan shall be large enough scale to show sufficient detail for adequate review. The plan shall show the following:
    a. Scale, north arrow, and dimensions of property.
    b. Location of all dominant existing features such as property lines, structures, hard surfaces, vegetation, utilities, adjacent land uses, drainage, wetlands, etc.
    c. Location of all proposed improvements including structures, sidewalks, streets, parking areas, landscaped areas, utilities, drainage facilities etc.

15.17.040.3 Time Limit On Approval

The developer shall have one year following the approval by the Planning Commission of the site plan or concept/preliminary plan to submit the final plan, profile and other required drawings.

15.17.040.4 Public Hearing

If the Planning Commission shall deem it to be in the best interest of surrounding property owners and City residents to hold a public hearing, they will so advise the Community Development Department to advertise the hearing and notice of an application for a Design Review will be mailed to property owners, or other written notice given, as required by state law. The public hearing shall be held after public notice in a local newspaper, as per the requirements of state law. This is a courtesy to adjacent landowners and compliance with this section shall not be a condition precedent to proper legal notice and no hearing or action taken thereon shall be deemed invalid or illegal because of failure to give notice to all nearby landowners. The applicant is responsible for the costs of mailing or other written notice.

15.17.040.5 Planning Commission Recommendation

After the public hearing is held (if deemed necessary), a recommendation of the Planning Commission to table, deny, approve with conditions or approve the site plan or concept/preliminary plan along with any conditions for denial or approval shall be forwarded to the applicant after the meeting. The recommendation should also include any comments from the City Staff, further requirements to be met or changes to be made. If preliminary approval is obtained, the applicant will then submit a final plan including the recommendations. If preliminary approval is not obtained, the applicant may submit another plan fourteen (14) days prior to the next regular meeting for re-consideration.

15.17.040.6 Preparation And Submittal Of Final Site Plan

The following is required in preparation and submittal of the final site plan:

1. The developer shall prepare and submit eight (8) 11" X 17" copies and five (5) 24" X 36" copies of the final site plan and any other required drawings or information to the City Recorder fourteen (14) days prior to the Planning Commission meeting when the final plan is to be reviewed.
2. The Final Site Plan shall be prepared by a Design Professional or Engineer and shall be of sufficient detail to show all pertinent information.
3. All costs incurred for professional reviews of site plans shall be paid by the developer/applicant.

15.17.040.7 Submittal Of Final Site Plan To Perry City Staff Professional Consultants

The final site plan and any required engineering or drawings (an estimate of the costs for installation of improvements may be required) shall be submitted to the Perry City Staff and/or professional consultants as deemed necessary. The City Engineer shall check the final site plan and engineering drawings for completeness and accuracy and if necessary, review the breakdown of improvements and cost estimates submitted to him by the developer/applicant and/or the City Recorder. The purpose of this review is to establish a basis for bonding, escrow or other approved assurance requirements which will guarantee the completion of improvements at any point in the development regardless of the financial condition of the developer. All available recommendations of the City Staff, City Engineer, Fire Marshal, Building Inspector, Health Department or other consultants will be forwarded to the Planning Commission along with the agenda for the meeting in which the final site plan is to be reviewed.

15.17.050.8 Approval Of Final Site Plan By Planning Commission

After the final site plan and engineering drawings have been approved by the City Engineer and other Professional Consultants, they shall be submitted to the Planning Commission for its verification as to compliance with the Design Review Requirements and Perry City ordinances and policies. If the plan is acceptable, the Planning Commission shall recommend approval to the City Council. If the plan is not acceptable, the developer shall be notified in writing and the developer shall submit a new plan with the required corrections fourteen (14) days prior to the regular meeting in which the new plan will be reviewed by the Planning Commission.

15.17.050 Other Requirements

15.17.050.1 Requirements For Bond And/Or Other Approved Assurance
15.17.050.2 Impact Fees

15.17.050.1 Requirements For Bond And/Or Other Approved Assurance

If required, the developer shall post a bond, escrow, or other approved assurance that is acceptable with the city; which bond or assurance shall be in an amount equal to the estimated costs submitted and approved by the City Engineer for the improvements plus fifteen percent, guaranteeing that the improvements will be installed according to Perry City Standards and paid for without cost to the city, and the developer shall sign an agreement with the city guaranteeing all improvements for a period of one year after final acceptance by the city (Typically, three (3) years total). Evidence of marketable title shall be obtained by the developer. The performance bond, escrow or other means of assurance and evidence of marketable title will be submitted to the City Recorder by the developer. The City Recorder shall obtain and forward to the City Attorney, the performance bond, evidence of marketable title, and final site plan for review.

15.17.050.2 Impact Fees

The City Recorder shall inform the developer of the City Attorney's approval and the developer shall deposit with the City Recorder any impact fees or recording fees that may be applicable.

15.17.060 Approval By City Council

15.17.060.1 Final Approval By City Council

15.17.060.2 Inspection
15.17.060.3 Time Limit Of Final Site Plan Approval
15.17.060.4 Ongoing Maintenance

15.17.060.1 Final Approval By City Council

A statement of approval from utility companies and assurance of license and insurance of contractors, etc. performing work in dedicated areas shall be required from the developer. After the final site plan Design Review has been approved by the City Engineer, the Planning Commission, and the City Attorney; and the developer has furnished the required performance bond, escrow or other approved means of assurance; and all required assessments have been made; the final plan shall be submitted to the City Council (with or without conditions) for approval, conditional approval or denial. The Council shall have 20 days to act. If the Design Review Use request is denied, the package along with impact fees and performance bond, etc., shall be returned to the developer with reasons for the denial in writing and directions of how the developer may or may not resubmit the final plan with the required changes for approval.

15.17.060.2 Inspection

Following the approval of a Design Review Use request by the City Council, the Building Official or Building Inspector shall sign an application for a building permit. The Building Inspector shall insure that the development is undertaken and completed in compliance with all Perry City standards, ordinances and policies and is constructed in accordance with the approved site plan.

15.17.060.3 Time Limit Of Final Site Plan Approval

Unless there is substantial construction started on a Design Review development as determined by the City Council under a Design Review Permitted Use approval of the final site plan within one (1) year of such approval, the Design Review Permitted Use approval shall then expire.

15.17.060.4 Ongoing Maintenance

Approval of a development allowed by Design Review implies a guarantee of ongoing maintenance and upkeep of buildings, parking areas, landscaped areas, undeveloped areas and/or any other area or structure shown on the approved site plan.

15.19 Streets, Trees, Parkways, And Parking

15.19.010 Streets And Sidewalks
15.19.020 Trees And Shrubs
15.19.030 Parkway Between Curb And Gutter
15.19.040 Health And Safety Hazards
15.19.050 General Parking Design
15.19.060 Recreational Vehicle Parking
15.19.070 Commercial Vehicles In Residential Districts
15.19.080 Penalties, Snowstorm Parking, And Applicability To Other Ordinances

15.19.010 Streets And Sidewalks

15.19.010.1 Applicable State Law
15.19.010.2 Superintendent Of Streets And Sidewalks
15.19.010.3 Adoption Of Minimum Standards For Public Utility And Street Improvements

15.19.010.1 Applicable State Law

For State law authorizing City to lay out, alter, grade, pave, etc., streets and sidewalks, see Utah Code Annotated 10-8-8, 1953. For State law authorizing City to regulate and control sidewalks generally, see Utah Code Annotated Sections 18-8-11 and 10-8-23, 1953.

15.19.010.2 Superintendent Of Streets And Sidewalks

A Perry City employee shall be designated as a Superintendent of Streets and Sidewalks, whose duty it shall be to see that the provisions of this Chapter are faithfully carried out and who shall perform such other and further duties as may be prescribed by ordinance or by City Administration from time to time.

15.19.010.3 Adoption Of Minimum Standards For Public Utility And Street Improvements

There is hereby adopted by the City Council that certain document entitle “Perry City Public Works Standards and Technical Specifications,” containing certain minimum standards for the construction of streets, culinary water lines, storm sewers, sanitary sewers, street intersections, street designs, details for construction of curb and gutter, sidewalk, driveways from public streets, details for private connections to public sewer and water systems and related matters and bound together with an index, not less than three (3) copies have been and are now filed in the office of the City Recorder.

15.19.020 Trees And Shrubs

15.19.020.1 Purpose And Policy
15.19.020.2 Definitions
15.19.020.3 City Forester
15.19.020.4 Permit Required
15.19.020.5 Appeal Of City Council's Decision
15.19.020.5 Trees Located Withing Public Property
15.19.020.6 Interference With City Employees And Willful Injury To Trees
15.19.020.7 Penalty
15.19.020.8 List Of Approved Street Trees For Perry City

15.19.020.1 Purpose And Policy

It is the policy of the City that City property and private property be landscaped to enhance the natural beauty of the City, and that residents of the City be encouraged to participate in beautification efforts through installing and maintaining quality landscaping on public and private property.

15.19.020.2 Definitions

For the purpose of this Section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The following definitions are:

1. City: City refers to Perry City.
2. City Forester: The City Forester is the Superintendent of City Parks (unless otherwise designated by the Mayor.
3. City Council: For purposes of this Title, “City Council” means a decision (on an action item specifically listed on an agenda) by a majority of the Council in a public meeting (after a recommendation from the City Forester).
4. Person: Any person, firm, partnership, association, corporation, company, or organization of any kind.
5. Shade Tree or Tree: A tree in any public place except where otherwise indicated.
6. Tree Planting Strip: The area between curb or place where curb should be and the property line; or an area inside the property line where an easement is given for the purpose of permitting the planting of shade trees; also designated herein as “parking.”

15.19.020.3 City Forester

The following applies to the City Forester:

1. City Forester: There is hereby established the office of a City Forester, who (unless otherwise designated by the Mayor) shall also be the superintendent of City parks.
2. Duties and Responsibilities: The City Forester shall provide information and make recommendations to the City Council and supervise the execution and enforcement of the provisions of this Title and all other plans, standards, and specifications for the regulation of matters pertaining to shade trees that may be officially adopted by the City.
3. City Forestry Standards and “Tree City USA” Standards - the City Forester shall:
    a. Supervise and coordinate with all City forestry volunteers;
    b. Make recommendations for amendments to this Title;
    c. Encourage the City to adopt an annual City Forestry budget of at least $2.00 per capita;
    d. Encourage the City to proclaim and observe Arbor Day each year; and
    e. Encourage the City to adhere to all “Tree City USA” Standards.

15.19.020.4 Permit Required

The following standards shall apply regarding permits for tree removal on public property:

1. Permit Required; Exceptions: It shall be unlawful to plant, move, remove, spray, trim, or prune out, above or below ground, disturb, alter any tree or shrub on the City parking strips, parks, or any public property, or to cause such acts to be done by others, without first obtaining a written permit from the City Council (after a recommendation from the City Forester), who shall cause such permit to be issued if, in their judgment, the work is necessary and if such work falls within the authority granted within this Title. A permit shall not be required:
    a. To cultivate and/or irrigate; or
    b. To complete any work required or requested by the Utah Department of Transportation, Bow Elder County, or any other governmental agency.
2. Conditions to Obtain a Permit: As a condition to any permit to remove any public tree or shrub within public property, the City Council (after a recommendation from the City Forester) may require that the "permittee" (including nearby landowners, businesses, or other affected parties):
    a. Pay the value of each removed tree to the City (as determined by the City Forester for a similar or pre-approved tree);
    b. Pay the cost of tree and/or stump removal, repair or replacement of any damage to sprinkling systems or adjacent property, and related expenses caused while pursuing the work under the permit; and/or
    c. Fully maintain the parkway or City-owned land in the future, including watering and mowing any grass, replacing sprinklers, etc.; with
    d. Any funds collected for tree removal or damage to be earmarked for use by the City Forester to replace trees; and with
    e. Any dispute as to valuation to be resolved by the methodology of the International Society of Arboricultural/Council of Landscape Appraisers.
3. A Permit Affecting a Driveway or Sidewalk: Any request submitted for approval to permit the removal of a tree for the purpose of installing new driveway access or similar change in the curb and gutter or sidewalk shall be accompanied by a sketch of the proposed change. The sketch shall be made to scale showing all proposed changes and shall include the entire frontage of the lot involved and such frontage of adjacent lots as may be required by the City Council (after a recommendation from the City Forester. The sketch shall be prepared accurately by a person who, in the opinion of the City Forester, is qualified to prepare such a sketch.
4. Tree Policy Regarding Highway 89: The City hereby declares a policy that trees are encouraged along the frontage of Highway 89 between 2250 South and 2700 South.
5. Tree Policy Regarding Businesses: The City also declares a policy that the City shall strongly take into account the concerns of any permittee that is conducting a business in close proximity to the parkway or City-owned trees or land identified in a permit.
6. Due process and equal protection: The City Forester, the City Council, and other City officials shall ensure that each permittee is afforded all of the rights to:
    a. Fair notice and fair hearing (and other due process) required by law; and
    b. Equal protection required by law, including treating similarly situated permittees in a similar manner (to avoid any arbitrary and capricious treatment).

15.19.020.5 Appeal Of City Council's Decision

Any appeal from any decision of the City Council (as a land use authority) regarding this Title shall be to the Administrative Law Judge (as a land use appeal authority).

15.19.020.5 Trees Located Withing Public Property

The City shall assume responsibility for relieving the following conditions caused by trees or shrubs on City tree planting strips, public parks, or property:

1. Removal of dead trees or limbs or trees or limbs that, as determined by the City Forester, appear to be a hazard or liable to fall.
2. Removal of trees or limbs from trees or shrubs that have actually fallen across a street, sidewalk, or upon City property.
3. Removal of diseased or dying trees that are beyond reclamation.
4. Removal of trees or roots directly in the way of street widening projects, new curb and gutters, or sidewalk and curb repairs.
5. All pruning of trees and shrubs.

15.19.020.6 Interference With City Employees And Willful Injury To Trees

The following regarding interference with City employees and willful injury to trees:

1. No person shall prevent, delay, or interfere with the City Forester or his assistants in the execution or enforcement of this Section; provided, however, that nothing herein shall be construed as an attempt to prevent a public herein on the permit or any remedy legal or equitable in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.
2. No person shall willfully injure or destroy any tree on the City tree planting strips, public parks, or other public property of the City by any means including, but not limited to, the following:
    a. Constructing a concrete, asphalt, brick, or gravel sidewalk or otherwise filling up the ground area around any tree so as to shut off air, light, or water from the roots, except under written authority from the City Council (after a recommendation from the City Forester).
    b. Piling building material, equipment, or other substances around any tree so as to cause injury.
    c. Pouring any injurious matter on or around any tree, on the ground around any tree, or on any lawn or sidewalk.
    d. Injuring any tree, tree-stake, or guard with any vehicle, animal, or in any other manner causing injury to any tree or lawn on public property.
3. Tree-stakes or guards may be placed around trees by property owners; provided the same are placed near a tree for the purpose of protecting or training such trees.
4. The City Forester shall determine when any tree roots or limbs originating on private property are interfering with the City sidewalks or property and serve notice by mailing to the owners or parties occupying such premises to either remove such tree or trim the roots of any tree in order to protect the City sidewalks from damage.

15.19.020.7 Penalty

A violation of any provision of this Chapter shall be punished by fine in any sum not to exceed two hundred and ninety-nine ($299.00) dollars or by imprisonment for a period of no longer than six (6) months or by both such fine and imprisonment. In the alternative, the City may charge a civil fine in the amount of $100.00 per week for each violation, or as otherwise set forth in Chapter 4.09 (Fee Schedules).

15.19.020.8 List Of Approved Street Trees For Perry City

The following is a list of approved trees for Perry City Streets:

Common Name	**Latin Name**
Althea (Rose of Sharon)- treeform	Hibiscus syriacus
Ash, 'Golden Desert'	Fraxinus oxycarpa 'Aureafolia'
Ash, European Mountain	Sorbus aucuparia
Box Elder, 'Flamingo'	Acer negundo 'Flamingo'

Cherry, Flowering ‘Kwanzan’	Prunus serrulata ‘Kwanzan’
Cherry, Flowering ‘Royal Burgundy’	Prunus serrulata ‘Royal Burgundy’
Chokecherry, ‘Schuber’ (Canada Red) –treeform	Prunus virginiana ‘Schubert’
Crabapple, ‘Bechtel’ (Klehm’s Improved)	Malus ioensis ‘Bechtel’
Crabapple, ‘Indian Magic’	Malus ‘Indian Magic’
Crabapple, ‘Snowdrift’	Malus ‘Snowdrift’
Crabapple, ‘Spring Snow’	Malus ‘Spring Snow’
Goldenchain Tree	Laburnum x watereri ‘Vossi’
Goldenchain/ Scotch Broom hybrid	Laburnocytisus adamii
Hawthorne- many varieties	Crataegus
Hornbeam, Pyramidal European	Carpinus betulus ‘Fastigiata’
Lilac, Japanese Tree	Syringa reticulata
Maple, Amur- treeform	Acer ginnala
Maple, ‘Crimson Sentry’	Acer platanoides ‘Crimson Sentry’
Maple, Dwarf Hedge	Acer campestre ‘Compacta’
Maple, ‘Pacific Sunset’	Acer truncatum x platanoides ‘Warrenred’
Maple, Paperbark	Acer griseum
Maple, Tatarian	Acer tatricum
Pear, Aristocrat Flowering	Pyrus calleryana ‘Aristocrat’
Pear, Chanticleer Flowering (Cleveland Select)	Pyrus calleryana ‘Chanticleer’
Pear, Redspire Flowering	Pyrus calleryana ‘Redspire’
Plum, Flowering- many varieties	Prunus cerasifera
Redbud, Eastern	Cercis Canadensis
Serviceberry, ‘Autumn Brilliance’ -treeform	Amelanchier x grandiflora
Viburnum, Nannyberry- treeform	Viburnum lentago
Viburnum, ‘Pink Dawn’- treeform	Viburnum x bodnantense ‘Pink Dawn’

15.19.030 Parkway Between Curb And Gutter

15.19.030.1 Responsibility Of Property Owner
15.19.030.2 Permission To Fill With Permanent Material
15.19.030.3 Sprinklers/Watering In Parking Strip

15.19.030.1 Responsibility Of Property Owner

It shall be the responsibility of the property owner to clean, plant, maintain, etc. the City-owned utility strip (parkway) between the curb and gutter and the sidewalk. Grass, small plants, or ground cover may be planted without a permit. Any tree to be planted is by permit only as described in Section 15.19.020.

15.19.030.2 Permission To Fill With Permanent Material

Perry City will only allow the parking area to be filled in with permanent or semi-permanent material, i.e., concrete, asphalt, block, etc. with a written agreement and the following conditions:

1. Whatever material is installed is at the cost of the property owner.
2. The placement of concrete requires an expansion joint against either the sidewalk or the curb and gutter with a “cold joint” against the other face.
3. The water meter shall be place flush with the concrete of asphalt-type material fill-in.
4. There shall be a four (4’) foot “block out” at fire hydrants, phone pedestals, power poles, and other utility improvements in the planter strip area.
5. If Perry City/ utility companies need to remove the material for utility repairs, etc., it is at the property owner’s expense.
6. The park strip area may be excavated at any time by any public utility occupying the area. The restoration of the area is the responsibility of the public utility and/or property owner.
7. All material will be hauled away and disposed of legally at the property owner’s expense.
8. Replacement will be entirely up to the property owner.

15.19.030.3 Sprinklers/Watering In Parking Strip

All sprinkling devices installed or used to water plant material in the parking strip must be designed to keep water off the sidewalk.

15.19.040 Health And Safety Hazards

15.19.040.1 Purpose
15.19.040.2 Inspector: Office Created
15.19.040.3 Assistant Inspectors: Office Created
15.19.040.4 Inspector: General Duties

15.19.050.5 Inspector: Duties If Conditions Exist
15.19.050.6 Type Of Mail Service Allowed
15.19.050.7 Request For A Hearing
15.19.050.8 If Administrative Law Judge Upholds Inspector's Decision
15.19.060.9 If Administrative Law Judge Overrules Or Modifies Inspector's Decision
15.19.060.10 Inspector To File Amended Notice And Proof Of Service
15.19.060.11 Failure To Comply With Notice And Proof Of Service
15.19.060.12 City's Options After Failure To Make Payment
15.19.060.13 Collection By Lawsuit
15.19.060.14 Applicable State Law

15.19.040.1 Purpose

It is the purpose of this Chapter to establish a means whereby this municipality may remove, abate, or cause the removal or abatement of "health and safety hazards," referred to herein as "hazards" (defined as including, but not limited to, injurious and noxious weeds and garbage, flammable or dangerous objects or structures pursuant to the powers granted to it by Chapter 11 of Title 10, Utah Code Annotated, 1953, as amended and pursuant to its general power to remove or abate hazards). It is hereby declared that the above conditions shall constitute a hazard when they create:

1. A fire risk;
2. A source of contamination or pollution of water, air, or property;
3. A breeding place or habitation for insects, rodents, or other forms of life; or
4. Other threats deemed harmful to human health and habitation, etc.

15.19.040.2 Inspector: Office Created

The Office of Inspector is hereby created for the purpose of administering the provisions of this Chapter and the powers delegated to this municipality by such statutes subject to such control and review as the City Council may, from time to time, direct. The Mayor, with the concurrence of the City Council, may appoint an Inspector and Assistant Inspectors (if needed); or in the alternative, the Mayor, without City Council approval, may designate a current employee to be the Inspector (or an Assistant Inspector).

15.19.040.3 Assistant Inspectors: Office Created

The powers and duties of the Assistant Inspectors shall be the same as those of the Inspector unless otherwise specified by resolution.

15.19.040.4 Inspector: General Duties

The Inspector is hereby authorized and directed to inspect and examine real property (or at least to respond to complaints) situated within the municipality for the purpose of determining whether or not it contains hazards, and for the purpose of determining whether or not the existence of dangerous conditions creates a hazard.

15.19.050.5 Inspector: Duties If Conditions Exist

If the Inspector concludes that one or more hazards exist, in whole or in part, he/she shall:

1. Ascertain the names of the owners and occupants and descriptions of the premises where such hazards exist.
2. Serve notice in writing upon the owner and occupant of such land, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last -known post office address, 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 remove or abate the hazard within such time as the Inspector may designate, which shall not be less than ten (10) days from the date of service of such notice.
3. Inform the owner, occupant, or both, by means of such notice or any attached document, that in the event he/she disagrees with the determination of the Inspector and does not wish to remove or abate the hazard within the time designated, he/she may request in writing a hearing before the Administrative Law Judge at a time and place to be set by the Administrative Law Judge.

15.19.050.6 Type Of Mail Service Allowed

For purposes of this Chapter, notices and decisions shall be deemed delivered when mailed by regular U.S. Mail (or other delivery service approved by the U. S. Postal Service) addressed to the property owner's or occupant's last-known address.

15.19.050.7 Request For A Hearing

In the event the owner or occupant requests a hearing, City Staff shall set the time and place for the Administrative Law Judge to hear such objections and the City Recorder shall notify such owner or occupant, in writing, of the time and place at which he/she may appear and be heard. Such hearings shall not be heard less than five (5) days from the date of service or mailing of such notice. The following regarding the Proof of Service Notice and the Hearing:

1. Proof of Service Notice: One notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year. The Inspector shall make proof of service of such notice (a copy of the notice to the owner/occupant shall suffice) and file the same in the office of the City Recorder.
2. Hearing: At the written request of an owner or occupant ordered to remove or abate a hazard(s) from his/her real property, the Administrative Law Judge shall conduct an informal hearing (which need not be reported) wherein such owner or occupant may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of such hazard(s) is properly within the purview of this Chapter. The Administrative Law Judge shall also permit the presentation of evidence and argument by the Inspector and other interested parties. Thereafter, within no more than ten (10) days, the Administrative Law Judge shall render a written decision, a copy of which shall be mailed to or served upon the owner or occupant by the Inspector.

15.19.050.8 If Administrative Law Judge Upholds Inspector's Decision

In the event the decisions of the Administrative Law Judge upholds the determination of the Inspector, the notice originally given by the Inspector shall be deemed to be sufficient to require the owner or occupant to remove or abate the hazard(s) identified and he/she shall have up to ten (10) days from the date of notice of the decision within which to conform thereto.

15.19.060.9 If Administrative Law Judge Overrules Or Modifies Inspector's Decision

In the event that the decisions of the Administrative Law Judge either overrules or modifies the determination of the Inspector, the written decision of the Administrative Law Judge shall apprise him of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the hazard(s) identified, if any. The owner or occupant shall be required to conform to the decision of the Administrative Law Judge (which shall be deemed to be the modified decision of the Inspector), and the owner/occupant shall have up to ten (10) days from the date of notice of the decision within which to conform thereto.

15.19.060.10 Inspector To File Amended Notice And Proof Of Service

The Inspector shall make proof of service of such notice (a copy of the notice to the owner/occupant shall suffice) and file the same in the office of the City Recorder.

15.19.060.11 Failure To Comply With Notice And Proof Of Service

If any owner or occupant described in such notice or decision shall fail or neglect to conform to the requirements thereof, the Inspector may:

1. Cause such hazards to be removed or abated; and
2. Prepare an itemized statement of all expenses incurred in the removal or abatement of such hazards.

If the Inspector prepares a statement, he/she shall mail a copy thereof to the owner or occupant, or both, demanding payment within thirty (30) days of the date of mailing.

15.19.060.12 City's Options After Failure To Make Payment

In the event the owner or occupant fails to make payment of the amount set forth in such statement to the Municipal Treasurer within such thirty (30) days, the Inspector may:

1. Cause suit to be brought in an appropriate court of law;
2. Place a lien on the property; and/or
3. Pursue any other remedy available by law, including, but not limited to, those indicated in Utah Code Annotated 10-8-23 and 10-11-1 et seq.

15.19.060.13 Collection By Lawsuit

In the event collection of expenses of removal and abatement are pursued through the courts, the City shall sue for and receive judgment for all such expenses of removal and abatement, together with reasonable attorney's fees, interest, and court costs and shall execute upon such judgment in the manner provided by law.

15.19.060.14 Applicable State Law

For state law authorizing the City to require property owners to remove or abate weeds from property and in front thereof, see Utah Code Annotated 10-8-23 et seq. and 10-11-1 et seq., said sections being incorporated herein by reference (and which shall supersede any contradictory provision of this Chapter).

15.19.050 General Parking Design

15.19.050.1 Intent And Purpose
15.19.050.2 Off Street Parking : General Provisions
15.19.050.3 Parking Stall Chart: Commercial
15.19.050.4 Parking Stall Chart: Residential
15.19.050.5 Parking Relationship To Proposed User Considerations
15.19.050.6 Parking Area Functional Considerations
15.19.050.7 Parking Layout And Concept Design Considerations
15.19.050.8 Visual Impact Design Considerations

15.19.050.1 Intent And Purpose

The intent and purpose of this Chapter is to:

1. Insure functional, visually pleasing, and safe parking areas.
2. Regulate parking of oversized or commercial vehicles in residential areas.
3. Regulate parking of recreational vehicles to eliminate nuisances associated with blocking sight lines or vehicles used as dwellings.
4. Allow for emergency access and maintenance of public streets and right-of-ways.

15.19.050.2 Off Street Parking : General Provisions

The following regarding off street parking general provisions:

1. These parking requirements pertain to all buildings, new construction, or existing structures and uses that require the Design Review or Conditional Use approval process in order to obtain a business license or building permit.
2. These parking regulations do not apply to existing buildings or structures damaged by fire, earthquake, or other calamities or acts of God requiring a building permit for repairs or rebuilding.
3. Approval of any parking layout is conditional to ongoing maintenance of the approved concept.
4. All proposed hard surface development areas may be subject to storm water impact fees.
5. Design Review Site Plan requirements shall be followed regarding graphic standards for review and will include detailed drawings of construction techniques, specifications, and grading and drainage patterns.
6. No required parking space for an existing building or which is hereafter provided any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a parking space for any other building.

15.19.050.3 Parking Stall Chart: Commercial

The minimum number of off street parking stalls for commercial development shall be as follows: Amount of parking required is one stall per:

Church, Mortuary	6 Seats
Hospital, Nursing Home	Patient Room
Office, Professional Business	250 sq.ft. of Building

College	3 Students
High School	5 Students
Other School	8 Students
Theater, Auditorium	6 Seats
Athletic Fields, Courts	3,000 sq.ft. of Facility
Stadium	4 Seats
Golf Course	10,000 sq.ft. of Course
Restaurant	4 Seats
Shopping Center	200 sq.ft. of Building
Warehouse-Wholesale	250 sq.ft. of Building
Manufacturing/Industry	250 sq.ft. of Building
Retail	200 sq.ft. of Building
Furniture/Appliance Sales	250 sq.ft. of Building
Hotel, Motel, Bed and Breakfast	Unit/Room

15.19.050.4 Parking Stall Chart: Residential

The minimum number of off street parking stalls for residential development shall be as follows: Amount of parking required is one stall per:

Single Family Dwelling	2 Stalls Per Residence
Multi-Family Dwelling	2 1/2 Stalls/Unit (ex. 5 Parking Stalls Required for a Duplex)
Townhouse, Condominium	2 1/2 Stalls Per Unit
Mobile Home Court	2 Stalls Per Unit

15.19.050.5 Parking Relationship To Proposed User Considerations

The following regarding parking relationships to proposed use considerations:

1. Distance between all stalls and all public and private building or use entry points in relationship to potential uses.
2. Physical hardship between parking and use. Not limited to extreme elevation change or limited handicap access.
3. Orientation of and provisions for aisles to minimize pedestrian/vehicle conflicts.
4. Numbers of parking spaces shown in the preceding chart indicate the minimum number of stalls that may be required during the Design Review procedure, additional stalls or open space or buffer areas may be required due to actual use and potential employee/client numbers.

15.19.050.6 Parking Area Functional Considerations

The following regarding functional parking area considerations:

1. Aisle width and directional flow in relationship to stall size and layout angle.
2. Traffic patterns and parking access in relationship to potential conflicts (refer to Utah Highway Department Access Policy if property is fronting Highway 89).
3. Parking areas that utilize Highway 89 for access may be required to meet specific UDOT Standards.
4. Use of adequate turning radii and turn around potential. Emergency vehicle access including fire and loading zones.
5. Associated use integration including but not limited to locations of services and dumpster space requirements.
6. Snow removal and area for piling snow.

15.19.050.7 Parking Layout And Concept Design Considerations

The following regarding parking layout and concept design considerations:

1. Use of Preferred Concept: Small scattered-lot parking areas as opposed to large dominating parking lots.
2. Use of Preferred Layout: ninety (90) degree (perpendicular) parking stalls in relationship to twenty four (24') foot wide two-way aisles.
3. Use of Preferred Stall Size: 9'x19' with painted lines on sides and stops. Consideration will be given to allow twenty (20%) percent of required stalls to be compact size (8'x16') if located in non-critical areas and proper instructional signs are posted.
4. Handicap stalls (12'x19') will be required at no less than one (1) per fifty (50) stalls with a minimum of one (1). Location of handicap stalls will be at the closest proximity to entrances.
5. Other concepts and layouts may be considered if physical characteristics of the site limit the design potential.
6. Parking provided for any building or use to meet the requirements of this Chapter may not be considered as providing parking for any other building or use, although consideration may be given to allow stall number reductions to joint use parking areas if variations in peak use periods exist.

15.19.050.8 Visual Impact Design Considerations

The following considerations regarding visual impact design:

1. All proposed parking areas shall have landscaping to minimize potential negative visual impact as required by the Perry City Landscape Policy.
2. Buffer planting areas shall be a minimum of four (4') feet wide at the perimeter of parking areas.
3. Buffer planting areas are required within all parking areas including row ends (four (4') foot minimum width), between rows (six (6') foot minimum width every other row minimum) and between stalls (four (4') foot minimum widths ever twelve (12) stalls minimum.

15.19.060 Recreational Vehicle Parking

15.19.060.1 Definitions
15.19.060.2 Regulations

15.19.060.3 State Of Emergency Exception

15.19.060.1 Definitions

The following definitions within this Chapter:

1. Trailer House: As used in this ordinance, the term shall include any trailer house, trailer coach, motor home, auto home, camp trailer, camper, enclosed trailer, boat trailer, camperette, camp car, or any vehicle that can be used for living or sleeping purposes or conveyance of other vehicles which is equipped with wheels or similar devices for the purpose of transporting the unit from place to place by motor power or by other means.
2. Trailer Park: An area set aside for the commercial use of renting space for the parking of a trailer house or trailer which may or may not provide connections to Perry City utilities.
3. Mobile Home Park: Property or spaces designated and rented or owned for the parking of mobile homes or trailer houses that are permanently installed, connected to Perry City utilities and approved for occupancy by Perry City.

15.19.060.2 Regulations

The following regarding regulations within this Chapter:

1. No person shall use a trailer house for sleeping or living purposes or both sleeping and living purposes within Perry City for any period exceeding five (5) days, in a thirty (30) day period, except in a mobile home park or trailer park.
2. Trailer houses used for temporary dwellings for visitors of residents or other vehicles as defined in this ordinance, parked within Perry City, shall be located upon the premises of the owner or person being visited and placed at least fifteen (15') feet from the curb or edge of the street.
3. The removal of the wheels for the setting of a trailer house on posts or footings shall not be considered as removing said trailer house from the regulations affecting trailer houses.
4. It shall be unlawful for any person occupying or using any trailer house within Perry City to use any toilet, sink, lavatory, or similar equipment therein unless and except the same is self-contained or connected to the public sewer or an approved septic tank in accordance with the ordinances of Perry City.
5. There shall be no trailer park, mobile home park, or RV camp established or operated within Perry City unless the same shall have fully complies with all the laws and regulations of the State of Utah and City of Perry pertaining to the establishment and operation of such establishments.

15.19.060.3 State Of Emergency Exception

The prohibitions provided in this Chapter shall not apply to the parking of any over-sized vehicle or trailer house needed in association with the handling of or providing aid during any state of emergency legally and properly declared to exist within Perry City.

15.19.070 Commercial Vehicles In Residential Districts

15.19.070.1 Definitions
15.19.070.2 Regulation
15.19.070.3 Exceptions To The Regulation

15.19.070.1 Definitions

The following definitions as they may apply within this Chapter:

1. Commercial Vehicle: As defined by the Utah Vehicle Code, any vehicle having a gross weight, including load, in excess of five (5) tons. For purposes of this ordinance, the definition shall include the tractor portion of a semi-truck without the load carrying trailer attached or a semi-truck with trailer whether empty or loaded.
2. Direct Route: The most feasible route from the closest unrestricted street consistent with the intent to limit the use of streets in the residential districts of Perry City by commercial vehicles is the direct route.

15.19.070.2 Regulation

No person shall operate or park any commercial vehicle on any street within any residential area or residential zoning district of Perry City.

15.19.070.3 Exceptions To The Regulation

The following are exceptions to 15.19.070.2:

1. Passenger buses under the jurisdiction of the Utah Transit Authority (UTA).
2. Vehicles owned by a public utility while necessarily in use in the construction, installation, or repair of any public utility.
3. School buses carrying children to and from school, while training bus drivers, or while parked during school hours.
4. Motor vehicles designed by the manufacturer for the transportation and collection of garbage, rubbish, or refuse and which are regularly used of such collection and transportation of any person or governmental entity engaged in the business of providing the service of collecting, transporting, and/or disposing of garbage, rubbish, or refuse.
5. Commercial vehicles coming from an unrestricted street having ingress and egress by direct route to and from a restricted street when necessary for the purpose of making pickups or deliveries of goods, wares, and merchandise from or to any building or residence located in the restricted area.
6. Commercial vehicles using the direct route for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodel, or construction of any building upon the restricted street for which a building permit has previously been obtained from Perry City.
7. Commercial truck tractors (semi-truck tractors) without trailers using the most direct route and parking at the owner's residence for only the period of time necessary and the express purpose of unloading or loading personal property.

15.19.080 Penalties, Snowstorm Parking, And Applicability To Other Ordinances

15.19.080.1 Penalties
15.19.080.2 Parking Vehicles On Streets After Snowstorm
15.19.080.3 Applicability To Other Ordinances

15.19.080.1 Penalties

Any person convicted of a violation of this ordinance shall be deemed guilty of a Class 'C' Misdemeanor and shall be punishable by a fine of no more than $299.00 or by imprisonment for no more than sixty (60) days or both. Each day of violation shall constitute a separate offense.

15.19.080.2 Parking Vehicles On Streets After Snowstorm

It shall be unlawful for any person to park or leave any vehicle unattended for a period of forty eight (48) hours after any freshly fallen snow on the streets of the City. Such

period is necessary for the Public Works Department to remove snow from the City streets (see Section 10.17.030(1)).

15.19.080.3 Applicability To Other Ordinances

For the applicability of this Chapter to other ordinances, see also Title 10, Transportation Code.

15.21 Streetlight Regulations

15.21.010 Intent And Purpose
15.21.020 General Provisions
15.21.030 Penalties

15.21.010 Intent And Purpose

15.21.010.1 Purpose
15.21.010.2 Intent

15.21.010.1 Purpose

Streetlights increase safety, provide security and benefit everyone. New lighting technologies have produced lights that are extremely powerful. These types of lighting could be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy. Higher energy use results in increased costs for everyone. There is a need for a streetlight ordinance that provides for the benefits and reduces the potentially negative effects of streetlights. Appropriately regulated and properly installed streetlights will contribute to the safety and welfare of the residents of Perry City.

15.21.010.2 Intent

This ordinance is intended to reduce the problems created by improperly installed and/or undesirable streetlights. It is intended to eliminate problems of glare, minimize light trespass and help reduce the energy and financial costs of streetlights by establishing pole heights and light fixture types that are permitted. Streetlights should be installed with the idea of being a "good neighbor" with attempts to keep unnecessary direct light from shining onto abutting properties.

15.21.020 General Provisions

15.21.020.1 City Engineer To Accept Or Reject Proposed Installation Plan
15.21.020.2 Most Restrictive Provision Applies
15.21.020.3 Installation Of Decorative Lighting By Design Review
15.21.020.4 Compliance With Public Works Standards Required

15.21.020.1 City Engineer To Accept Or Reject Proposed Installation Plan

The Perry City Engineer has the authority to accept or reject the proposed streetlight installation plan submitted by sub-contractors. Sub-contractors must have an approved streetlight plan before beginning work in a proposed subdivision.

15.21.020.2 Most Restrictive Provision Applies

Where any provision of federal, state, county or city statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

15.21.020.3 Installation Of Decorative Lighting By Design Review

Installation of decorative lighting may be approved by design review of the Planning Commission.

15.21.020.4 Compliance With Public Works Standards Required

All street lighting design and installation shall comply with Perry City Public Works Standards and Technical Specification.

15.21.030 Penalties

15.21.030.1 Available Penalties

15.21.030.1 Available Penalties

Available penalties are set forth in Section 15.01.030.

15.23 Landscape Regulations

15.23.010 Intent And Purpose
15.23.020 Plan Preparation And Standards For Review
15.23.030 Minimum Landscaped Area Requirements
15.23.040 Specific Landscape Design And Site Planning Criteria
15.23.050 General Landscape Design Considerations
15.23.060 Enforcement And Inspection

15.23.010 Intent And Purpose

15.23.010.1 Primary Purpose
15.23.010.2 Intent
15.23.010.3 Reasons For Legislation
15.23.010.4 Applicability

15.23.010.1 Primary Purpose

The primary goal of these regulations is to protect existing single-family uses and single-family zones from the potential negative impact from all other potential uses.

15.23.010.2 Intent

The main intent of these regulations is to insure all development and growth is safe, functional and visually pleasing.

15.23.010.3 Reasons For Legislation

The policy of Perry City is not to dictate the design style of any development, but to encourage creative landscaping concepts that meet basic standards as defined by this document.

15.23.010.4 Applicability

These regulations do not apply to single-family dwellings and single-family zones.

15.23.020 Plan Preparation And Standards For Review

15.23.020.1 Design Plan And Preparation
15.23.020.2 Design Plan Submission
15.23.020.3 Landscape And Irrigation Elements
15.23.020.4 Planning Commission Requests And Fees

15.23.020.1 Design Plan And Preparation

Landscape and irrigation plans must be prepared by a Licensed or professional Landscape Architect or designer, and approved by the Planning Commission. Plans that do not show sufficient detail or include basic specifications will be rejected.

15.23.020.2 Design Plan Submission

Landscape and irrigation plans must be submitted with the general architecture and engineering plans for review before the scheduled Planning Commission meetings.

15.23.020.3 Landscape And Irrigation Elements

Landscape and irrigation elements must be guaranteed by the owner for one year after final acceptance by Perry City.

15.23.020.4 Planning Commission Requests And Fees

The Planning Commission may at any time request review of plans by a consulting landscape architect. All professional review fees will be paid by the developer.

15.23.030 Minimum Landscaped Area Requirements

15.23.030.1 Minimum Landscaped Area Requirements
15.23.030.2 Plant Material Requirements
15.23.030.3 Plant Material Size Requirement

15.23.030.1 Minimum Landscaped Area Requirements

The criteria for minimum landscaped area requirements are:

Multi-Family Residential*	25% of Site
Institutional	20% of Site
Commercial Zones NC 1,2,3	15% of Site
Commercial 1	10% of Site
Interstate Commercial*	10% of Site
Planned Commercial*	By Design Review
Industrial	5% of Site
Pointe Perry Commercial*	By Design Review

*Placement of landscaping will be by Design Review.

15.23.030.2 Plant Material Requirements

The plant material requirements are:

1. Three (3) Trees per 1000 Square Feet of required landscape.
2. Six (6) Shrubs per 1000 Square Feet of required landscape.

15.23.030.3 Plant Material Size Requirement

The plant material size requirements are:

1. Deciduous trees must be 2" caliper minimum size.
2. Evergreen trees must meet six (6') foot height minimum size.
3. Shrubs must be at minimum 50% 5 Gal., and 50% 2 Gal.

15.23.040 Specific Landscape Design And Site Planning Criteria

15.23.040.1 Landscape Buffer Requirement
15.23.040.2 Distance Requirement From Pavement To Street Or Parking Area
15.23.040.3 Fence Requirement
15.23.040.4 Safe Sight Line Requirement

15.23.040.1 Landscape Buffer Requirement

A 25' minimum landscape buffer is required between any multiple family residential structuresand any single family zone.

15.23.040.2 Distance Requirement From Pavement To Street Or Parking Area

A 10' minimum landscape width between edge of pavement of any parking area or access lane and street is required.

15.23.040.3 Fence Requirement

A 6' solid masonry or solid vinyl fence (or as determined by Design Review) must be utilized to protect and buffer any single family residential use or zone from any other use. The installation of the fence is the responsibility of the owner/developer who is creating the need for the buffer. (See Fencing Ordinance, Chapter 15.25.)

15.23.040.4 Safe Sight Line Requirement

Landscape design consideration must not create safe sight line (as defined by Perry City Land Use Ordinances) problems for vehicles or pedestrians at intersecting streets, within parking lots and at drive access points.

15.23.050 General Landscape Design Considerations

15.23.050.1 Definition
15.23.050.2 Storm Water Detention Basins And Special Areas
15.23.050.3 City Parkway Strips
15.23.050.4 Plant Material For Landscape Design

15.23.050.1 Definition

The term landscape area refers to the areas set aside for lawn, trees, shrubs, perennials, annuals, and ground cover. Recreation amenities including, but not limited to, sports courts, play areas, swimming pools, and gazebos may be allowed as part of the sq. ft. requirement for landscaping

15.23.050.2 Storm Water Detention Basins And Special Areas

Storm water detention basins must be landscaped and may be allowed as part of the sq. ft. required for landscaping by design review. Special hard landscape areas such as courtyards andplazas may be allowed as part of the sq. ft. required for landscaping by design review.

15.23.050.3 City Parkway Strips

City parkway strips between street side curb and sidewalks will not be allowed as part of the sq. ft. requirement for landscaping. However, these areas must be landscaped and maintained by the developer/owner.

15.23.050.4 Plant Material For Landscape Design

All plant material must be sustainable for all of the specific climatic conditions of the site and plan.

15.23.060 Enforcement And Inspection

15.23.060.1 Certificate Of Temporary Occupancy
15.23.060.2 Final Inspection Regulation
15.23.060.3 Landscape Change Approval
15.23.060.4 Landscape Maintenance Review

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15.23.060.1 Certificate Of Temporary Occupancy

A certificate of temporary occupancy may be issued prior to installation of the approved landscape when seasonal weather conditions exist. A written guarantee of completion deadline and appropriate surety will be required which may include escrow accounts as determined appropriate by the Planning Commission.

15.23.060.2 Final Inspection Regulation

A final inspection for regulation compliance must be scheduled by the owner/developer with a representative of Perry City. This will activate the required landscape one-year guarantee period.

15.23.060.3 Landscape Change Approval

No landscape element shall be removed or changed by the developer/owner after plan approval.

15.23.060.4 Landscape Maintenance Review

Landscaping must be maintained and will be reviewed during the annual business license review.

15.25 Standards For Residential Fences, Pools, And Miscellaneous Structures

15.25.010 Standards For Residential Fences
15.25.020 Standards For Residential Swimming Pools

15.25.010 Standards For Residential Fences

15.25.010.1 Front, Side, And Rear Yards
15.25.010.2 Corner Lots
15.25.010.3 Obstruction To View
15.25.010.4 Measurement Where Elevation Is Different
15.25.010.5 Special Exception For Height Requirements For Residential Fences

15.25.010.1 Front, Side, And Rear Yards

Except as otherwise stated in Sections 15.25.010.3 and 15.25.010.4 of this title, no fence, hedge or other similar structure shall be erected in any required front yard of a lot to a height in excess four feet (4’); nor shall any fence or other similar structure be erected in any side or rear yard to a height in excess of six feet (6').

15.25.010.2 Corner Lots

No fence, hedge or other similar structure shall be erected to a height in excess of four feet (4') in the rear or side yard of a corner lot, which lies adjacent to:

1. a vacant lot; and/or
2. a driveway or garage access located on an adjoining lot.

15.25.010.3 Obstruction To View

In all zones, no obstruction to view in excess of two feet (2’) in height as measured from the top of the curb or edge of the hard street surface, shall be placed on any corner lot within a triangular area formed by the street property lines and a lone connecting them at points forty feet (40') from the intersection of the street lines, or at any other location which would obstruct the vision of street and regulatory signs or oncoming vehicles by automobile drivers, except a reasonable number of trees pruned high enough to permit an unobstructed view of street and regulatory signs or oncoming vehicles by automobile drivers.

15.25.010.4 Measurement Where Elevation Is Different

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, the height of a fence shall be measured from a point halfway between the top of the retaining wall and the land on the lower side or from the average elevation of the surface of the land on either side of the fence, but nothing herein contained shall be construed to restrict a fence to less than four feet (4’) in height measured from the surface of the land on the side having the highest elevation.

15.25.010.5 Special Exception For Height Requirements For Residential Fences

A special exception for height requirements for residential fences:

1. Shall be required, for fences surrounding a swimming pool, as per PMC Section 15.25.020.3(4), or for any other attractive nuisance or other circumstances shown to require greater height for health, safety, security, or for similar reasons, and may not be denied if it is possible to comply with all laws, ordinances, and codes;
2. May be allowed by the land use authority, for fences surrounding a tennis court, or for any other circumstances shown to require greater height to prevent intrusion into the property of adjacent landowners, or for similar reasons, and may be denied if it is determined that:
    a. It is not possible to comply with all laws, ordinances, codes, and other legal requirements;
    b. One or more adjacent landowners is/are opposed to the construction of the fence; or
    c. The fence will not prevent intrusion into the property of adjacent landowners; and
3. Shall take into account the rights of adjacent landowners.

15.25.020 Standards For Residential Swimming Pools

15.25.020.1 Pool As An Accessory Use
15.25.020.2 Location
15.25.020.3 Fence And Lights

15.25.020.1 Pool As An Accessory Use

A residential/family swimming pool shall be permitted in the rear of a dwelling as an accessory use provided the requirements of Sections 15.25.020.2 and 15.25.020.3 are met.

15.25.020.2 Location

The location of such family swimming pool or accessory machinery shall be not less that thirty-five feet (35') from any dwelling on an adjoining lot and not less than ten feet (10') from any interior property line facing on a street shall not be less that the required side yard for and accessory building in that zone.

15.25.020.3 Fence And Lights

An outside family pool shall be:

1. Enclosed by a fence structurally adequate to resist wind load in complete conformity with the International Building Code (IBC); and
2. Non-climbable; and
3. Enclosed with a child-proof gate; and
4. No less than six feet (6') in height, and a special exception for height requirements for residential fences shall be required. Any lights used to illuminate said swimming pool or its accessories shall be so arranged as to reflect or shine the light away from the adjoining premises.

15.27 Sign Regulations

15.27.010 Purpose And Definition
15.27.020 General Provisions
15.27.030 Location
15.27.040 Rules And Regulations
15.27.050 Sign Types, Standards, And Design

15.27.010 Purpose And Definition

15.27.010.1 Purpose
15.27.010.2 Definitions

15.27.010.1 Purpose

These sign regulations are intended to encourage attractive, effective, and adequate signs for businesses and services while promoting the general welfare of the community by creating safer street frontages through the use of reasonable sign standards.

15.27.010.2 Definitions

The following definitions are:

1. Advertising: Any means by which one directs attention to a use, product, commodity, or service.
2. Billboard Sign: A permanently fixed structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located.
3. Community Development Department: Refers to the Community Development Department, building officials/inspectors, and to relevant City staff implementing this title.
4. Construction Site: A site on which a construction permit or building permit has been issued by Perry City.
5. Detached On-Premise Sign: Permanently fixed sign structure that is not attached to the building as a flat or projecting sign for the purpose of advertising, directing, or identifying a business that is on premise. See Section 15.27.050.5 for requirements.
6. Directional Sign: A sign that communicates traffic to on-site destinations or as off- premise directions to business or property. Directional signs may include text, directional, and other approved symbols. See Section 15.27.030.4 for requirements.
7. Electronic Message Display Sign: A sign which uses changing patterns of light to display public information or commercial messages. (Prohibited in residential zones). See Sections 15.27.040.4 and 15.27.050.6 for requirements.
8. Flat Sign: A sign which is erected parallel to the outside wall or window of a building and projecting not more than eighteen (18”) inches from the wall or window.
9. Grand Opening Sign: A type of Temporary Sign announcing the opening of a new business or change in ownership. See Section 15.27.050.9(6) for requirements.
10. Identification Sign: A sign identifying places or buildings of non-commercial nature.
11. Marquee Sign: A sign placed over the entrance of a building (or placed on a part of the building that projects over the entrance). See Section 15.27.050.8 for requirements.
12. Monument Sign: A sign placed upon the ground that is supported by a frame or supports placed in or upon the ground.
13. Nameplate: A non-electric, on-premise identification sign giving only the name, address, directions for entry, and/or occupation of an occupant (or group or occupants). The maximum size shall be two (2) square feet. As per Section 15.27.020.2, no permit (building permit or limited review permit) is required for a nameplate.
14. Off-Premise Sign (including “Special Mobile Signs”): Any sign related to a business that is not located on the site/property of that business to which it is related. An off-premise advertising sign is only allowed in the following two situations:
    a. A billboard sign (defined in this Section), which must meet the requirements of Section 15.27.050.7; or
    b. A “mobile sign” (defined in this Section), which is not permanently affixed to the ground or a structure, and which must meet the requirements of Section 15.27.040.3(5).
15. On-Premise Sign: located on the property occupied by the business or owner of the sign.
16. Political Sign: A sign which expresses a position, conveys a message concerning, or advocates a position on the candidacy of a person, party, or issue on an upcoming ballot. See Section 15.27.050.12 for requirements.
17. Property Sale Sign: A sign related to a single property on which it is located and offering such property for sale or lease. See Section 15.27.050.13 for requirements.
18. Right of Way: the legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another.include ground signs that rest on or overlap a roof twelve (12”) inches or less.
19. Roof Sign: A sign which is erected on or over the roof of a building. A roof sign does not include ground signs that rest on or overlap a roof twelve (12”) inches or less.
20. Mobile Sign: A sign which is not permanently affixed to the ground or a structure, and which must meet the requirements of Section 15.27.040.3(5).
21. Temporary Off-Premise Commercial Sign: Pertains specifically to NC2-Nc3 Zones. Must meet requirements of Section 15.27.050.10.
22. Temporary Off-Premise Event Sign: Allowed in all zones. Any temporary sign related to a business/development/event that is not located on the site/property of that business/event to which it is related. Must meet the requirements of Section 15.27.050.9.
23. Temporary Sign: Any sign that is not intended to be permanently installed (including banners, free standing, etc.) As per Section 15.27.020.2, no permit (building permit or limited review permit) is required for temporary signs under four (4) square feet in size. Must meet the requirements of Section 15.27.050.9.
24. Window Sign: Any poster, cut out letters, painted text or graphics, or other text or visual presentation affixed to or placed within twelve inches (12") behind a window pane which can be read from the exterior of a building.

15.27.020 General Provisions

15.27.020.1 Conformity, Amortization, And Removal Of Signs
15.27.020.2 Permit For Signs
15.27.020.4 Building Code Requirements
15.27.020.5 UDOT Controls And Regulation
15.27.020.6 State And/Or Federal Sign Requirements

15.27.020.1 Conformity, Amortization, And Removal Of Signs

If a sign is placed on City property, or if does not conform with the requirements of this Title, or if the construction, design, manner of use, or method of anchoring or supporting any sign makes such sign unsafe, then Perry City may proceed in any manner it deems necessary to cause the removal, rebuilding, or replacement of the sign, or to otherwise cause the sign to conform. Where immediate action is deemed necessary to protect life, limb, or property, and where the owner of a sign fails to remove or repair such sign within a specified time established by notice from Perry City, Perry City may remove such sign and extend a statement of expenses incurred in such removal to the persons which the sign was erected.

15.27.020.2 Permit For Signs

A building permit is required for all signs addressed in this ordinance except nameplates and temporary signs under four (4) square feet in size. The Perry City Community Development Department office staff may refer any sign permit application to the Planning Commission for review if the office staff believes that the proposed sign does not comply with the Perry City Code. If the Community Development Department deems that the proposed sign complies with the Perry City Code the Community Development Department may approve the permit without the approval from the Planning Commission or the City Council.

15.27.020.4 Building Code Requirements

All signs must meet the requirements of the building codes adopted by the State of Utah.

15.27.020.5 UDOT Controls And Regulation

"Utah Outdoor Advertising Controls and Regulation" from the Utah Department of Transportation (UDOT) will be used as the standard guide for areas not covered specifically in this Title.

15.27.020.6 State And/Or Federal Sign Requirements

Any sign on State or Federal property must meet all of that agency's requirements (in addition to this Title).

15.27.030 Location

15.27.030.1 Corner Lot Triangle
15.27.030.2 Window Sign Location
15.27.030.3 Business And Identification Signs
15.27.030.4 Additional Location Restrictions

15.27.030.1 Corner Lot Triangle

No sign shall be located within the established forty (30') foot site triangle on any corner lot. Refer to Section 15.23.010.3 for requirements.

15.27.030.2 Window Sign Location

No sign located in a window shall exceed twenty-five (25%) percent of the total area of the window through which they are visible. Window signs shall meet all building codes.

15.27.030.3 Business And Identification Signs

Business and identification signs attached to a building may project into a required front or side yard not more than eighteen (18") inches and no less than ten (10') feet above the ground or sidewalk.

15.27.030.4 Additional Location Restrictions

With the exception of directional signs (see definition in Section 15.27.010.2(7)) owned by the city or other governmental agencies, no sign shall be erected or placed within any City right of way or any public street, sidewalk, or bicycle path. The city employees may remove any sign located within these areas.

15.27.040 Rules And Regulations

15.27.040.1 Noise
15.27.040.2 Painting, Pasting, And Gluing
15.27.040.3 Prohibited Signs
15.27.040.4 Lighting
15.27.040.5 Sign Maintenance
15.27.040.6 Penalty

15.27.040.1 Noise

It shall be unlawful to use any radio, whistle, bell or any other sound or noise making device for advertising purposes or in connection with any sign. With the exception of a low decibel motorized sign.

15.27.040.2 Painting, Pasting, And Gluing

No sign shall be painted, pasted, or glued directly on any wall or roof. No permanent sign may be affixed directly on any wall or roof by means of any similar adhesive substance. No paper or cloth sign shall be tacked directly on to any wall or roof.

15.27.040.3 Prohibited Signs

The following is a list of prohibited signs:

1. Any sign which is prohibited by Section 15.27.030.
2. Any sign which contains obscene material, or material, which taken as a whole, appeals to prurient interest.
3. Any sign emitting sound, except menu speaker boards.
4. Any sign erected over any street or alley, except as herein expressly provided as a temporary sign.
5. Any off-premises commercial signs, except for "mobile signs," allowed as follows:
    a. Temporarily allowed by an annual permit, to be reviewed (for compliance with current ordinances, including this Section and Section 15.27.020.1) by the Planning Commission, after a recommendation from the Community Development Department, which permit is good through December 31st of the year issued;
    b. May only be located in non-residential uses in the NC2 and NC3 Zones;
    c. Shall be limited to 1000 feet spacing intervals; and
    d. Shall be permitted in size to up to 100 square feet.
6. Any sign (except a City or other government sign) on City right of way, unless specifically allowed otherwise by ordinance.
7. Any sign (except with a UDOT permit) on State right of way.
8. Any sign which:
    a. Blocks or obscures necessary vision or line of sight for motorists, pedestrians, or other traffic;
    b. Interferes with power or telecommunications lines;

c. Interferes with a public utility easement; or
d. Otherwise constitutes a significant health or safety hazard.

15.27.040.4 Lighting

The following are requirements for lighting of signs:

1. Signs may be illuminated by indirect lighting, floodlights or luminous tubes only. No lighting shall be installed in any way which will permit direct rays of such light to penetrate onto any adjoining residential property, or in any manner which constitutes a nuisance.
2. Illuminated and electronic message display signs (defined in Section 15.27.010.2(8)) are prohibited in residential zones. Enforceable?

15.27.040.5 Sign Maintenance

The following are requirements for sign maintenance:

1. Signs regulated by this title shall be maintained in good visual appearance and structural conditions at all times and:
    a. Signs "tagged" by malicious painting or marking shall be repaired within seven (7) days;
    b. Signs that are physically damaged in a way that creates any safety concern shall be removed or repaired immediately; and
    c. Signs that are physically damaged but do not present a safety concern shall be repaired within six (6) months;
2. Signs that are not maintained shall be considered to be abandoned according to Section 15.27.020.7, and shall be removed by the owner (or signs may be removed by Perry City at the expense of the owner according to Section 15.27.020.3); and
3. Perry City shall in no way be liable for negligence or failure of the owner (or the person responsible) to maintaining any sign.

15.27.040.6 Penalty

Any signs or persons found in violation of this Chapter 15.27, will be subject to any civil penalties and/or fees as set forward in the applicable fee schedules in Chapter 4.09, Fee Schedules for Perry City.

15.27.050 Sign Types, Standards, And Design

15.27.050.1 Business Advertising Signs For A, AL, C, C-1, M/I, NC2, And NC3 Zones
15.27.050.2 Shopping Center Signs For C, C-1, NC1 And NC2 Zones
15.27.050.3 Directional Signs: On-Premise (Allowed In All Zones)
15.27.050.4 Directional Signs: Off-Premise
15.27.050.5 Detached Advertising Signs For A, AL, C, C-1, M/I, NC2, And NC3 Zones
15.27.050.6 Electronic Message Display Sign For A, AL, C, C-1, M/I, NC2, And NC3 Zones
15.27.050.7 Billboard Signs
15.27.050.8 Marquee Signs For C, C-1, NC2, And NC3 Zones
15.27.050.9 Temporary Event Signs (Allowed In All Zones)
15.27.050.10 Temporary Off-Premise Commercial Signs For NC2 And NC3 Zones
15.27.050.11 Construction And Development Signs (Allowed In All Zones)
15.27.050.12 Political Or Campaign Signs (Allowed In All Zones)
15.27.050.13 Property Sale Signs
15.27.050.14 Regulations Applicable To School And Church Signs
15.27.050.15 Signs For Residential Uses
15.27.050.16 Subdivision Signs
15.27.050.17 Pointe Perry Development

15.27.050.1 Business Advertising Signs For A, AL, C, C-1, M/I, NC2, And NC3 Zones

The following requirements for business advertising signs for the aforementioned zones are:

1. Business advertising signs require approval from the Planning Commission (after a recommendation from the Community Development Department).
2. Total square footage of flat or projecting signs that are attached to the building shall not exceed three (3) square feet in combined total area for each linear foot of occupied frontage EXCEPT that the size of any one sign shall not exceed four hundred (400) square feet in area, and the total area of all signage shall not exceed six hundred (600) square feet.
3. A roof sign shall not extend more than eight (8') feet above the building and must be included in the overall square footage allowance. The roof sign shall be included in the overall height of the building.

15.27.050.2 Shopping Center Signs For C, C-1, NC1 And NC2 Zones

The following are requirements for shopping center signs for the aforementioned zones:

1. In a shopping center or multi-unit commercial building(s), the frontage for each separate store shall be based on the width of the front of each business and one sign using Section 15.27.050.1. (which shall be used to determine square footage of each sign).
2. One (1) detached sign may be used to designate the name of the shopping center and must comply with the requirements found within this Chapter.

15.27.050.3 Directional Signs: On-Premise (Allowed In All Zones)

The following are requirements regarding directional signs that are on-premise signs:

1. Directional Signs that are on-premise are allowed in all zones.
2. The maximum area for any one directional sign shall not exceed five (5) square feet. The Planning Commission may allow an increase in size upon review of the permit and (after recommendation from the Community Development Department).
3. Maximum height is four (4') feet unless located on an existing sign pole. If located on an existing pole, the directional sign must adhere to all standards and restrictions for detached pole signs.
4. Must be located at least six (6') feet from any public right-of-way.

15.27.050.4 Directional Signs: Off-Premise

The following are requirements regarding directional signs (see definition in Section 15.27.010.2) that are off-premise:

1. Directional off-premise signs are allowed in all zones.
2. Permits for off-premise, directional signs are to be reviewed by the Planning Commission (after a recommendation from the Community Development Department).
3. Must be consistent design, color, and size throughout the City.
4. Must be no larger than five (5) square feet in size.
5. Only two (2) off-premise directional signs are allowed for the same business, or entity.

15.27.050.5 Detached Advertising Signs For A, AL, C, C-1, M/I, NC2, And NC3 Zones

The following are requirements regarding detached advertising signs (see definition in Section 15.27.010.2(6)) for the aforementioned zones:

1. These signs can be monument type, mono, or bi-pole design and must adhere to all other requirements in this Chapter.
2. Allowed size of three hundred fifty (350) square feet per face. Maximum height of a detached sign shall be thirty five (35') feet.
3. Illumination must be confined to the sign face. Illumination is not allowed within seventy five (75') feet of a residential zone.
4. Only one (1) detached sign per five hundred (500) linear feet of site frontage may be allowed on each individual lot or commercial complex unless a corner or double frontage lot/commercial complex is to be developed. Corner lots may choose two (2) detached signs and only one per street. A minimum of 1000 linear feet of site frontage on each individual lot or commercial complex is required for 2 detached signs except as allowed for Corner lots.
5. Permits for more than one (1) detached advertising sign for the same business must be reviewed by the Planning Commission (after a recommendation from the Community Development Department).

15.27.050.6 Electronic Message Display Sign For A, AL, C, C-1, M/I, NC2, And NC3 Zones

The following are requirements regarding electronic message display signs (defined in Section 15.27.010.2(8)) for the aforementioned zones:

1. Electronic message display signs were formerly known as animated signs.
2. Planning Commission must review the permit (after recommendation from the Departmet).
3. No animated sign shall be erected or maintained in, or closer than seventy-five (75) feet from any residential zone.
4. All electronic reader board signage shall meet the requirements of Section 15.27.050.5 and shall be subtracted from the allowable square foot signage.
5. Signs must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk and dawn as measured from the sign's face at maximum brightness. (or as an alternative: Light emitted from these signs shall not exceed 3.0 lux at maximum brightness when viewed from a distance of 15 meters.)
6. An electronic message center may not flash or scintillate except to change the displayed wording to different wording.
7. Any display on the electronic message center must remain lighted for at least two (2) seconds.
8. An electronic message center locate within five hundred feet (500') of a residential zoned area, or as otherwise determined by the Planning Commission, may not operate between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of the following day.
9. Electronic message centers are not allowed off premises.

15.27.050.7 Billboard Signs

The following are requirements for billboard signs:

1. Billboard signs are allowed only in the I-15 corridor which is six hundred (600') feet east and west of I-15. No billboards are permitted along HWY-89.
2. Planning Commission must review the permit (after recommendation from the Community Development Department).
3. Signs may be no taller than fifty (50') feet and have no more than eight hundred (800) square feet of surface board per side.
4. Signs must be a minimum five hundred (500') feet from another billboard sign.

15.27.050.8 Marquee Signs For C, C-1, NC2, And NC3 Zones

The following regarding marquee signs (defined in Section 15.27.010.2(12)) for the aforementioned zones:

1. Marquee signs may be placed on, attached to, or constructed in a marquee with review of the building permit by the Planning Commission (after recommendation from the Community Development Department).
2. Total allowable square footage shall be determined by Section 15.27.050.2.
3. The standards as specified in the building codes for Marquees shall govern restrictions in height, projection and clearance.

15.27.050.9 Temporary Event Signs (Allowed In All Zones)

The following are requirements regarding temporary signs (see definitions in Section 15.27.010.2):

1. Temporary signs are allowed in all zones.
2. A temporary sign must be on-site and be no taller than four (4') feet or have no more than thirty-two (32) square feet of surface board per side.
3. Occasional recreational activities may have temporary signs which are off-site and of different size but must be approved by the Community Development Department. These signs include any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials that may be with or without frames.
4. Temporary signs may remain in place for the time period during which the use is required but shall not exceed ninety (90) days.
5. Temporary signs that extend over a public street shall maintain a clearance of twenty (20') feet above the street and be approved by the Community Development Department.
6. Grand Opening Signs (see definition in Section 15.27.010.2) are a type of temporary sign, and are allowed for only the period of the opening and as long as they do not restrict sight lines for traffic. Such signs are not allowed for more than ninety (90) consecutive days at a time, and there must be a minimum of 1 year between each display period.
7. Temporary signs shall be removed within 15 (fifteen) days following the conclusion of the sale or event that is promoted by the sign, except where other laws are more restrictive.
8. Sign boards shall be secured to prevent personal or property damage caused by wing.
9. Signs attached to sign boards shall be attached in a manner that they are not a source of litter.
10. Boards left in place after the removal of temporary signs must meet the same structural and appearance standards of Section 15.27.040.5 and permit standards of Section 15.27.020.2.
11. The penalties defined in Section 15.27.040.6 shall apply to violation of the requirements for temporary signs.

15.27.050.10 Temporary Off-Premise Commercial Signs For NC2 And NC3 Zones

The following are requirements regarding off-premise commercial signs in NC2 and NC3 zones:

1. Allowed by an annual permit, to be reviewed by the Planning Commission, after a recommendation from the Community Development Department, which permit is good

through December 31st of the year issued.
2. All such signs will be required to comply with the current code (including Section 15.27.020.1) before renewal will be granted and a yearly permit can be obtained.
3. May only be located in non-residential use areas in the NC2 and NC3 Zones, subject to the property owner's approval/digression; and
4. Shall be limited to 1000 feet spacing intervals; and
5. Shall be permitted in size up to 100 square feet per side with yearly permit fees based on total sign square footage (Considerations for slightly increased size of signs may be allowed for signs advertising businesses within Perry City).
6. No sign shall include material that is :prurient" in nature (sexually offensive and outside of 1st Amendment protection).
7. Shall be required to remain in good order; any sign that becomes unsightly or in disrepair shall be cited and the owner required to remove or repair the sign within 14 days or penalties will be imposed.

15.27.050.11 Construction And Development Signs (Allowed In All Zones)

The following are requirements regarding construction and development signs:

1. Construction and development signs are allowed in all zones.
2. One or more signs not exceeding eight (8) square feet in combined total area for each street frontage of the lot are permitted.
3. No more than two (2) signs of a temporary nature are allowed for each approved subdivision under development. The size shall not exceed thirty-two (32) square feet. One (1) sign directing the public to the development may be allowed off-premise with the approval of the Planning Commission and written consent from the owner of the property where the direction sign is placed.
4. Signs on corner lots must comply with Section 15.27.030.2.
5. No construction or development sign shall be erected more than thirty (30) days prior to construction and must be removed no more than thirty (30) days after completion.

15.27.050.12 Political Or Campaign Signs (Allowed In All Zones)

The following are requirements regarding political or campaign signs (defined in Section 15.27.010.2):

1. Political and/or campaign signs are allowed in all zones.
2. These signs are permitted in accordance with the following provisions provided that any such sign shall be erected not earlier than sixty (60) days prior to the election, at which time the candidates or measure will be voted upon and shall be removed within fifteen (15) days after such election, campaign or event.
3. Any election, campaign, or event with two or more parts (primary, general, runoff, etc.) shall count as one election, campaign, or event until the candidate or measure does not prevail or is not allowed by law to move forward to the next part, at which time the election, campaign, or event is deemed to be over for the candidate or measure, and applicable signs for that candidate or measure must therefore be removed within fifteen (15) days after the date of such part of the election, campaign, or event.

15.27.050.13 Property Sale Signs

The following are requirements regarding property signs:

1. Such signs shall be more than ten (10') feet from the property line and not in excess of eight (8') feet in height.
2. Such signs shall not exceed eight (8) square feet per board side.
3. All property signs must be removed within thirty (30) days of the sale of the property or completion of the project.

15.27.050.14 Regulations Applicable To School And Church Signs

The following regulations apply to school and church signs:

1. Signs used for schools and churches shall not exceed thirty-two (32) square feet of surface area per side.
2. The signs may be monument or pole style and, if detached, shall meet the requirements in Section 15.27.050.5.

15.27.050.15 Signs For Residential Uses

The following are requirements regarding signs for residential uses:

1. Temporary signs, in accordance with Section 15.27.050.9.
2. Political and ideological signs, in accordance with Section 15.27.050.12.
3. Subdivision signs, in accordance with Section 15.27.050.16.
4. Residential uses shall not be permitted to have permanent or temporary commercial signs, except for home occupations.
5. Signs used for identifying or advertising home occupations must be attached to the home or structure or be window-displayed, and not in excess of three (3) square feet. Only one (1) such sign allowed per dwelling unit.
6. Signs for residential uses shall meet all of the requirements within this Chapter.

15.27.050.16 Subdivision Signs

"Subdivision signs" (defined as signs indicating the name or designation of a subdivision or neighborhood) are only allowed within Perry City limits, except under the following conditions:

1. The subdivision must be a minimum of 5 acres;
2. In addition to satisfying the General Provisions for Signs (Section 15.27.020), subdivision signs shall also comply with Horizontal Clearance (Section 15.27.030.1), Corner Triangle Lot (Section 15.27.020), and the Rules and Regulations of (Section 15.27.040) for signs;
3. No more than two (2) low profile subdivision signs may be allowed.
4. Subdivision signs shall be limited to a maximum of four (4) feet in height above finished grade;
5. Subdivision signs shall be limited to thirty-two (32) square feet per face for each sign;
6. Subdivision signs shall be constructed of materials that are durable;
7. Subdivisions signs shall not have open ponds, or present any other physical hazards that create a condition of being an attractive nuisance;
8. Subdivision signs shall be incorporated into a landscape theme or planter box; and
9. The owner of the property assumes full responsibility for the placement, materials, and maintenance of each subdivision sign and the property where it is placed or, in the alternative, a Homeowners Association must exist for the subdivision and:
    a. The subdivision sign must be placed on jointly owned property or common area of the Homeowners Association;
    b. The property must be adjacent to a lot in the subdivision, where the owner is a member of the Homeowners Association;
    c. The Homeowners Association must assume full responsibility for the placement, materials, and maintenance of the subdivision sign and the common area grounds upon which the subdivision sign rests, including all associated costs; and
    d. If the Homeowner Association is dissolved, or chooses to no longer maintain the subdivision sign, ownership of the common area or areas where subdivision signs

are located must be deeded to the owner of the adjacent lot within the subdivision and the new owner must assume all responsibilities of the property and the subdivision sign. The new owner must be willing to accept the ownership and maintenance responsibilities before the Homeowner's Association is dissolved or maintenance of the subdivision sign is terminated. In the absence of an agreement to maintain the subdivision sign, the subdivision sign shall be removed at the expense of the owners in the subdivision, or may be subject to removal by Perry City according to Section 15.27.020.3; and

10. Perry City has no current financial obligations for subdivision signs, nor shall it assume any such obligations in the future.

15.27.050.17 Pointe Perry Development

All signage in the Pointe Perry Development Area shall be by design review with the following requirements:

1. Maximum height of a detached sign shall be Fifty (50') feet.
2. Signs can be monument type, mono, or bi-pole design and must adhere to all other requirements in 58.05 where applicable.
3. Adherence to all state and federal sign regulations is required.
4. Allowed size of three hundred fifty (350) square feet per face and must have a minimum setback of ten (1O') feet from property line or sidewalk, whichever is closer.
5. Ilhunination must be confined to the sign face. Illumination is not allowed within seventy five (75') feet of a residential zone.
6. Only one (1) detached sign per for up to the first five hundred (500) linear feet of site frontage may be allowed on each individual lot or commercial complex unless a corner or double frontage lot/commercial complex is to be developed. Corner lots may choose two (2) detached signs and only one per street. A minimum of 1000 linear feet of site frontage on each individual lot or commercial complex is required for 2 detached signs except as allowed for Corner lots.

15.29 Conditional Use Permits

15.29.010 Intent And Purpose
15.29.020 General Provisions
15.29.030 Process
15.29.040 Standards For Review
15.29.050 Conditions Of Use
15.29.060 Regulations

15.29.010 Intent And Purpose

15.29.010.1 Applicability To Land Use Chart
15.29.010.2 Compatible Uses
15.29.010.3 Purpose Of Conditional Use Permits

15.29.010.1 Applicability To Land Use Chart

These conditional use permit requirements, regulations and restrictions are intended to apply to all uses listed in the Land Use Chart of the Perry Municipal Code, Chapter 15.07; Zoning, Including Procedures, Land Use Chart, Area Requirements, and Zoning Map that are designated “C” (Conditional Use).

15.29.010.2 Compatible Uses

Although each zone district is an attempt to segregate predominant land uses within identified districts; there will be proposals that are generally compatible in land use with other permitted uses in the zone. If properly and carefully planned, these uses which are different from the predominant use or more intensive than permitted uses in the same zone may become compatible and appropriate for the zone in question. For example, the location and nature of the proposed use, the character of surrounding development, the traffic capacities of adjacent and feeder streets, the environmental factors such as drainage, erosion, and soil stability, all may dictate circumstances where a more intensive use may or may not be appropriate for the zone.

15.29.010.3 Purpose Of Conditional Use Permits

The Conditional Use Permit procedure is intended to provide greater flexibility in land uses while at the same time, preserving Perry City characteristics and assuring compatibility between the conditional uses, the uses on adjoining properties, and Perry City at large. The Planning Commission will review all proposed conditional uses and may impose conditions of approval to preserve the character of the zone district and to mitigate potential adverse effects of the conditional use. In the rare situation where Perry City and the applicant cannot devise conditions that satisfactorily mitigate the adverse effects of the conditional use, Perry City shall deny the Conditional Use Permit.

15.29.020 General Provisions

15.29.020.1 Required Permit
15.29.020.2 Home Occupations
15.29.020.3 Revocation

15.29.020.1 Required Permit

A Conditional Use Permit shall be required for all uses listed as conditional uses in the zone regulations, land use chart or elsewhere in Perry City ordinances. No building permit or other permit or license shall be issued for a use requiring a Conditional Use Permit without first being reviewed by the Perry City Planning Commission and approved by the Perry City Council. A Conditional Use Permit is transferable with the title to the underlying property so that an applicant may convey or assign an approved project without losing the approval. The applicant cannot transfer the permit off of the site on which the approval was granted.

15.29.020.2 Home Occupations

Conditional Use Permits for Home Occupations (see Chapter 15.33) requiring them must be obtained before a dwelling unit may be used for business purposes. The permit shall be granted only when the applicant has applied in writing and demonstrated compliance to all conditions specified for approval.

15.29.020.3 Revocation

A Conditional Use Permit may be reviewed, suspended, or revoked without the need for a public hearing upon failure to comply with the conditions imposed for the approval of the permit and the applicant shall be so notified of the revocation by Perry City. The required conditions agreed upon must be continuously implemented to avoid revocation. The permit may be reinstated upon determination by the Special Uses and Appeals Board (after a recommendation from the Planning Commission) that the cause for revocation has been corrected and that the applicant intends to proceed according to the plans approved at the time the permit was originally issued, or as they might have been properly amended during the period of the conditional use.Revocation or reinstatement of a Conditional Use Permit is the responsibility of the Special Uses and Appeals Board (after a recommendation from the Planning Commission).

15.29.030 Process

15.29.030.1 Process For Reviewing Permits
15.29.030.2 Application And Accompanying Documents
15.29.030.3 Notice To Nearby Property Owners
15.29.030.4 Pre-Application Conference
15.29.030.5 Information To Be Included On Application
15.29.030.6 Payment Of Public Hearing Costs
15.29.030.7 Public Hearing Held By Planning Commission
15.29.030.8 Approval By Special Uses And Appeals Board

15.29.030.1 Process For Reviewing Permits

The Planning Commission shall review all proposed conditional uses and may set conditions, in addition to the conditions listed below, to preserve the character of the local area, and to mitigate potential adverse effects of the conditional use. Where Perry City and the applicant cannot devise conditions that satisfactorily mitigate the adverse effects of the conditional use, Perry City shall deny the Conditional Use Permit. Perry City shall review all proposed conditional uses according to the following procedure.

15.29.030.2 Application And Accompanying Documents

A Conditional Use Permit application shall be made to the Perry City Planning Commission as provided in this Ordinance. Maps, drawings, statements, etc. shall accompany applications for a Conditional Use Permit, or other documents as required by the Perry City Planning Commission.

15.29.030.3 Notice To Nearby Property Owners

Notification of the Planning Commission meeting will be mailed to property owners, or other written notice given, as required by state law (and as decided by the Planning Commission). The applicant requesting the Conditional Use Permit is responsible for the costs of this mailing or other written notice.

15.29.030.4 Pre-Application Conference

Perry City strongly recommends any person or corporation planning to purchase, operate or build any business requiring a Conditional Use Permit request a pre-application conference prior to purchase of property, building or existing business. An applicant may request a pre-application conference with the Planning Commission to discuss the proposed conditional use and the conditions Perry City might impose. At the pre-application conference, the Planning Commission and applicant shall review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the conditional use.

15.29.030.5 Information To Be Included On Application

A Conditional Use Permit application, provided by Perry City, shall be completed and submitted to the Perry City Planning Commission. The application shall list all of the required information, written statement requirements, necessary documentation and administrative checklist (standards for review, sensitive lands review, design review, technical review and conditions).

1. The applicant must address the Conditions of Use listed in this Section 15.29.030.
2. A site plan with elevations (as may be necessary), drawn to scale, showing all existing and proposed buildings, dimensions, roads, parking areas, fencing, structures and other information deemed necessary by the Perry City Planning Commission shall accompany the application. Sufficient detail must be provided to ensure the Perry City Planning Commission and Perry City Council are satisfied that the character of the zone district will be preserved and potential adverse effects of the proposed use are satisfactorily mitigated.
3. The applicant must explain in detail how the conditions that apply will be met and what, if any, impacts there may be on nearby property. If there are conditions that do not apply to the proposed use, the applicant should explain why they do not apply.

15.29.030.6 Payment Of Public Hearing Costs

Upon receipt of a completed Conditional Use Permit application and payment of all applicable fees, a public hearing will be scheduled and notice (and/or courtesy notice) mailed and/or other written given, as per Section 15.29.030.3. The Conditional Use Permit applicant will pay cost of mailing any notice, including any courtesy notice.

15.29.030.7 Public Hearing Held By Planning Commission

The Planning Commission shall conduct a public hearing on the Conditional Use Permit Application and shall forward a recommendation to the Special Uses and Appeals Board to approve, deny, or modify the permit. The Planning Commission is not required to forward their recommendation to the Special Uses and Appeals Board at the same meeting when the Public Hearing is held. They may delay their recommendation to the Special Uses and Appeals Board if additional time is needed to discuss the request or obtain additional information.

15.29.030.8 Approval By Special Uses And Appeals Board

In approving any Conditional Use Permit application, the Special Uses and Appeals Board shall impose regulations and conditions as are necessary to protect the public health, safety, and welfare. Upon Special Uses and Appeals Board approval, building permits may be issued as outlined in other Perry City Ordinances.

15.29.040 Standards For Review

15.29.040.1 List Of Standards

15.29.040.1 List Of Standards

The Planning Commission shall not recommend, and the Special Uses And Appeals Board shall not issue, a Conditional Use Permit unless they conclude that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all conditional uses, as well as the specific standards for the use (and the burden is placed on an applicant for a Conditional Use Permit in the relevant zone to demonstrate compliance with all of the following general standards, as well as any specific standards for the use):

1. The application complies with all applicable provisions and requirements of state and federal law, as well as the Land Use Ordinances, including adequate site plan with elevations, scale, dimensions, facilities, improvements, buffers, fencing, lighting, fire hydrants, etc. as deemed necessary; and
2. The structures associated with the use are compatible with surrounding structures in terms of type, use, scale, mass and circulation; and
3. The proposed use is not detrimental to the health, safety, or welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
4. The proposed use is consistent with the Perry City General Plan, as amended, and complies with the regulations and ordinances of Perry City; and
5. Traffic conditions are not adversely effected by the proposed use including the existence of or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets; and
6. Sufficient utility capacity; and
7. Sufficient emergency vehicle access; and
8. Location and design of (as well as compliance with) off-street parking standards; and
9. Fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses; and
10. The effects of any differences in use or scale have been mitigated through careful planning and establishment of appropriate conditions; and
11. Compatibility of the proposed mass, bulk, design, orientation, and location of the structures on the site; including compatibility with buildings on adjoining lots and to the street; and
12. Exterior lighting that complies with the lighting standards of the zone and is designed to minimize conflict and light trespass with surrounding uses; and
13. Within and adjoining the site, impacts on the aquifer, slope retention, flood potential; and
14. The proposed use is necessary or desirable and shall contribute to the general well being of the community.

15.29.050 Conditions Of Use

15.29.050.1 Planning Commission To Address Specific Conditions Listed In This Chapter
15.29.050.2 Parcel Size
15.29.050.3 Location Of The Parcel
15.29.050.4 Traffic Considerations
15.29.050.5 Utility Capacity
15.29.050.6 Emergency Vehicle Access
15.29.050.7 Location Of Off-Street Parking

15.29.050.8 Parking For Residential Use
15.29.050.9 Joint Parking Facilities
15.29.050.10 Use Of Parking Spaces
15.29.050.11 Marking Of Spaces
15.29.050.12 Parking Space Design Standards
15.29.050.13 Surfacing
15.29.050.14 Lighting
15.29.050.15 Fencing, Screening, And Landscaping
15.29.050.16 Building Design
15.29.050.17 Trash Collection
15.29.050.18 Signage
15.29.050.19 Feed Storage
15.29.050.20 Hazardous Waste
15.29.050.21 Hazardous Materials
15.29.050.22 Noise
15.29.050.23 Outdoor Storage
15.29.050.24 Outdoor Work
15.29.050.25 Above Ground Storage Tanks
15.29.050.26 Hours Of Operation

15.29.050.1 Planning Commission To Address Specific Conditions Listed In This Chapter

The Planning Commission shall review each of the following topics to determine applicability and set specific conditions for the proposed use. Persons submitting an application for a Conditional Use Permit must address all conditions deemed applicable by the Planning Commission.

15.29.050.2 Parcel Size

If the proposed parcel borders residential properties the proposed conditional use parcel must be large enough to provide a twenty-five (25) foot landscaped buffer adjacent to residential properties. The applicant may propose other methods of screening adjacent residential properties that could reduce the twenty-five (25) foot requirement.

15.29.050.3 Location Of The Parcel

The applicant must show how the proposed use fits in with the use of the adjacent properties.

15.29.050.4 Traffic Considerations

The applicant must show the potential traffic impact their proposed business will have on the nearby roads and neighborhood. In addition, the applicant must propose conditions that would reduce or eliminate problems associated with the increased traffic such as, but not limited to, parking, noise, making turns and the capacity of existing streets in the area.

15.29.050.5 Utility Capacity

The applicant is responsible for obtaining information on the capacities of the utilities the proposed business will utilize. If the proposed use overtaxes any of the existing utilities the applicant is responsible to fund needed utility upgrades. If future operation of the proposed use results in utility shortfalls, the owner of the property causing the utility shortfall is required to fund needed upgrades.

15.29.050.6 Emergency Vehicle Access

Those being granted Conditional Use Permits are required to provide emergency vehicle access as required by the local fire department and the International Fire Code adopted at the time the Conditional Use Permit is issued.

15.29.050.7 Location Of Off-Street Parking

Each commercial use must provide parking spaces in accordance with Perry Municipal Code, Chapter 15.19; Streets, Trees, Parkways, and Parking except that no less than five (5) customer parking spaces will be provided. All required off-street parking spaces open, covered, or enclosed shall be located on the same lot as the conditional use business, except as permitted in Section 15.29.050.9.

15.29.050.8 Parking For Residential Use

Reserved parking, two and one-half spaces (2 ½) for each residential unit shall be provided in addition to any other required parking. Parking for residential use will be illuminated during hours of darkness. This illumination will be shielded so it will not light the sky or cast direct light beyond the property line or onto adjacent streets.

15.29.050.9 Joint Parking Facilities

Two or more buildings that are adjacent or on adjacent lots may collectively provide the required off-street parking subject to deed restrictions binding the owners and their heirs, successors and assigns to maintain the required number of spaces available throughout the life of such use; however, the number of parking spaces shall not be less than the sum of the requirements for the various individual uses computed separately

15.29.050.10 Use Of Parking Spaces

Parking spaces and/or loading space will not be used for storage of any kind, sale of merchandise or vehicles, any repair, dismantling or servicing of any vehicle, equipment, material or supplies. Perry City may issue limited time permits for occasional special events that would allow the use of parking spaces for the sale of merchandise, i.e. a parking lot sale.

15.29.050.11 Marking Of Spaces

Parking shall be striped on pavement or designated with some other form of permanent marking.

15.29.050.12 Parking Space Design Standards

Parking areas shall comply with Perry Municipal Code, Chapter 15.19; Streets, Trees, Parkways, and Parking. Parking spaces using geometric standards other than those

specified in Perry City Ordinances may be approved if stamped by a state licensed engineer with expertise in parking facility design subject to a determination by the City Engineer.

15.29.050.13 Surfacing

All off-street parking areas and vehicle sales lots shall be paved with asphalt or concrete. Paving will meet current design standards and will be approved by the City Engineer.

15.29.050.14 Lighting

External lighting along state highways must be in accordance with UDOT requirements. All external lighting must be shielded so it will not light the sky or cast direct light beyond the property line or onto adjacent streets. General parking lot illumination is permitted only during night business hours. Lighting for security purposes is permitted during hours of darkness.

15.29.050.15 Fencing, Screening, And Landscaping

A minimum buffer of twenty-five (25) feet is required between any NC2 or NC3 zone commercial use and adjacent residential property. This buffer must be fully landscaped, watered and maintained to provide a visual screen and attractive appearance from the residential property. A six (6) foot high masonry or commercial quality comparable fence acceptable to the Perry City Planning Commission must be installed on the property line. No buffer is required between commercial uses. The owner of the commercial property is responsible for properly maintaining the landscaped buffer area

15.29.050.16 Building Design

Building physical size is to be approved by design review. Buildings in the NC2 zone will have no more than two stories above ground. The front of the building will face either the adjacent street or the building parking area as determined during the design review. External building finish will be predominately masonry. Vinyl or wood trim is permitted. Building colors will primarily be earth tones. Windows may be tinted but will not have reflecting covering or coating. Buildings on the same lots or adjoining lots will have adequate separation to permit emergency access.

15.29.050.17 Trash Collection

Locations for trash collection receptacle will be covered and enclosed. Trash collection areas must be maintained in a neat manner and an active rodent control program must be in place. Masonry or commercial quality vinyl fencing will be used to screen the storage area if it is visible from nearby residential property or the street. If there is residential property within 200 feet, trash pickup is restricted to the hours of 7:00 a.m. to 9:00 p.m

15.29.050.18 Signage

Non-illuminated and internally illuminated signs are permitted. If signs are visible from nearby residential properties they can only be illuminated during hours the business is open for business. Signs must not cast direct light beyond the property line or onto adjacent streets. Sign size and location is determined by the Perry City Sign Ordinance, Chapter 15.27.

15.29.050.19 Feed Storage

Any business using or storing animal feed must store the feed in rodent proof containers or bins.

15.29.050.20 Hazardous Waste

Any business generating or storing hazardous waste must comply with all Federal, State and Local hazardous waste laws. Hazardous waste will be properly containerized and will be stored indoors or outdoors in covered, fenced and locked areas approved by the local fire department authority. The name and quantity of each hazardous waste material will be provided to the local fire department and Perry City on a quarterly basis.

15.29.050.21 Hazardous Materials

Any business generating or storing hazardous materials must comply with all Federal, State and Local hazardous materials laws. Hazardous material will be properly containerized and will be stored indoors or outdoors in covered, fenced and locked areas approved by the local fire department authority. The name and quantity of each hazardous material will be provided to the local fire department and Perry City on a quarterly basis.

15.29.050.22 Noise

Noise in excess of 85db, at the source, will not be generated outside of an enclosed building between the hours of 9:00 p.m. and 7:00 a.m. Outdoor public address systems are not permitted.

15.29.050.23 Outdoor Storage

Outdoor storage is permitted only in covered, fenced, and locked areas. Outdoor storage must be maintained in a neat manner and an active rodent control program must be in place. Masonry or commercial quality vinyl fencing will be used to screen the storage area if it is visible from nearby residential property or the street.

15.29.050.24 Outdoor Work

Offensive odors, vibration, fumes, steam, reflection, airborne dust or dirt must be contained inside an enclosed building.

15.29.050.25 Above Ground Storage Tanks

The storage of flammable or combustible liquids in above ground tanks outside of buildings is not permitted. One above-ground bulk storage tank of liquefied petroleum gas, not to exceed one-thousand (1000) gallons, and only used for the purpose of refilling portable tanks, may be permitted if it is no closer than two hundred (200) feet to any residential structure.

15.29.050.26 Hours Of Operation

Recommended business hours are restricted from 6:00 a.m to 9:00 p.m. if there are adjoining residential properties.

15.29.060 Regulations

15.29.060.1 Plat Approval
15.29.060.2 Expiration

15.29.060.3 Appeals
15.29.060.4 Fee
15.29.060.5 Expansion Of A Conditional Use
15.29.060.6 Inspection

15.29.060.1 Plat Approval

When a conditional use requires the recording of a record of survey, planned development, or subdivision plat, the applicant shall take the final plat to the Planning Commission for plat approval. The Planning Commission may forward a recommendation to the Perry City Council at the same time.

15.29.060.2 Expiration

Conditional Use Permits shall expire one year from the date of Special Uses and Appeals Board approval, unless substantial construction activity has commenced on the project. The issuance of a building permit is not evidence of substantial construction activity. Demolition permits do not evidence substantial construction activity. Whether construction has commenced or not, the Special Uses and Appeals Board may grant an extension of the Conditional Use Permit when the applicant is able to demonstrate a legitimate need. Extension requests must be submitted in writing to Perry City prior to the expiration of the Conditional Use Permit. If the Conditional Use Permit extension request is not submitted in writing to Perry City prior to its expiration, the existing Conditional Use Permit is no longer valid and the applicant must submit a new Conditional Use Permit Application.

15.29.060.3 Appeals

The decision of the Special Uses and Appeals Board is the final decision and is necessary for a Conditional Use Permit to be approved. If the Special Uses and Appeals Board denies a Conditional Use Permit, then this action may be appealed to the Administrative Law Judge within 10 calendar days (see Section 15.05.020(F)). There is no further internal appeal process (the administrative remedies are, at this point, exhausted). An appeal from the Administrative Law Judge's decision may be made to District Court within calendar 30 days, or to the Property Rights Ombudsman's Office, etc., if applicable, as allowed by law (see Sections 15.05.030.1 and 15.05.030.2).

15.29.060.4 Fee

The appropriate fee, as determined by resolution, shall accompany the application for any Conditional Use Permit.

15.29.060.5 Expansion Of A Conditional Use

The applicant shall present a Conditional Use Expansion Plan to the Perry City Planning Commission prior to the expansion of any conditional use. A recommendation for expansion shall be forwarded to the Special Uses and Appeals Board. No conditional use may be expanded without the approval of the Special Uses and Appeals Board.

15.29.060.6 Inspection

Following the issuance of a Conditional Use Permit for a use which requires a building permit, the Perry City Building Official shall approve an application for a building permit, and shall ensure that development is undertaken and completed in compliance with said conditional use permit and all other applicable codes and ordinances. An occupancy permit shall not be issued until all conditions are complied with.

15.31 Excavation And Reclamation

15.31.010 General Purpose
15.31.020 Gravel Pits
15.31.030 Public Way
15.31.040 Private Development

15.31.010 General Purpose

15.31.010.1 Purpose
15.31.010.2 Definitions
15.31.010.3 Enforcement
15.31.010.4 Severability

15.31.010.1 Purpose

The extraction of construction materials and minerals is essential to provide for the continued demand for rock, gravel, sand, etc. in Box Elder County. It is usually necessary to alter the surface of the earth to extract these minerals and/or raw materials. This shall be done in such a way as to minimize any undesirable effects such as excavation dust, noise, reflection, vibration, light, welding lights, smoke, fumes, steam, odors, etc. Land shall be reclaimed in such a manner as to prevent conditions detrimental to the general safety and welfare of all citizens of Perry City and to provide for the subsequent use of the lands co-affected. Reclamation requirements shall be adapted to the diversity of the topographic, chemical, climatic, biologic, geologic, economic, and social conditions of the area where the excavation takes place. Such procedures shall be required for existing gravel pits, new gravel pits, and/or material excavation sites. It is also the purpose and object of this Ordinance to:

1. Establish reasonable and uniform limitations, safeguards and controls on excavation within Perry, Utah. These provisions are deemed necessary in the public interest to effect practices which will provide protection of the tax base, provide for the economical use of vital materials necessary for our economy and give due consideration to the present and future use of land in the interest of promoting the public health, comfort, safety and general welfare.
2. Provide for the proper construction, installation, compaction and repair and replacement of street excavation and surfacing for pipelines, structures, sidewalks, curbs, gutters, driveways and any public or private improvement across, under, on, and/or along the public way which will result in physical alteration thereof; thus promoting conformity, safety and health of those persons using, benefiting from or traveling the city's public ways.
3. Provide for the proper construction and excavation requirements for site work related to private development which will result in physical alteration of real property; thus promoting conformity, safety and the health and welfare associated with the use or uses of such property and potential effects on adjacent properties or uses.

15.31.010.2 Definitions

The following definitions apply to Chapter 15.31:

1. **Enforcement Official.** Includes the Building Inspector, City Engineer, Public Works Director, Public Works Inspector, City Police and/or their designees.
2. **Engineering regulations**. Construction specifications and design standards complying with the latest version of the Public Works Standards and Technical Specifications.
3. **Excavation.** For the purpose of this Ordinance, "excavation" shall mean the removal of clay, soil, granite, flagstone, slate, shale, limestone, sandstone, asphalt, concrete, road base, sand or gravel from the earth by excavating, stripping, leveling or any other process, together with all other types of mining operations where material is removed from the earth except that dredging operations in the bed of existing rivers and streams shall not be covered by this ordinance.
4. **Fill.** For the purpose of this Ordinance, "fill" (verb) shall mean the act of raising the level or surface of real property beyond the natural or if previously disturbed, the existing condition. As a noun the word “fill” shall mean the material used to fill (verb) real property.
5. **Obstruction**. Any rubbish, glass, material, wood, metal, earth, structures, or other object, thing or substance which may interfere with or obstruct the free use or view of the public way by travelers, or injure or tend to injure or destroy or render unsightly the surface of a public way, or which may cause or tend to cause such public way to become restricted in its uses or unsafe or dangerous for travelers thereon.
6. **Permittee.** Any person who has been issued a Conditional Use Permit for mining or gravel pit excavation or a Construction permit for work within the public way or private development and has agreed to fulfill the requirements of this ordinance.
7. **Public way.** Includes all public right-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways within the incorporated areas of Perry, Utah.
8. **Shoulder**. The gravel strip of roadway six feet wide adjacent and parallel to the hard surface roadway edge.

15.31.010.3 Enforcement

The Enforcement Officials, as defined in 15.31.010.2 A, are hereby designated and authorized as the officers charged with the enforcement of this Ordinance. It shall be the duty of an enforcement official to inspect or cause to be inspected at regular intervals of not more than three (3) months or as often as necessary all gravel pit excavations and operations. Where it is determined by an enforcement official that excavation is proceeding and is not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance and in performance of this duty may enter actions in the court where necessary, and his failure to do so shall not legalize any violation of such provisions. Any person, firm or corporation who shall violate any of the provisions of this section of the Ordinance shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by the laws of the State of Utah for Class B misdemeanors. In addition, violators of the provisions shall also be subject to a fine of $1,000.00 for each and every day such violation occurs.

15.31.010.4 Severability

If any provisions of this ordinance, or the application of such provision to any person or circumstance, shall be held invalid, illegal or unconstitutional, the remainder of this ordinance or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

15.31.020 Gravel Pits

15.31.020.1 Reclamation Objectives
15.31.020.2 Conditional Use Excavation Permit Applicable To Both New And Existing Excavation Facilities
15.31.020.3 Location Of New Excavation Sites Or Operations
15.31.020.4 Application Requirements For New Excavation Facilities
15.31.020.5 Application Requirements For Existing Excavation Facilities, Expansion, Amendment, And/Or Renewal:
15.31.020.6 Planning Commission Review Procedures Of Applications
15.31.020.7 Filing Fee For Application For Application For Conditional Use Excavation Permit
15.31.020.8 Changes To Conditional Use Excavation Permit
15.31.020.9 Special Regulations Applying To New And Existing Excavation Facilities
15.31.020.10 Timeline For Implementation For Existing Excavation Facilities
15.31.020.11 Provision Of Surety Required On New And Existing Excavation Facilities
15.31.020.12 Filing Of An Annual Progress Report For New And Existing Excavation Facilities

15.31.020.13 Transfer To Successor Owner/Operator Of The Excavation Operation
15.31.020.14 Time Frame Within Which Compliance Is Required By Existing Excavation Facilities
15.31.020.15 Public Emergency And Governmental Exceptions To Regular Requirements

15.31.020.1 Reclamation Objectives

The following regarding reclamation:

1. The Objective of Excavation Reclamation is to
    a. Return the land, on an approved phase basis, concurrently with the phased operation to a predetermined condition defined by the approved reclamation plan.
    b. Minimize or prevent present and future onsite or offsite environmental degradations to the ecologic and hydrologic aspects caused by mining operations, and to meet pertinent state, local and federal regulations regarding air and water quality standards and health and safety criteria.
    c. Minimize and/or prevent future hazards to public safety and welfare.
2. Regarding phased excavation and reclamation:
    a. The reclamation or rehabilitation of a material excavation site shall be carried out on an approved phase basis (each phase shall be defined by legal description) with the excavation of the resource. The purpose of phased excavation and reclamation is:
        i. To create a useable land resource and to eliminate waste heaps;
        ii. To prevent shallow, stagnant, small bodies of water, small unusable remnants of land, and erosion of, barren slopes, all of which are historically associated with open pit operations.
    b. Excavation shall be planned so as to progressively develop the proposed and approved final land forms by grading and by stockpiling overburden materials in areas designated for future land forms or in excavations where the material will be spread over the gravel pit floor. Such areas are to be seeded and planted in accordance with the approved phasing plan after grading is completed and within appropriate planting seasons, but in any case the grading and planting plan shall contain a description of the approved phased rehabilitation process throughout the anticipated life of the excavations.
3. Final Reclamation: Final reclamation shall begin upon notification by Perry City on the approved phase basis for any site where operations authorized under a Conditional Use Excavation Permit have been inactive for a period of at least one year, or otherwise terminated. Parked and/or salvaged equipment must all be removed. The final reclamation shall conform to the plan approved (including improved modifications) in the Conditional Use Excavation Permit. All reclamation plans shall conform to the minimum standards and requirements listed below, provided however, that the Planning Commission may require more stringent standards where special hazards exist in order to protect health, safety or general welfare to the public, and to prevent injury to property or improvements.
4. Grading: All slopes, overburden stockpiles, and abandoned soil piles shall be graded to a 2:1 slope or flatter, and smoothed and or contoured so as to control erosion and prevent the creation of potentially dangerous areas in accordance with the direction of the City Engineer.
5. Water-filled Areas: All excavations which create standing water or ponds shall be refilled with inert materials. This requirement shall not apply, however, to any water-filled excavations scheduled to become an integral part of the final reclamation plan as water filled ponds, etc. The rehabilitation of these areas shall be done in such a manner that the groundwater is not polluted as determined through consultation with the County Health Department. Fill material shall be porous to allow for water dispersion, unless otherwise specified in the reclamation plan.
6. Landscaping: Unless inconsistent with the final proposed use of the reclaimed land, excavated areas and all other disturbed areas shall be replanted and maintained as approved by Perry City with trees, shrubs, grasses or other vegetative ground cover, preferably native to the area, in order to minimize erosion and to restore the land to its natural appearance, or as previously approved by the Planning Commission. Native plants should not include those species that are the host plants for plant diseases, such as choke cherry which is a host for viruses affecting the fruit trees. Plant species shall be named in the reclamation plan to be approved by the Planning Commission.
7. Removal of Buildings and Equipment: As soon as excavation and/or manufacturing has been terminated, as determined by Perry City, all buildings and equipment (including electrical conduits) used in the administration of the operations, shall be removed unless deemed necessary to the approved final use of the reclaimed site.
8. Reclamation Verification. At the conclusion of each phase of excavation operation and reclamation of the excavation site, the owner/operator shall furnish the City Engineer a letter stating all requirements of the excavation on reclamation standards have been met for the phase and that no further excavation or operation will be performed within that phased area. The City Engineer shall present to the Planning Commission a statement verifying the phased permit area has been reclaimed with the requirements of the Conditional Use Excavation Permit reclamation plans previously approved. This statement shall also be based on Perry City's receipt of a signed statement from the owner/operator that all requirements of this ordinance for this phase are fulfilled and completed and that no further excavation shall occur within this phase. The Planning Commission shall then certify that all requirements concerning that completed phase have been met.

15.31.020.2 Conditional Use Excavation Permit Applicable To Both New And Existing Excavation Facilities

Regarding conditional use excavation permits:

1. Neither commercial excavation nor extraction of materials shall be permitted on any property within Perry City Corporate limits unless authorized by a Conditional Use Excavation Permit issued to the owner and/or operator of the property by the Perry City Planning Commission in accordance with the application procedures hereinafter set forth. In addition to delineating the area to which it is applicable, the Conditional Use Excavation Permit shall also make explicit reference to the uses authorized and shall include where applicable specific requirements for a pre-excavation inventory/analysis, an operation plan, plus a final reclamation plan which includes plans for phasing of excavation and for phasing of reclamation of the excavation site. Copies of the required plans shall be presented to the Planning Commission for its review and recommendation. The Planning Commission shall, after its review, state in writing the reasons for modifications, approval, or disapproval.
2. The Conditional Use Excavation Permit application of an existing excavation facility operation covered by this ordinance, that qualifies as a non-conforming use under the laws of the State of Utah, will not be denied so long as it complies with the permit application requirements, and the owner/operator complies with the annual progress report requirements, surety requirements, and those other provisions and requirements of this ordinance that reasonably relate to health, safety and welfare concerns.

15.31.020.3 Location Of New Excavation Sites Or Operations

Because of the potential negative impact to the environment and to adjacent landowners and uses, special consideration as to location of any new excavation or excavation operation through the Design Review Process and Public hearing will be required. The Environmental Sensitive Zone is the allowed and logical potential location for any new excavating operation, but the intent of the Environmental Sensitive Zone will dictate specific allowable locations. Potential Excavation or Operation Sites shall not be allowed within any of wellhead protection zones, zones 1, 2, 3 or 4. Potential haul and access roads as well as any associated maintenance and safety issues will be analyzed as a potential impact. The material excavation site shall be separated (phased) into areas with legal descriptions of each phase noted. The owner/operator shall notify the City in writing which phase or phases he intends to excavate. At the time of this notification, he will provide the City the required surety. No excavation shall occur in any phased area until the surety is provided.

15.31.020.4 Application Requirements For New Excavation Facilities

The following are application requirements for new excavation facilities:

1. General Information to be Provided:

a. The name under which the property is to be excavated shall be stipulated and the legal description of the property noted.
b. The name(s) and address(s) of the property owners/lessees/operators of the property shall be noted.
c. A history of ownership and uses of the property for the previous ten (10) years.
d. Ten (10) each copies of the above.

2. Pre-excavation Inventory and Analysis: A pre-excavation inventory and analysis both offsite and on-site shall be performed by the applicant containing the following information:

   a. A regional vicinity analysis describing other land uses and zoning surrounding the site; the possible impacts of the proposed excavation operation on surrounding land; the methods to be employed to mitigate any potentially negative effects;
   b. A description of the regional haulage routes proposed to be employed on public and private roads.

3. Proposed Excavation Site Inventory and Analysis: The applicant shall conduct and furnish Perry City a site inventory and analysis to include:

   a. A topographic map of the area at a scale of one inch equals five hundred feet (1" = 500') to a maximum contour intervals of twenty five (25) feet;
   b. A cross sectional plan with at least three scaled cross section drawings of the proposed excavation property showing natural existing ground elevation together with the proposed maximum excavated surface areas of property to be excavated. Two of the three cross sections should be through the site areas of the greater proposed materials displacement, and the third cross section should show elevations of the major contributing drainage area. Cross sections shall be keyed to the topographic map and a physical reclamation plan;
   c. A soils survey including a soil profile performed by an approved soils laboratory;
   d. A description of the site hydrology and geology;
   e. A description of the virtual characteristics with particular concern given to the use of natural topography and vegetation to shield excavation site operations from nearby properties and the general public;
   f. Direction of prevailing winds.

4. Excavation Operations Plan: The applicant shall provide an excavation operations plan which describes the following:

   a. Excavation methods to be employed;
   b. Maximum anticipated annual production in cubic yards;
   c. Anticipated period(s) of operation;
   d. An operations development plan on topographic map (to scale of one inch equals five hundred feet (1"500') of the area at least two hundred (200') feet beyond the proposed excavation limits showing the following operations:
   e. Stockpiles, milling and processing system;
   f. Type and kinds of machinery and equipment, waste disposal systems;
   g. The water to be used in the operation to include source, consumption, effect of the operation on the source, method of control and disposal and the quality of effluent, if any;
   h. Wind and air movement patterns with a description of techniques to be used to control dust and noise;
   i. Schedule of proposed operations and a plan showing locations of buildings, storage areas, equipment;
   j. The effects of lighting on adjacent properties and as viewed from public roadways;
   k. The possible and anticipated unfavorable effects of the operation on the surrounding properties, environment and roadways related to excavation dust, noise, vibration, light, welding lights, smoke, odor, traffic and the specific steps to be taken to mitigate such effects;
   l. Any anticipated social or economic effects on the surrounding lands and the steps proposed to be taken to mitigate such effects;

5. Reclamation Plan: The applicant shall provide a reclamation plan, including, but not limited to, the use of maps, imagery and renderings at a scale of one inches equals five hundred (1" = 500') feet extending two hundred (200') feet beyond the legal description of the excavation site area with a maximum contour interval of twenty five (25') feet which includes at least the following:

   a. A phased grading plan drawn and certified by a registered civil engineer or landscape architect indicating the areas to be excavated and the proposed finished grades (a typical phased grading plan is available at the Perry City office for review by the applicant);
   b. A description of the methods and plans to be employed for reclamation of described excavation phase(s) during and after the excavation operation;
   c. A description and drawing of the reclamation landscape plan to include the installation of top soil, planting schedule, specifications for plant applications, plant species to be planted, mulching, and type of irrigation to be used, both for temporary plant establishment and for long term - ongoing irrigation needs (including springs and quantities and sources of water available);
   d. Provide drawing of and describe the hydrology environment of the reclaimed site to include a map illustrating the surface runoff water drainage areas such as lakes, springs, ponds, streams, wells, pipe lines, culverts, ditches, canals, etc.;
   e. A description of significant geologic conditions expected to exist in the final reclaimed site with an explanation of methods used to mitigate any hazards that might exist in the proposed future site use;
   f. A description and the location of all permanent roads, surface runoff detention basins, and other man-made structures which are to remain after reclamation;
   g. A drawing of the reclaimed site showing proposed slopes, vegetation and land uses;
   h. A statement as to proposed maintenance, ownership, and operation of permanent surface water runoff facilities, both during and after operation of the gravel pit.

6. Authorization of Permit: The Conditional Use of Excavation Permit shall include approval signature blocks for the City Engineer, City Planning Commission, City Attorney and the Special Uses and Appeals Board, approving all maps, plans, etc. submitted with the application.

15.31.020.5 Application Requirements For Existing Excavation Facilities, Expansion, Amendment, And/Or Renewal:

The following regarding application requirements for existing excavation facilities:

1. General information requirements are:

   a. The name under which the property is being excavated shall be stipulated and the legal description of the property noted,
   b. The name(s) and address(es) of the property owners/lessees/operators of the property shall be noted,
   c. A history of ownership and uses of the property for the previous ten (10) years,
   d. Ten (10) each copies of the above.

2. Excavation Operations Plan: The applicant shall provide an updated excavation operations plan which describes the following, which are intended to be changed or modified from the previous year's excavation operation plan:

   a. Excavation methods used to be employed ex.(a stable slope of excavation face shall preclude wind and water erosion conducive to the erosion of airborne dust);
   b. Maximum anticipated annual production in cubic yards;
   c. Anticipated period(s) of operation;
   d. An operations development plan on a topographic map (top scale of one inches equals five hundred feet (1" = 500') of the area at least 200 feet beyond the proposed excavation limits showing the following operations:

i. Stockpiles, milling and processing system;
ii. Type and kinds of machinery and equipment, waste disposal systems;
iii. The water to be used in the operation to include the source, consumption, effect of the operation on the source, method of control and disposal of the quality of effluent, if any;
iv. Wind and air movement patterns with a description of techniques to be used to control dust and noise;
v. The effects of lighting on adjacent properties and as viewed from public roadways:
vi. Schedule of proposed operations and plan showing locations of buildings, storage areas, equipment;
vii. The possible and anticipated unfavorable effects of the operation on the surrounding properties, environment, roadways and the specific steps to be taken to mitigate such effects;
viii. Any anticipated social or economic effects on the surrounding lands and the steps proposed to be taken to mitigate such effects.

3. Reclamation Plan: The applicant shall provide a reclamation plan indicating how the site will be reclaimed upon completion of the mining activities to allow for the productive and compatible use of the site. The reclamation plan shall include, but not limited to, the use of maps, imagery and renderings at a scale of one inch equals five hundred (1" = 500') feet extending two hundred (200) feet beyond the legal description of the excavation site area with a maximum contour interval of twenty five (25) feet which includes at least the following:

   a. A phased grading plan drawn and certified by a registered civil engineer or landscape architect indicating the areas to be excavated and the proposed finished grades (a typical phased grading plan is available at the Perry City office for review by the applicant);
   b. A description of the methods and plans to be employed for reclamation of described excavation phase(s) during and after the excavation operation;
   c. A typical site plan of proposed or potential use or uses of the site following reclamation, including the proposed zoning for the site, building locations, roads and streets, topography, parking and landscaping;
   d. A description and drawing of the reclamation landscape plan to include the installation of top soil, planting schedule, specifications for plant applications, plant species to be planted, mulching, and type of irrigation to be used both temporary for plant establishment and long term-ongoing irrigation needs (including springs and quantities and sources of water available);
   e. Provide drawing of and describe the hydrology environment of the reclaimed site to include a map illustrating the surface runoff water drainage areas such as lakes, springs, ponds, streams, wells, pipe lines, culverts, ditches, canals, etc.;
   f. A description of significant geologic conditions expected to exist in the final reclaimed site with an explanation of methods used to mitigate any hazards that might exist in the proposed future site use;
   g. A description and the location of all permanent roads, surface runoff detention basins, and other man-made structures which are to remain after reclamation;
   h. A drawing of the reclaimed site showing proposed slopes, vegetation and land uses;
   i. A statement as to proposed maintenance, ownership, and operation of permanent surface water runoff facilities, both during and after operation of the gravel pit;
   j. A financial analysis detailing all the costs of the reclamation plan; and
   k. A proposed form of financial security to assure the implementation of the reclamation plan.

4. Authorization of Permit: The Conditional Use of Excavation Permit shall include approval signature blocks for the City Engineer, City Planning Commission, City Attorney and the Special Uses and Appeals Board, approving all maps, plans, etc. submitted with the application.

15.31.020.6 Planning Commission Review Procedures Of Applications

The following regarding Planning Commission Review applications:

1. Pre-application: The excavator or owner or their representative shall acquire a copy of the Excavation and Reclamation Standards (this ordinance) from the City Recorder.
2. Pre-application Meeting: The excavator or owner or their representative shall meet with the Planning Commission for a pre-application review of the owner's proposed plans for the excavation site. The Planning Commission shall verify the location of the excavation site. (Required for new facilities.)
3. Pre-application Plans: The excavator, owner or their representative shall submit copies of the excavation plans to the Planning Commission at a regularly scheduled Planning Commission meeting. Pre-application plans shall include all the information requested above.
4. Pre-application Review: The chairman of the Planning Commission shall distribute copies of the pre-application plan to the City Engineer, the Perry City Council Representative(s) responsible for water and sewer development, the Perry City Representatives responsible for road development, the Special Uses and Appeals Board, and the Utah Geological and Mineral Survey for review and comment. Recommendations shall be returned to the Planning Commission Chairman. The departments and agencies listed above will be allowed fourteen (14) working days for review. They may request an extension of the review period. The Planning Commission Chairman, with the concurrence of the owner, may approve the requested time extension.
5. Planning Commission Action: The Planning Commission shall review the preapplication plan for new excavation facilities and the application plan for existing facilities, together with the recommendations of the departments and agencies listed above at their next regularly scheduled meeting. The Planning Commission may recommend approval as is, approval with modifications, denial subject to revisions, or denial of the pre-application plan. Reasons for denial shall be submitted to the owner in writing.
6. Revised Application Plans: The owner, excavator, or their representative shall then revise the pre-application plans or application plans, if necessary, to comply with the recommendations of the Planning Commission. Copies of the revised plans shall be submitted to the chairman of the Planning Commission within one year following review of action on the plans by the Planning Commission. Copies of the revised plans shall be resubmitted to the departments and agencies previously listed. Recommendations for the revised plans shall be returned to the Planning Commission chairman within twenty-five (25) calendar days after distribution. The departments and agencies listed above may request an extension of the review period. The Planning Commission chair, with the concurrence of the developer, may approve the requested time extension.
7. Planning Commission Action: The Planning Commission shall review the revised pre-application plan or application plan, together with the recommendations of the departments and agencies listed above, at their next regularly scheduled meeting. The Planning Commission shall approve as is, approve with conditions, or deny the revised plan. Reasons for final review and determination shall be in writing.

15.31.020.7 Filing Fee For Application For Application For Conditional Use Excavation Permit

The following regarding filing fees for Conditional Use Excavation Permit Application:

1. New Excavation Operations: The Perry City Council shall determine by resolution such filing fee as is reasonably required for City Review of the application and all information provided with it (See Fee Schedule). The filing fee shall be paid to the City Recorder at the time the application is submitted. The applicant shall be required to pay for public notification where appropriate and required by this Ordinance. Professional fees for the review of the application and all information provided with it done by Perry City staff including the City Engineer, other professionals and City Attorney will be paid for by the applicant.
2. Existing Excavation Operations: The Perry City Council shall determine by resolution such filing fee as is reasonably required for city review of the application to renew, amend or expand a Conditional Use Excavation Permit and evaluation of appropriate rehabilitation requirements, related surety requirements and other issues involved in the application and approval process (see Fee Schedule). The filing fee shall be paid to the Community Development Department at the time the application is submitted. Professional fees for the review of the application and all information provided with it done by Perry City staff including the City Engineer, other professionals and City Attorney will be paid for by the applicant.

15.31.020.8 Changes To Conditional Use Excavation Permit

The following regarding changes to Conditional Use Excavation Permits:

1. Failure to Comply: Should owner/operator fail to Comply with conditions of the Conditional Use Excavation Permit, their representative or individuals or firms employed by the owner/operator, their representative or individuals or firms employed by the owner/operator, or their representative fail to meet the conditions of the Conditional Use Excavation Permit, the holder of said permit shall be required to appear before the Planning Commission at a designated date and hour to show cause why said permit should not be revoked or modified.
2. Hearing: Upon the date set for hearing, the Planning Commission shall hear all changes and other testimony relating to the matter under consideration. The Planning Commission shall then decide to continue the permit, revoke it, or modify it.
3. Modification of the Conditional Use Excavation Permit Plans: Action on Modification of the Natural Resources Conditional Use Excavation Permit plan may be initiated either by the Planning Commission or by the owner/operator where it is merely sought to affect minor revisions in the approved grading plan, schedule of proposed phasing or operation, proposed reuse plan, or landscape plan. The Planning Commission shall determine whether the proposed changes are minor. If the Planning Commission determines the changes are more than minor, full review by the departments and agencies previously noted, shall be conducted. Otherwise, if minor, the Planning Commission may approve, deny, or require additional modification without full review by the departments or agency involved in previous reviews.

15.31.020.9 Special Regulations Applying To New And Existing Excavation Facilities

The following special regulations apply to new and existing excavation facilities:

1. Buffer Distance:
    a. All extractive operations, machinery, equipment, and stockpiles (excluding rock crushing) shall be kept at least one hundred (100') feet horizontal distance from any other property owner's property line except as may be reduced by the Planning Commission and so noted on the excavation plan, but in no event should the crushing operation be closer than five hundred (500') feet to the property line. The setback shall apply to the distance of the specific operation from the property line of any adjacent residentially zoned property.
    b. Rock crushing operations shall not be conducted within one thousand (1,000') feet of the outside boundary of the permitted property, except such rock crushing operations may be conducted within five hundred (500') feet of the outside boundary of the permitted property if specifically approved as part of the excavation permit, with appropriate conditions consisting of a combination of buffering, berming, screening, landscaping, and other mechanisms to reduce or mitigate potential adverse impacts on neighboring land owners and the City.
2. Existing Crushing Operations: Setback exemption:
    a. All existing crushing operations in effect at the time of adoption of this ordinance shall be exempt from the above proposed setback requirements.
    b. All excavations shall be kept at least one hundred (100') feet from a public road except where the Planning Commission determines the excavations may be moved closer if it will not endanger the road or users of the road and so noted on the excavation plan.
    c. Signing: The outer boundaries of the excavation site shall be continuously posted with signs not more than five hundred (500') feet apart and at each change of direction of said boundary line, stating in letters two (2") inches in height: must read "DANGER KEEP OUT EXCAVATION SITE." Said signs shall be of wood or metal and shall be maintained in legible conditions at all times.
    d. Fencing: Areas of excavation with serious or hazardous conditions as determined by the City shall be fenced with a permanent chain link fence, or an approved equivalent thereof, not less than six (6') feet in height, except where in the determination of the Planning Commission other suitable devices may be used.
    e. Grading: All slopes, overburden stockpiles, and abandon soil piles shall be graded to a 2:1 slope or flatter, and smoothed so as to control erosion and prevent the creation of potentially dangerous areas. Grading shall include specifications for slope stabilization and shall be done in accordance with the latest approved excavation and reclamation plans, with the concurrence of the City Engineer.
    f. Air Quality: All air quality related plans and actions shall be monitored and approved by the State of Utah, Department of Environmental Quality, Division of Air Quality. Compliance shall be in accordance with requirements of the State of Utah, Division of Air Quality, Approval Order (A) for Sand and Gravel Operations, as mandated by the State of Utah. All costs incurred for such monitoring shall be paid for by the owner/operator.
    g. Dust Containment: Graded or disturbed surfaces of excavations or fill, and all equipment, materials and roadways at the excavation site shall be dampened or suitably treated, managed or otherwise contained to prevent the deposit of rust on neighboring properties. All materials transported to or from the excavation site shall be adequately covered and otherwise contained during transportation to prevent spillage or the escape of fugitive dust at the site, streets or other properties outside of the excavation site.
    h. Hours of Operation: Plant operation, except for the maintenance and repair of vehicles and equipment, shall be confined to the hours between 6:00 a.m. and 7:00 p.m. Monday through Saturday, except for operations as required by public emergency demands or by the State or federal governments, which may be performed as approved by the Special Uses and Appeals Board. Maintenance and repair of equipment may be performed at all hours provided Noise and Light regulations are complied with. Loading of trucks shall be confined to the hours between 6:00 a.m. and 7:00 p.m. Monday through Saturday, except for operations as required by public emergency demands or by the State or federal governments, which may be performed as approved by the Mayor. No trucks used in the hauling operations will be allowed into the site before the specified time or permitted to leave the site loaded with material from the site after the specified time.
    i. Hours of Operation-Temporary Extension: Perry City Staff shall be empowered to temporarily extend the hours of loading operations upon the submittal and review of sufficient written justification.
    j. Hours of Operation- Appeal: Appeal of any decision to temporarily extend such hours of loading operations may be directed to City Council for a final decision.
    k. Run-off Water Detention: The operator or owner shall, on determination by the City Engineer, be required to construct run-off water detention facilities to prevent storm water pollution, damage to neighboring property and structures, and for protection of residents below the site. All Federal, State and Local regulations governing storm water control and pollution prevention shall be adhered to, including the provisions of a Phase II National Pollution Discharge Elimination System (NPDES) Storm Water Management Plan.
    l. Mitigating Impacts on Public Roads and Highways: In order to mitigate the impact of gravel operations and related activities on public roads and highways, the conditions of an excavation permit may include a requirement to asphalt access roads for a prescribed distance before entering a public road or highway. In addition, all access roads used for gravel operations and related activities shall be periodically swept and cleaned as determined necessary for safety purposes.m.
    m. Lighting Control: All lighting, both temporary and permanent, as well as equipment lighting shall be such that it will comply with "Dark Sky" methods and concepts, shall not detract from or adversely affect adjacent property uses and shall be only sufficient for excavation operations, safety and security. When excavation lighting is used, lighting shall be designed to minimize glare and diffusion onto other properties. When the use is next to a residential zone or use, direct and defused light shall be shielded from the residential zone or use. General parking lot illumination is permitted only during night business hours. All lighting shall comply with the hours of operation with only sufficient lighting necessary for safety and security outside of such hours.
    n. Landscaping: Properties containing a use for which a Conditional Use Excavation Permit is required shall be landscaped for purposes of screening such uses from public streets and adjoining properties. Approved vegetative materials shall be planted together with necessary top soil as per the schedule approved in the granting of the Conditional Use Permit and shall be maintained in a healthy growing condition. In addition, any bare soil in the area proposed for excavation which is not being actively excavated by the owner or operator shall be planted with vegetation to reduce dust arising from those areas.
    o. On Site Parking: All required employee and visitor on-site parking areas shall be paved with asphalt or concrete. Paving will meet current design standards of the City Engineer. Parking shall be striped on the pavement or designated with some other form of permanent marking. All parking shall comply with Perry City Parking Regulations.
    p. Noise and Vibration Control: All equipment onsite and offsite utilized in the extraction and processing of excavating materials shall be operated and maintained so as to minimize the emanation of noise and vibration from the premises. The operator is responsible to identify haul routes and percussive noise sources that might particularly annoy sensitive receptors and to prevent these sources from becoming a problem.

q. Historic Trails, Monuments, and Landmarks:

3. Definitions and Standards:

   a. All terminology used in this provision and not defined below, shall meet applicable American National Standards Institute (ANSI) publications and commonly accepted practices of acoustical measurements.

      i. Receptor: An occupied residential dwelling, church, hospital, school, outdoor stage, or structure continuing other noise sensitive activities.
      ii. Noise Sensitive Zone: The land enclosed within a fifteen hundred (1500') foot radius circle of any receptor.
      iii. Sound Level: The total sound pressure level from all concurrent excavation activities related to the subject project, as measured with a sound level meter using the A-weighing network (ANSI S1.4). The Standard notation is db (A) or da.
      iv. Percussive Noise: Short burst(s) of banging or chattering noise including but not limited to blasting, pile driving, and jack hammering.

   b. Prohibitions: Excavation work shall not be permitted under the following conditions:

      i. Wherever project related excavation activity in a noise sensitive zone would cause the sound level within ten (10') feet of the nearest receptor to exceed: 95 db in daytime (6:00 a.m. to 7:00 p.m.), or 55 db in nighttime (7:00 p.m. to 6:00 a.m.), except for operations as required by public emergency demands or by the State or federal governments, which may be performed as approved by the Mayor.
      ii. No outdoor public address systems shall be permitted.
      iii. In a noise sensitive zone on Sundays and legal holidays.
      iv. When the Perry City Representative notifies the operator that project related excavation noise or vibration does not meet specifications, that portion of excavation work responsible for the problem shall cease until reduced to the required noise standards.
      v. Compliance: The above requirements and all local noise ordinances shall be adhered to, except where the operator has obtained a variance in accordance with local regulations.
      vi. Percussive Noise: The operator shall notify the Perry City Representative at least two (2) weeks in advance of any percussive noise activity that is expected to exceed the above requirements, so that the Perry City Representative has sufficient time to coordinate with area residents.

   c. Roads: All permanent haul roads within five hundred (500') feet of public streets or land shall be regularly treated (not less than twenty-two (22') feet wide) with oil or other approved chemicals or be asphalt surfaced. All other roadways in use shall be regularly watered or surfaced with a dust palliative and properly maintained during the operation of the gravel pit.
   d. Fuel Storage: All fuels and other fluids, lubricates and cleaning solvents or solutions shall be stored and dispensed according to the applicable Federal and State regulations.
   e. Overloading: Gravel pit, sand and clay pit owners/operators shall prevent the overloading of trucks and vehicles, and spillage of gravel, rocks or sand upon the public roads and highways in accordance with State Law.
   f. Transportation Vehicles: All vehicles transporting excavated product on public roads and highways shall be covered, and otherwise prepared so that they will not disperse fugitive dust and/or mud along the public roads and highways.

15.31.020.10 Timeline For Implementation For Existing Excavation Facilities

Within one hundred twenty (120) days after the adoption of this Ordinance, all existing operations shall comply with the provisions set forth herein, provided that in no case shall requirements be imposed which are unreasonable in respect to acceptable standards, as defined by the City, where such conditions exist prior to the enactment of this Ordinance

15.31.020.11 Provision Of Surety Required On New And Existing Excavation Facilities

The following regarding provision of surety requirement:

1. Provision for Surety: An adequate surety, approved by the Planning Commission of Perry City, must be provided by the owner/operator of any sand, gravel and clay pits within the city limits of Perry City, in an amount sufficient to secure performance of the rehabilitation of each phase of the site before the Conditional Use Excavation Permit can be approved or issued. Such provision for surety shall be provided for the specific phase of the operation as the "active" phase. At the time the excavation operation is proposed to commence on any subsequent phase, additional surety shall be provided to Perry City for each subsequent phase in the same manner as provided hereafter. As the rehabilitation of any entire phase of excavation operation is approved by Perry City as "complete" under the provisions of this ordinance, Perry City shall release any further claim on the surety placed on that completed phase. The surety for rehabilitation of any uncompleted phase of the excavation operation shall remain impounded in the possession of Perry City.
2. Release of Surety: The liability under surety provisions shall continue until such time as released in part, or in its entirety, by the Planning Commission.
3. Amount of Surety: The Planning Commission of Perry City shall determine the amount of the surety to be provided. In making that determination, the Planning Commission shall hold a public hearing on the matter, and consult with the City Engineer and City Attorney. It may also consult with independent engineering or reclamation firms that may have helpful experience or expertise, and conduct such other investigation or analysis as it may deem appropriate, in evaluating the nature and extent of the rehabilitation and the potential costs thereof. The Planning Commission shall consider factual information as to the magnitude, type and costs of approved reclamation activities planned for the land affected and the nature, extent, and duration of the operation. The Planning Commission shall fix the form and amount of surety reasonably related thereto, to protect Perry City and insure compliance with the requirements of the Conditional Use excavation Permit; however, the cost amount of the bond shall not exceed one hundred percent (100%) of the cost of rehabilitating the excavation determined by the Planning Commission after it concludes its investigation and analysis set forth above. The Planning Commission may periodically review the amount of the surety required to insure that the amount is adequate to pay for the reclamation required. The amounts determined by the Planning Commission to be approved by the Special Uses and Appeals Board.
4. Form of Surety: The Planning Commission shall determine the form of the surety. In determining the form of the surety to be provided, the Planning Commission may require one, or a combination of the following: corporate surety bond issued by a licensed surety company; certified check; or such other financial guarantee acceptable to the Planning Commission. The nature and form of any surety agreement or other financial guarantee shall be approved by the City Attorney and the Special Uses and Appeals Board.
5. Continuing Liability of the Owner/Operator: If the actual cost of rehabilitation exceeds the surety, the owner/operator shall be liable to Perry City for the difference, together with costs and expenses incurred.
6. Forfeiture of Surety: If the owner/operator fails or refuses to undertake and complete the reclamation, the Planning Commission may, after notice and hearing, declare any surety filed in connection herewith, to be forfeited to the city. In the case of a corporate surety bond, Perry City may commence suit against the owner and his bonding company. The City shall also have the right to file suit against the owner/operator for costs of rehabilitation and reasonable attorney's fees and court costs.

15.31.020.12 Filing Of An Annual Progress Report For New And Existing Excavation Facilities

At the end of each calendar year (on or before February 15 or each calendar year), the owner/operator conducting mining operations shall file an operations and progress report with the Planning Commission. The report will summarize activities in fulfillment of the requirement for the approved phased excavation and reclamation in confirmation with the reclamation plan previously submitted and approved. The owner/operator shall state in writing to the Planning Commission that he is in full compliance with the approved Conditional Use Excavation Permit. Should it be determined as hereafter noted that he is in compliance, he shall be so notified in writing that he can proceed with his operation forthe next calendar year subject to monitoring noted in this ordinance. Perry City shall then appoint a representative to survey the excavation operation to verify that it is in full compliance, or list those items for which it is not in compliance. The owner/operator shall then be notified in writing, of such non-compliance items and may be granted a

specified period of time to bring such items into compliance. Should the owner/operator then fail to bring the operation into compliance within the stipulated time, the Planning Commission shall recommend to the Planning Commission may revoke the Conditional Use Excavation Permit.

15.31.020.13 Transfer To Successor Owner/Operator Of The Excavation Operation

Whenever an owner/operator succeeds to the interest of another person by sale, assignment, lease or other means, the Planning Commission will not release the first operator from his responsibilities, conditions, policies and agreements, under his approved plan, including surety, unless and until the successor assumes all of the responsibilities of the former operator, to the satisfaction of the Planning Commission under the approved operations and reclamation plans and the posting of surety. Upon satisfactory assumption of such responsibilities by the successor owner/operator, under conditions approved by the Planning Commission, the responsibility of the total excavation site may then be transferred to the successor. An Assumption Form, available from the City Recorder, shall be issued attesting to these agreements, and a signed copy shall be retained in Perry City files.

15.31.020.14 Time Frame Within Which Compliance Is Required By Existing Excavation Facilities

Within ninety days after the adoption of this ordinance, existing excavation facilities covered by this ordinance shall comply with the requirements and provisions set forth herein. New excavation facilities must comply with all the provisions hereof before they may commence business operations.

15.31.020.15 Public Emergency And Governmental Exceptions To Regular Requirements

If the Mayor finds and approves of operations which are required by either public emergency demands or by the State or federal governments, then requirements may be temporarily modified for the duration of the emergency or requirement of the State or federal governments. The Mayor's decision is final, unless appealed to the City Council (by an aggrieved party) within 10 days (of publishing the Mayor's decision in the City newsletter and/or on the City website).

15.31.030 Public Way

15.31.030.1 Public Way Excavations
15.31.030.2 Construction Permit Requirement
15.31.030.3 Construction Permit Application
15.31.030.4 Work Without Permit Penalty
15.31.030.5 Fees
15.31.030.6 Insurance Requirements
15.31.030.7 Completion Bond
15.31.030.8 Application Requirements For Special Districts
15.31.030.9 Manner Of Excavation
15.31.030.10 Sidewalk And Curb Ramps
15.31.030.11 Inspections And Enforcement
15.31.030.12 Backfill Requirements
15.31.030.13 Restoration Of Surface Required
15.31.030.14 Failure Of Comply
15.13.030.15 Collection Of Expenses By Lawsuit
15.31.030.16 Protection Of The Public

15.31.030.1 Public Way Excavations

Excavation and Structures are prohibited when:

1. No public way of any City road shall be dug up or excavated and no approach, road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or other structure or object of any kind or character shall be placed, constructed or maintained within any such public way except as permitted by and in accordance with the regulations of the Public Works Standards and Technical Specifications; or
2. Any person who violates the provisions of this section is guilty of a Class B misdemeanor.

15.31.030.2 Construction Permit Requirement

The following apply to construction permits:

1. It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made excavations in or under the surface of any street, alley, right-of-way, public easement or other public place in the City without complying with the provisions of this chapter and obtaining a permit therefore and paying the fee as required in this chapter for any purpose to place, deposit or leave upon any such public way any earth or any excavated material obstructing or tending to interfere with the free use of the public way, unless such person shall first have obtained a Construction Permit from the City Office. Any Public Utility regulated by the state or holding a franchise from the City which, in the pursuit of its calling, has frequent occasion to open or make excavation in the public way may, upon application, receive a Construction Permit from the City to cover such work. Construction Permits shall not be required prior to work in case of emergency, endangering life or property. In such emergency situations the excavation parties shall contact the City staff on the first working day following the excavation and complete and secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for prior permit requirements.
2. Work by utility companies and contractors in constructing facilities in new subdivisions shall be required to obtain a "Construction Permit", and will be subject to City inspection and compliance with subdivision requirements.
3. All permit requirements as stated in Section 3 of the Public Works Standards and Technical Specifications shall apply to all Construction Permits and shall be strictly adhered to.

15.31.030.3 Construction Permit Application

Applications for such permits shall be made to the City staff and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, the person, firm or corporation doing the actual excavation work and the name of the person, firm or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of the city and the state relating to the work to be done. Such application may be made by telephone if there is already on file with the City the following:

1. a signed agreement that the applicant will comply with all ordinances and laws of the City and the state relating to the work to be done, and
2. the required certificate of insurance and completion bond.

As part of the permit application and prior to the issuing of the permit, adequate engineering drawings shall be submitted to the City Engineer which will clearly indicate the extent of work to be done. These drawings should be prepared under the direction of a state licensed engineer and comply with the latest version of the Public Works Standards and Technical Specifications and should show the following information:

1. Plans and profiles where gradient lines are involved.
2. Elevations (assumed or local sea level datum) showing depth of pipelines, and in the case of irrigation and drainage facilities, relationship of existing flow lines, etc.
3. Scale of drawings.
4. Location of excavation from nearest street intersection and street numbers thereof.
5. Title block.
6. Applicant's name.
7. Name of person preparing the drawings
8. Pipeline sizes and dimensions of structures or as required by the City Engineer.

The following also apply to construction permit applications:

1. Completion Period: The completion time will be specified on the permit by the City staff, and in all events shall be completed within thirty (30) days from the issuance date of the permit. Requests for extension of time, together with reasons therefore, will be submitted to the City Engineer for approval.
2. Assignment of Permits: Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and all other requirements of the ordinance under said permit.

15.31.030.4 Work Without Permit Penalty

A person found doing work in the public way without having obtained a permit, as provided by Section 15.31.030 of this ordinance, shall be required to pay a penalty fee equal to two times the normal permit fee.

15.31.030.5 Fees

The City shall collect, upon issuing a permit, the following fees, for review of the application and site inspection of the work:

1. Penetration of Asphalt:
    a. One Thousand Dollars ($1000.00) or $.40 per sq. ft., whichever is greater.
    b. Five Hundred Dollars ($500.00) may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards and within 15 days.
2. Penetration of Gravel Surfaces:
    a. Five Hundred Dollars ($500.00) or $.10 per sq. ft., whichever is greater.
    b. Two Hundred Fifty Dollars ($250.00) may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards.
3. Disturbance or Penetration of Curb and Gutter, Sidewalk, or Driveway Approaches:
    a. One Thousand Dollars ($1000.00) or $.60 per sq. ft., whichever is greater.
    b. Nine Hundred Dollars ($900.00) may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards.
4. Boring, Jacking or Tunneling (No Disturbance of Surface):
    a. Fifty Dollars ($50.00). No Refund.

15.31.030.6 Insurance Requirements

No such permit shall be issued unless and until the applicant therefore has posted with the City Offices a certificate of insurance in a company authorized to issue insurance by the state, evidencing that such applicant has comprehensive general liability and property damage policy that includes contractual liability coverage with minimum limits of Two Hundred Fifty Thousand Dollars ($250,000) for injuries, including accidental death to any one persons in any occurrence; in an amount not less than Five Hundred Thousand Dollars ($500,000) on account of injuries sustained by two or more persons in any one occurrence, and property damage insurance in an amount not less than One Hundred Thousand Dollars ($100,000) for any one occurrence. The insurance policies shall further contain the following provisions:

1. To indemnify, save harmless and defend the City and its officers and employees against any claim or loss, damage or expense, sustained on account of damages to persons or property occurring by reason of an excavation made by the permittee, his subcontractor or agent, whether or not the excavation has been filled or resurfaced and whether or not the surface has been opened to public travel;
2. To indemnify, save harmless and defend the City from any and all liability for the City's own negligence occurring by reason of the opening or excavation. This indemnification agreement covering the City's liability for its own negligence shall not apply to injuries or damages sustained while City employees or contract employees are present at the excavation pouring cement or asphalt therein;
3. To indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained on account of damages occurring by reason of failure to maintain proper barricades and/or lights as required from the time of the opening of the excavation until the excavation is surfaced and opened for travel;
4. Naming the City as an additional insured and providing that thirty (30) days notice shall be given to the City prior to termination of the policy, for any reason. Prior to cancellation of insurance, the permittee shall forthwith close the excavation and complete all worksite restoration work.

A public utility company or property owner performing work adjacent to his residence may be relieved of the obligation of submitting certificates of insurance if such person or company shall submit satisfactory evidence in advance that it is insured, or has adequate assets and provisions for self-insurance. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit.

15.31.030.7 Completion Bond

No such permit shall be issued unless and until the applicant has posted with the City staff a completion bond, the amount of which is to be approved by the City Engineer. The amount of the bond shall be sufficient to reasonably insure the proper restoration of the ground and the laying of pavement, if any. Should the applicant fail to perform, the expense to the City of restoring the surface of the ground and pavement shall be deducted from the bond and the balance shall be returned to the applicant without interest after the tunnel or excavation is restored. A separate completion bond shall not be required, however, where the restoration of the ground and the laying of the pavement are specifically granted under the provisions of another bond. The bond shall further guarantee the restoration of the worksite for a period of three (3) years from the completion date of the restoration, reasonable wear and tear excepted.

15.31.030.8 Application Requirements For Special Districts

Water conservancy districts, sewage districts, special districts or other entities that under certain circumstances are or may be exempt from bonding provisions, shall make application, as required in this chapter, before proceeding to make excavations in any street, alley or other public place in the county. Such districts or other entities shall comply with all requirements of this chapter pertaining to the restoration of a cut surface to its original condition and shall indemnity the City for any loss, liability or other damage resulting from the making of any excavation, and shall also pay all fees required by Sub-Section 3-1.5 of this ordinance. Where lateral cuts are made by any such district or entity for customer connections to the works of the district or other entity, a fee shall be paid in accordance with Section 15.31.030.5 of this ordinance, either by such

district or entity (if it makes the excavation and/or connection), or by the customer for whom the excavation or cut is made. The districts shall further guarantee the restoration of the worksite for a period of three (3) years from the completion date of the restoration, reasonable wear and tear excepted.

15.31.030.9 Manner Of Excavation

It is unlawful to make any excavation or tunnel in any way contrary to or at variances with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground. No portion of an excavation below the surface shall extend beyond the opening at the surface. Also:

1. No injury shall be done to any pipes, cables or conduits in the making of such excavation or tunnels. Notice shall be given to the City Engineer and other persons maintaining such pipes, cables or conduits that are or may be endangered or affected by the making of any excavation or tunnel before such pipes, cables or conduits shall be disturbed.
2. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

15.31.030.10 Sidewalk And Curb Ramps

If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided that shall be safe for travel and convenient for users.

15.31.030.11 Inspections And Enforcement

The following definitions regarding inspections and enforcement:

1. Enforcement Official to Enforce: The Enforcement Officials, as defined below, are hereby designated and authorized as the officers charged with the enforcement of this chapter of the Ordinance.
2. Powers and Duties of an Enforcement Official: It shall be the duty of an enforcement official to inspect or cause to be inspected at regular intervals or as often as necessary all public way excavations. Where it is determined by an enforcement official that excavation is proceeding as identified in the Construction Permit and is not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance and in performance of this duty may enter actions in the court where necessary, and his failure to do so shall not legalize any violation of such provisions.
3. Penalties: Any person, firm or Corporation who shall violate any of the provisions of this section of the Ordinance shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by the laws of the State of Utah for Class B misdemeanor. In addition, violators of the provisions shall also be subject to a fine of $1,000.00 for each and every day such violation occurs.
4. General: Inspections will be made to insure that all work done under the permit is performed in a good workmanlike manner. Inspections will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector (Enforcement Officials).
5. During Construction: The Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector may make inspections at any time during the construction period. If the work is not progressing satisfactorily for the protection of the City and the people of the City, or if any part of the work is found to be sub-standard and not in accordance with these specifications, then the inspector will notify the person or persons responsible. If corrective action is not taken, the City Engineer shall be authorized to employ a third party contractor to finish the work in a good, workmanlike manner, and any and all costs and expenses for same shall be immediately paid by the applicant to Perry City, or a claim will be made on the applicant's bond, at the City Engineer's option.
6. Final: The applicant and/or his contractor will notify the City Engineer when he has completed his work. He will request a final inspection of the place of excavation. Such final inspection will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector.

15.31.030.12 Backfill Requirements

Material for backfill under paved areas shall be of a select nature. All large broken concrete, peat, decomposed vegetable matter and similar materials obtained from the excavation shall be removed from the site prior to the beginning of backfilling. All backfill shall be placed in layers or lifts consistent with the nature of the soil involved. Compaction shall be obtained by mechanical rollers, tampers or other improved means. Material used for backfilling shall be properly moistened or watered to the correct moisture content to insure proper compaction. Internal vibrating methods of compacting sand fill, or similar methods of compacting sand or similar granular, free-draining materials will be permitted. No jetting will be allowed. No frozen material shall be used for backfill under paved surfaces. The intent of this provision is to insure that the density dry of the backfill under pavements, sidewalks, curbs or other structures shall be not less than that of the surrounding unmolested soil. The required percentage of compaction is: ninety (90%) percent on the public way outside of the road and shoulder; ninety-five (95%) percent on the road and shoulder.

15.31.030.13 Restoration Of Surface Required

Any person making any excavation or tunnel in or under any public street, alley or other public place in the county shall, at his own expense, restore the surface to its same type and depth of pavement as that which is adjoining, including the gravel base material with a three (3") inch minimum compacted asphalt hot plant mix. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. All restoration shall conform to the standards and regulations promulgated by the Public Works Standards and Technical Specifications, and all restorations shall be accomplished within seventy-two hours from the time of the excavation, unless additional time is granted in writing by the City Engineer. If, within the preceding three (3) years, the City has resurfaced the pavement with asphalt, chip seal, or slurry seal, the permittee shall be responsible for resurfacing the entire width of the excavated pavement, from curb to curb. Such resurfacing shall be made with asphalt, chip seal, or slurry seal, as determined by the City Engineer and shall conform to City standards and specification. Also:

1. The City Engineer has authority to suspend operations under excavation permits where, in his judgment, climatic changes would prevent proper restoration of pavement surfaces.
2. Restoration shall be a T-cut, this requires the excavator to restore the road surface a minimum of two (2') feet on each side of a cut.
3. If a cut is more than one quarter (1/4) of the road surface, the excavator must overlay the entire road surface.
4. If the edge of cut is closer than three (3') feet to the existing pavement edge or existing gutter lip, the excavator must road surface to the existing pavement edge or existing gutter lip.

15.31.030.14 Failure Of Comply

If the person doing the actual excavating work or other person for whom the work is being done shall fail to restore the surface to its original condition in accordance with the standards required in this ordinance the director of the public works department may authorize and employ the necessary assistance to restore the surface to its original condition. The public works department shall prepare an itemized statement of all expenses incurred in such restoration and shall mail or hand deliver a copy thereof to the excavator and to the person for whom the work was done and to the bond holder, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when hand delivered or mailed by certified mail, addressed to the last known address of the permittee.

15.13.030.15 Collection Of Expenses By Lawsuit

In the event collection of the City's expenses must be collected in court, the City may sue and receive judgment for all expenses incurred in the restoration of the property, together with reasonable attorney's fees, interest and court costs. The City shall execute upon such judgment in the manner provided by law.

15.31.030.16 Protection Of The Public

The following definitions apply under this ordinance:

1. Signs: Information and warning signs, portable or semi-portable, will be provided at the place of excavation to inform and warn the public. The name of the applicant and/or his contractor shall appear on said signs, together with telephone numbers to permit police patrols, inspectors and others to call responsible individuals in cases of accidents, injuries, mal-function of lights, or similar reasons.
2. Barricades: All barricades, obstructions, and soft shoulder shall be marked in a conspicuous manner.
3. Lights: Adequate warning lights will be used between sunset and sunrise.
4. Detours: Safe and proper detours will be provided and maintained during construction. If detours are necessary notification at least twenty-four (24) hours in advance will be given to the City, who in turn will notify all local agencies using the City Road System. Flagmen: Flagmen will be provided where free flow of traffic is interfered with. On major City roads advance warning signs advising of the presence of flagmen will be posted in both directions. The flagmen will be equipped with plainly visible flags and/or signs with which to signal traffic.
5. Notification of Road Closure: Where it becomes necessary to close a road for any period of time, the applicant and/or his contractor shall notify the City and the City shall notify the City Police, Fire Department, School transportation buses, Postal Department, and other local agencies using the said road. Where feasible, the public shall be notified twenty-four (24) hours in advance of a road to be closed.
6. Maintenance: The place of excavation shall be maintained at all times in such a manner as to cause the least amount of inconvenience to the public.

15.31.040 Private Development

15.31.040.1 Private Development Excavations And Fill
15.31.040.2 Exceptions
15.31.040.3 Construction Permit Required
15.31.040.4 Construction Permit Application
15.31.040.5 Work Without Permit Penalty
15.31.040.6 Manner Of Excavation
15.31.040.7 Inspections And Enforcement
15.31.040.8 Excavation And Grading
15.31.040.9 Fees

15.31.040.1 Private Development Excavations And Fill

The following regarding excavation and fill requirements:

1. Miscellaneous Excavation not directly associated with the construction of a structure or building and exceeding four (4') feet in depth or fill exceeding four (4') feet in height or the removal or import of material exceeding one-thousand (1000) cubic yards per acre on privately owned property shall be governed by the requirements of this chapter.
2. Any person who violates the provisions of this chapter is guilty of a Class B misdemeanor.
3. When work associated with private development occurs within the public right-of-way additional compliance with Section 15.31.030, Section 15.31.030.3 of this Ordinance shall be required.

15.31.040.2 Exceptions

The following are exceptions to this chapter of the Ordinance:

1. Sod: The provisions of this ordinance shall not apply to the removal of sod.
2. Leveling or excavation for Agricultural Purposes: The provisions of this ordinance shall not apply to the leveling of land or the excavation and placement of lines for agricultural purposes such as drain lines, irrigation lines or other related excavations.
3. Excavations for Buildings: The provisions of this ordinance shall not apply to the removal or import of material to accommodate the construction of a structure or building, which has been issued a valid building permit or its related site work, provided the removal of such material does not involve the commercial disposal of material removed or does not involve work within the public way. Excavation or fill for a future building, which has not been issued a valid building permit, shall not be considered an exception and shall otherwise comply with Section 15.31.040.

15.31.040.3 Construction Permit Required

It shall be unlawful for any person to excavate, fill, import, remove or in any manner break up any real property or to make or cause to be made excavations or fills upon, in or under the surface of any real property without complying with the provisions of this chapter and obtaining a permit therefore and paying the fee as required in this chapter. The provisions of this section are but not limited to:

1. Excavation Permits shall not be required prior to work in case of emergency, endangering life or property. In such emergency situations the excavation parties shall contact the City staff on the first working day following the excavation and complete and secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for prior permit requirements.
2. Work by utility companies and contractors in constructing facilities in new or existing subdivisions shall be required to obtain a "Construction Permit", and will be subject to City inspection and compliance with subdivision requirements.
3. All applicable permit requirements as stated in Section 3 of the Public Works Standards and Technical Specifications shall apply to all Construction Permits as they affect the public right-of-way and shall be strictly adhered to.

15.31.040.4 Construction Permit Application

Applications for such permits shall be made to the City staff and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, the person, firm or corporation doing the actual excavation work and the name of the person, firm or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of the city and the state relating to the work to be done. Such application may be made by telephone if there is already on file with the City the following: one (1) signed agreement that the applicant will comply with all ordinances and laws of the City and the state relating to the work to be done. Also:

1. As part of the permit application and prior to the issuing of the permit, adequate drawings shall be submitted to the City Engineer which will clearly indicate the extent of work to be done.
2. These drawings should be prepared to provide sufficient detail to clearly identify the proposed work, location and of a scale which is easily legible. Permit Duration and Time Limits:
3. Completion Period: The completion time will be specified on the permit by the City staff, and in all events shall be completed within thirty (30) days from the issuance date of the permit. Requests for extension of time, together with reasons therefore, will be submitted to the City Engineer for approval.
4. Assignment of Permits: Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit.

Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and all other requirements of the ordinance under said permit.

15.31.040.5 Work Without Permit Penalty

A person found doing excavation work on private property without having obtained a permit, as provided by Section 15.31.040 of this ordinance, shall be required to pay a penalty fee equal to two times the normal permit fee.

15.31.040.6 Manner Of Excavation

It is unlawful to make any excavation or tunnel in any way contrary to or at variances with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground. No portion of an excavation below the surface shall extend beyond the opening at the surface and no injury shall be done to any pipes, cables or conduits in the making of such excavation or tunnels. Notice shall be given to the City Engineer and other persons maintaining such pipes, cables or conduits that are or may be endangered or affected by the making of any excavation or tunnel before such pipes, cables or conduits shall be disturbed.

15.31.040.7 Inspections And Enforcement

The following regarding inspections and enforcement:

1. Enforcement Official to Enforce: The Enforcement Officials, as defined below, are hereby designated and authorized as the officers charged with the enforcement of this chapter of the Ordinance.
2. Powers and Duties of an Enforcement Official: It shall be the duty of an enforcement official to inspect or cause to be inspected at regular intervals or as often as necessary all public way excavations. Where it is determined by an enforcement official that excavation is proceeding as identified in the Construction Permit and is not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance and in performance of this duty may enter actions in the court where necessary, and his failure to do so shall not legalize any violation of such provisions.
3. Penalties: Any person, firm or Corporation who shall violate any of the provisions of this section of the Ordinance shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by the laws of the State of Utah for Class B misdemeanor. In addition, violators of the provisions shall also be subject to a fine of one-thousand ($1,000.00) dollars for each and every day such violation occurs.
4. General: Inspections will be made to insure that all work done under the permit is performed in a good workmanlike manner. Inspections will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector (Enforcement Officials).
5. During Construction: The Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector may enter the private property and make inspections at any time during the construction period.
6. Final: The applicant and/or his contractor will notify the City Engineer when he has completed his work. He will request a final inspection of the place of excavation or fill. Such final inspection will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector.

15.31.040.8 Excavation And Grading

The following regarding excavation and grading:

1. All grading design and earthwork shall comply with currently adopted International
2. Building Code and its appendices.
3. Fill slopes shall be no steeper than two (2) horizontal to one (1) vertical (2:1), or as determined by a soils engineer. All fills shall be compacted to a minimum of ninety (90%) percent of maximum density.
4. Cut slopes shall be no steeper than two (2) horizontal to one (1) vertical (2:1), or as determined by a soils engineer.
5. An Erosion Control and Slope Stabilization plan must be incorporated into projects to minimize soil erosion and to avoid sedimentation into the City storm sewer system. Utah State requirements pertaining to Storm Water Pollution Prevention measures and permits apply.
6. All public streets shall be maintained free of dust and mud caused by grading or construction operations
7. No grading or excavation may occur or excess material placed upon property other than that for which the excavation and grading permit is issued.
8. Restoration of all disturbed property shall be required. Such restoration shall equal or exceed the type, nature, quality and quantity of improvements which existed prior to such disturbance as determined by the City Engineer.
9. Compaction tests are required on all engineered fills and other locations which will be load bearing. All testing shall comply with the specification of Perry City.
10. All soil testing and compaction testing shall be accomplished by an independent certified lab.
11. All building pads at rough grade shall have a one (1%) percent slope towards the street or designed drainage outlet.
12. Soil Conditions: Buildings or structures shall not be situated on soft or unsuitable soils, as determined by the City Engineer, where there is a high water table, a site subject to flooding as noted on the City's Flood Plain Map, or on uncompacted fill.
13. Groundwater: Test holes shall be dug at locations which represent the development site adequately to determine the depth of the groundwater table. A preliminary soils investigation and groundwater report shall be submitted to the City Engineer. If the City Engineer determines that groundwater is a problem, land drains, including a lateral to each lot for footing or foundation drains, shall be installed to City specifications. All land drains must be tied into approved storm drain facilities.
14. Dust shall be controlled during all phases of construction either by means of water truck or other approved method.
15. The minimum finished slope of any designed grade shall be one (1%) percent for soil, asphalt or gravel and one-half (1/2%) percent for concrete.
16. Stockpiles shall be limited in height to one-half (1/2) the allowable building height for the zone in which the stockpile resides. All necessary measures shall be taken to eliminate fugitive dust generated from the stockpile and adjacent hauling routes.

15.31.040.9 Fees

The City shall collect, upon issuing a permit, the following fees, for review of the application and site inspection of the work:

1. Miscellaneous Excavation or Fill: Minimum fees for the agency review and the permit and inspection of all on-site or off-site development related work shall be in accordance with the following schedule:
    a. Import or Export: 1,000 cubic yards or more: $30.00 + $0.02/cubic yard in excess of 1,000 cubic yards.
    b. Excavation or Fill: Exceeding 4' in depth or height: $30.00 + $0.10/linear foot.
2. Subdivision Improvements or Development site work: Minimum fees for the agency review and the permit and inspection of all on-site or off-site development related work (private or public) shall be in accordance with the following schedule:
    a. Plan review: 1% of the estimated costs of the improvements.
    b. Permit & Inspection: 3% of the estimated costs of the improvements.

15.33 Home Occupations

15.33.010 General Provisions
15.33.020 Additional Requirements For Particular Occupations
15.33.030 License And/Or Permit Requirements

15.33.010 General Provisions

15.33.010.1 Intent And Purpose
15.33.010.2 Definition Of Home Occupation
15.33.010.3 Visiting Clientele, As Per Municipal Code Section 43.04.100
15.33.010.4 Variables To Determine Approval

15.33.010.1 Intent And Purpose

The intent and purpose of this ordinance is to protect the residential environment from any intrusion or disruption that can occur with some home occupations and also to provide for the health, safety, and welfare of Perry City residents.

15.33.010.2 Definition Of Home Occupation

Home Occupation means every trade, profession, occupation, business, and/or activity engaged in within a residence with the object of economic profit, benefit, or gain, directly or indirectly and carried on by persons residing on the premises.

15.33.010.3 Visiting Clientele, As Per Municipal Code Section 43.04.100

As per Perry Municipal Code Section 15.05.040(D)(1) (Items (1) and (5)(B)) and Chapter 15.29, Conditional Uses, Home Occupations require a Conditional Use Permit with visiting clientele and do not require a Conditional Use Permit if there is no visiting clientele (but usually require a Design Review Process with no visiting clientele).

15.33.010.4 Variables To Determine Approval

The following are the criteria that determine home occupation:

1. The Home Occupation is incidental and secondary to the use of the property as a residential dwelling.
2. Any activity which produces increased foot and vehicular traffic, parking, sounds, or noises, lighting, vibration, or anything that is uncommon to the residential character of the surrounding area to such a degree so as to constitute a nuisance to the residents of the immediate neighborhood shall be prohibited.
3. The occupation is limited to not more than two persons who actually reside on the premises.
4. The occupation shall not require interior or exterior alterations and shall retain the general character and appearance of a residential dwelling.
5. The occupation shall not be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m. (exceptions to this rule would be Licensed Family Group Care or Residential Certificate Child Care Providers who may need to be available to accommodate different work schedules of their clients.)
6. An occupation that attracts customers, clients or students to the premises for sales or services shall not be allowed in multi-family dwelling units.
7. In order to guarantee that the Home Occupation, once authorized, will not become a nuisance to the neighbors, the appropriate land use authority may impose other reasonable conditions initially and from time to time, to protect the public health, safety, peace and welfare of the residents of the surrounding residential neighborhood.

15.33.020 Additional Requirements For Particular Occupations

15.33.020.1 Professional Office
15.33.020.2 Licensed Family Group Care Provider Definition
15.33.020.3 Residential Certificate Child Care Provider Definition
15.33.020.4 Preschool And Teaching (Music Lessons, Dance, Instruction, Etc.)
15.33.020.5 Construction And/Or Repairs Business

15.33.020.1 Professional Office

No more than six (6) clients per day, one client at a time, or six (6) clients at a time, once per day; or a combination of these. Over six (6) clients per day must meet the requirements of the International Building Code as adopted by Perry City Ordinance.

15.33.020.2 Licensed Family Group Care Provider Definition

A child care provider who cares for nine (9) to sixteen (16) children (unrelated to the licensee) for less than twenty four (24) hours per day, with a regularly scheduled, ongoing enrollment, for direct or indirect compensation, in the provider's home, and who meets all standards and requirements of the State of Utah's rules for licensed family child care. A License from the State of Utah and a Conditional Use Permit from Perry City shall be required.

15.33.020.3 Residential Certificate Child Care Provider Definition

A child care provider who cares for one (1) to eight (8) children in a provider's home, having a regular schedule, ongoing enrollment, for direct or indirect compensation. A Residential Certificate Child Care Provider may not care for more than eight (8) children including the provider's own children under age four years. The provider may also not care for more than two (2) children under age two years, including the provider's own children under age two years.

15.33.020.4 Preschool And Teaching (Music Lessons, Dance, Instruction, Etc.)

No more than six (6) students or clients per day at a time; or six (6) students or clients at a time, once a day; or a combination of these. Preschools fall under the same regulations as child care providers depending on the number of students. Over six (6) students per day must meet the requirements of the International Building Code adopted by Perry City Ordinance.

15.33.020.5 Construction And/Or Repairs Business

No visible storage of supplies or equipment will be allowed. No parking of employee vehicles, Semi Trucks, heavy equipment, or any other disruptive elements will be allowed.

15.33.030 License And/Or Permit Requirements

15.33.030.1 Business License
15.33.030.2 Other Government Agency Approvals
15.33.030.3 Expiration Upon Lapse Of License Or Residency

15.33.030.4 Design Review And/Or Conditional Use
15.33.030.5 Special Exceptions In Non-Residential Zones
15.33.030.6 Inspections

15.33.030.1 Business License

All Home Occupations require a yearly Perry City Business License before conducting business.

15.33.030.2 Other Government Agency Approvals

The appropriate land use authority may require or recommend that the applicant acquire approval of county, state, or federal agencies or obtain specific inspections for Home Occupations as required by law.

15.33.030.3 Expiration Upon Lapse Of License Or Residency

Home Occupation approvals expire upon the lapse of the Perry City Business License and/or required state approval or license or at such time that the applicant is no longer residing at the address for which the approval was granted.

15.33.030.4 Design Review And/Or Conditional Use

Home Occupations may require a Design Review and/or an approval of a Conditional Use Permit by the appropriate land use authority (see Sections 15.33.010.3 and 15.05.040 (D)(1), Item (59)(b).

15.33.030.5 Special Exceptions In Non-Residential Zones

Special exceptions to these requirements may be recommended by the Planning Commission to the Special Use and Appeals Board for Home Occupations in areas outside of residential zones, with a finding that said special exceptions are consistent with the zone of the area.

15.33.030.6 Inspections

The appropriate licensing authority or land use authority can require building inspection and/or fire inspection at the owner's expense as part of the process for issuing a Business License or approving a Conditional Use Permit.

15.34 Regulations For Large Scale Utility Lines, Wireless Telecommunications Towers, Microwave Towers, And Miscellaneous Infrastructure

15.34.010 Definitions And General Provisions
15.34.020 Large Scale Utility Lines Installation
15.34.030 Wireless Telecommunications Towers, Microwave Towers, And Antennae

15.34.010 Definitions And General Provisions

15.34.010.1 Definitions

15.34.010.1 Definitions

As used in this title, the following terms shall have the meanings set forth below:

1. Alternative Tower Structure: Means clock towers, bell steeples, light poles and similar alterative-design mounting structures that camouflage or conceal the presence of antennae or towers.
2. Antenna: Means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
3. Backhaul network: Means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. Existing Structure: Means light poles, power poles, chimneys, billboards, and other similar structures which are placed within the City at the time of adoption of this title, except existing buildings.
5. FAA: Means the Federal Aviation Administration.
6. FCC: Means the Federal Communications Commission.
7. Height: Means, when referring to a tower or other structure, the vertical distance measured from the natural grade level to the highest point of the structure directly above the natural grade when such structure is not located in a platted subdivision. If the structure is located in a platted subdivision, the height shall be the vertical distance measured from the finished grade as shown on the subdivision grading plans or finished grade as shown on the individual lot's grading plans, (whichever is lower), to the highest point of the structure directly above the finished grade. In the event that terrain problems prevent an accurate determination of height, the Building Inspector shall rule as to height and appeal from that decision shall be to the Special Uses and Appeals Board.
8. Large-scale utility line installations: The following are “large-scale utility line installations”:
    a. Electric power transmission lines with a capacity greater than one hundred thirty eight (138) kV or more, or that cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits); or
    b. Gas transmission lines (design pressure of six hundred (600) psi or more, or a pipe diameter of sixteen (16”) inches or more), or that cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits); or
    c. Water transmission facilities with a capacity of fifty (50) second-feet or more, or that cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits), except those providing irrigation water to agricultural operations within Perry City limits; or
    d. Other utility installations such as, but not limited to, fiber optic, oil, telephone, gas, natural gas, cable television/internet service which are sized such that they could provide service to one thousand (1,000) residences or more, or that are being constructed to provide services primarily outside of Perry City and cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits).
9. Pre-existing towers and preexisting antennae: Means any tower or antenna for which a building permit has been properly issued prior to the effective date of this title, including permitted towers or antennae that have not yet been constructed so long as such approval is current and not expired.
10. Perry, Perry City, or City: shall mean the incorporated municipal area of Perry City.
11. Tower: Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term also includes the structure and any support thereto.

15.34.020 Large Scale Utility Lines Installation

15.34.020.1 Intent
15.34.020.2 Scope; Definition Of "Large Scale Utility Line Installations"; Consistency With Franchise And Other Agreements
15.34.020.3 Conditional User Permit And General Plan Amendment Required

15.34.020.1 Intent

The intent of this chapter is to allow the installation of major electric power, natural gas, and water transmission lines, and other public and private utility lines while meeting the responsibility to provide for the health, safety, and general welfare of the public and protect the environment. This intent shall be accomplished, in part, by “Master Planning” all “large scale utility line installations.”

15.34.020.2 Scope; Definition Of "Large Scale Utility Line Installations"; Consistency With Franchise And Other Agreements

Subject to the terms of franchise agreements (and other agreements and contracts) dated prior to October 24, 2008, large-scale utility line installations shall be permitted only when in compliance with this ordinance and the regulations set forth in this chapter, as follows.

1. The definition of “large-scale utility line installations” is set forth in Section 15.34.010.1(8) herein; and
2. Any provision(s) in any franchise agreement (or in any other agreement or contract) dated before October 24, 2008, which are not consistent with this ordinance, shall supercede the inconsistent provision(s) in this ordinance; and
3. All franchise agreements (and other agreements and contracts) dated October 24, 2008 or after, shall comply and be consistent with this ordinance.

15.34.020.3 Conditional User Permit And General Plan Amendment Required

The following regarding conditional use permit/general plan amendment requirements:

1. In all areas of incorporated Perry City, whether zoned or un-zoned, any proposed large-scale utility line installation which will not be located or co-located within one hundred and fifty (150’) feet (for its entire length) of an existing utility line of equivalent size, height and capacity, can be approved as a conditional use only if the General Plan of Perry City has first been amended to identify the proposed location of the large-scale line as an approved public utility corridor; and
2. No such amendment to the Perry City General Plan shall be required if the proposed large-scale utility line installation will be located or co-located within one hundred and fifty (150’) feet of an existing utility line of equivalent size, height and capacity (for its entire length), but shall require a conditional use permit; and
3. The general plan amendment application and conditional use permit application may be processed concurrently, provided the general plan amendment is adopted prior to the conditional use permit being issued. If the applications are processed concurrently and the general plan amendment is not adopted, the conditional use permit fees will not be refunded and any conditional use approvals shall be void; and

4. In the event an amendment to the General Plan of Perry City is required, the amendment shall be accomplished in accordance with the requirements of the Perry Municipal Code and any other requirements imposed by Utah law; and
5. The individual and/or entity seeking such amendment shall be responsible for:
    a. All filing fees; and
    b. The costs of consultants hired by Perry City to review and manage the General Plan amendment process; and
6. In the event an amendment to the General Plan of Perry City is not required, the individual and/or entity seeking approval of the proposed large-scale utility line shall conform to the Perry Municipal Code requirements for approval of a conditional use permit.

15.34.030 Wireless Telecommunications Towers, Microwave Towers, And Antennae

15.34.030.1 Intent
15.34.030.2 Applicability
15.34.030.3 General Requirements
15.34.030.4 Permitted Uses
15.34.030.5 Conditional Use Permits
15.34.030.6 Minimum Setbacks And Separation
15.34.030.7 Buildings Or Other Equipment Storage
15.34.030.8 Co-Location
15.34.030.9 Removal Of Abandoned Antennae And Towers
15.34.030.10 Nonconforming Uses

15.34.030.1 Intent

The intent of this chapter is to establish general guidelines for the siting of wireless communications towers and antennae. The goals of this chapter are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennae; and
2. Encourage the location of towers in non-residential areas; and
3. Minimize the total number of towers throughout the community; and
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; and
5. Encourage users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; and
6. Encourage users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques; and
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; and
8. Consider the effect of communication towers on public health and safety; and
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, Perry City shall give due consideration to the Perry City General Plan, the Perry Municipal Code, including land use ordinances, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennae.

15.34.030.2 Applicability

The following regarding applicability:

1. New Towers and Antennae. All new towers or antennae in Perry City shall be subject to these regulations.
2. The following are exceptions.
3. Amateur Radio Station Operators/Receive Only Antennae. This chapter shall not govern any tower, or the installation of any antenna, that is under the maximum building height of the zoning district in which such structure is located and which is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only operations (including “ham” radios); and
4. Pre-existing Towers or Antennae. Legally established pre-existing towers and preexisting antennae shall not be required to meet the requirements of this chapter, other than the requirements of Sections 15.34.030.3 (6, 7, and 8); and
5. AM Array. For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

15.34.030.3 General Requirements

The following regarding general requirements:

1. Location. Whenever possible the preferred location for any tower or wireless communication devise shall be upon property owned by the City; and
2. Principal or Accessory Use. Antennae and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot; and
3. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennae or towers may be located on leased parcels within such lot; and
4. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Community Development Director an inventory of existing towers, antennae, or sites approved for towers or antennae, that are either within the jurisdiction of Perry City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build-out plan of its facilities for all other wireless communications facilities within the city. The Community Development Director may share such information with other applicants applying for administrative approvals or conditional use permits under this chapter or with other organizations seeking to locate antennae within the jurisdiction of Perry City, provided, however that the Community Development Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable; and
5. Aesthetics. Towers and antennae shall meet the following requirements:
    a. Towers, 200 feet or greater in height, shall be subject to any applicable standards of the FAA. Such regulations include, but not limited to, those specified in FAA Advisory Circulars AC 70/7460-1 H "Obstruction Marketing & Lighting" and AC 150/5345-43-D "Specifications for Obstruction Lighting Equipment." Towers, less than 200 feet in height, shall be painted a neutral color so as to reduce visual obtrusiveness; and
    b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings; and
    c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible; and
6. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views; and

7. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, then the owners of the towers and antennae governed by this chapter shall bring such towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense; and
8. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, Perry City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards, unless a longer time is reasonably necessary. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense; and
9. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Perry City irrespective of municipal and county jurisdictional boundaries; and
10. Not Essential Services. Towers and antennae shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities; and
11. Franchises. Owners and/or operators of towers or antennae shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in Perry City have been obtained and shall file a copy of all required franchises with the Community Development Director; and
12. Public Hearing. The planning commission may call a specific public hearing on any application after adequate notice, if it is deemed in the public interest. The planning commission shall take action on the application by the second meeting of the planning commission after the application filing date. A record of the hearing together with a recommendation for the denial or issuance of the conditional use permit with conditions of approval or reasons for denial shall be forwarded to the City Council within thirty (30) days of the public hearing; and
13. Signs. No signs shall be allowed on an antenna or tower; and
14. Buildings and Support Equipment. Buildings and support equipment associated with antennae or towers shall comply with the requirements of Section 15.34.030.8; and
15. Co-location and Multiple Antenna/Tower Plan. Perry City encourages tower and antenna users to submit a single application for approval of multiple towers and/or antenna sites' and to submit applications which utilize co-location with an existing wireless telecommunications provider. Applications for approval of multiple sites or for co-location with an existing provider shall be given priority in the review process; and
16. Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, which shall be constructed of cement block or masonry, and shall be equipped with an appropriate anti-climbing device; and
17. Landscaping. The following requirements shall govern the landscaping surrounding towers.

    a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound; and
    b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived; and
    c. Existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible.

15.34.030.4 Permitted Uses

The following regarding permitted uses:

1. General. The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a conditional use permit; and
2. Permitted Uses. The following uses are specifically permitted:

    a. Antennae or towers located on property owned, leased, or otherwise controlled by Perry City ("City land") provided a license or lease authorizing such antenna or tower has been approved by Perry City; and
    b. No such license or lease on City land shall be issued for an antenna or tower that is to be located within three hundred (300) feet of any residentially zoned property within Perry City limits, until a public hearing has been held at a regular or special Planning Commission meeting.

15.34.030.5 Conditional Use Permits

The following regarding conditional uses:

1. When a Conditional Use Permit is required. If the tower or antenna is not a permitted use under Section 15.34.030.4 of this chapter, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts; and
2. General. The following provisions shall govern the issuance of conditional use permits for towers or antennae by the Planning Commission (and the Special Uses and Appeals Board):

    a. Applications for conditional use permits under this Section shall be subject to the procedures and requirements of the land use ordinances and other applicable ordinances, except as modified in this Section; and
    b. In granting a conditional use permit, the Planning Commission may impose conditions to the extent such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties; and
    c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by an Utah licensed professional engineer; and
    d. An applicant for a conditional use permit shall submit the information described in this section and a non-refundable fee established pursuant to the zoning ordinance, applicable fee schedule, or other applicable ordinance; and
    e. A conditional use permit issued under this Chapter shall be conditioned upon verification, by the City Engineer (or designee), that such tower structure is structurally sound. Such verification shall be received by the applicant prior to submission; and

3. Towers.

    a. Information required. In addition to any information required for applications for conditional use permits pursuant the zoning ordinance, applicable fee schedule, or other applicable ordinance, applicants for a conditional use permit for a tower shall submit the following information:

        i. A Plan of Development as required in the land use ordinances, plus zoning and General Plan classification of the site and all properties within the applicable separation distances set forth in Section 15.34.030.6(2), adjacent roadways, proposed means of access, elevation drawings of the proposed tower and any other structures, and other information deemed by the Community Development Director to be necessary to assess compliance with this chapter; and
        ii. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties; and
        iii. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 15.34.030.3(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known; and
        iv. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination; and
        v. A description of compliance with Sections 15.34.030.3(3-17), 15.34.030.6(1), 15.34.030.6(2) and all applicable federal, state or local laws; and
        vi. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennae for future users; and

vii. Identification of the entities providing the Backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality; and
viii. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower; and
ix. A description of the feasible alternative location(s) of future towers or antennae within Perry City the based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected; and
x. A statement of compliance with Federal Communications Commission (FCC) Radio Frequency (RF) exposure standards; and

b. Noise. No permit shall be issued for any facility which generates a noise level greater than fifty decibels (50 db) as measured at the edge of the property upon which such facility is sited; and
c. Factors Considered in Granting Conditional Use Permits for Towers. In addition to any standards for consideration of conditional use permit applications pursuant to the zoning ordinance, applicable fee schedule, or other applicable ordinance, the Planning Commission shall consider the following factors in determining whether to issue a conditional use permit:

i. Height of the proposed tower; and
ii. Proximity of the tower to residential structures and residentially zoned district boundaries; and
iii. Nature of uses on adjacent and nearby properties; and
iv. Surrounding topography; and
v. Surrounding tree coverage and foliage; and
vi. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
vii. Proposed ingress and egress; and
viii. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 15.34.030.5(2) of this chapter; and

d. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

i. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements; and
ii. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements; and
iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment\; and
iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna; and
v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable; and
vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable; and
vii. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro-cell network using multiple low-powered transmitters/receivers attached to a wire-line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

15.34.030.6 Minimum Setbacks And Separation

The following regarding minimum setbacks and separation:

1. Setbacks. The following setback requirements shall apply to all towers:
2. Towers must be set back a distance approved by the Planning Commission, after considering health and safety concerns and concerns of adjacent landowners; and
3. Accessory buildings must satisfy the minimum zoning district setback requirements; and
4. Separation. The following separation requirements shall apply to all towers and antennae:
5. Separation from off-site uses/designated areas.
6. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified herein; and
7. Separation requirements for towers shall comply with the minimum standards established herein; and
8. The separation is measured from base of tower to closest building setback line; and
9. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower; and
10. No encroachment can be built within the separation/setback area after any tower is erected.
11. Chain link fences (and/or other fences approved by the Planning Commission) may be placed around a tower or related structures or buildings.

15.34.030.7 Buildings Or Other Equipment Storage

The Planning Commission may require, during the conditional use process, conditions regarding buildings or other equipment storage, including antennae mounted on structures or rooftops and/or other buildings, structures, or cabinets related thereto.

15.34.030.8 Co-Location

The following regarding co-location:

1. Good Faith. Applicants and permittees shall cooperate and exercise good faith in co-locating wireless telecommunications facilities on the same support structures or site, if the City so requests. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an excuse to the duty of good faith; and
2. Third Party Technical Review. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at the applicant's expense. The City may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised; and
3. Exceptions. No co-location may be required where the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing wireless telecommunications facilities or failure of the existing wireless telecommunications facilities to meet federal standards for emissions; and
4. Violation; penalty. Failure to comply with co-location requirements when feasible may result in denial of a permit request or revocation of an existing permit.

15.34.030.9 Removal Of Abandoned Antennae And Towers

Any antenna or tower that is not operated for a continuous period of ninety (90) days shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from Perry City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day period shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower for the prescribed period.

15.34.030.10 Nonconforming Uses

The following regarding Nonconforming Uses/ Noncomplying Structures:

1. Not Expansion of Nonconforming Uses/ Noncomplying Structures. Towers that are constructed, and antennae that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure; and
2. Pre-existing towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. Construction of additional antennae or other equipment on a preexisting tower shall comply with the requirements of this chapter; and
3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennae. Notwithstanding other provisions of this chapter, bona fide nonconforming towers or antennae that are damaged or destroyed may be rebuilt without having to first obtain a conditional use permit and without having to meet the separation requirements specified in Sections 15.34.030.6(1) and 15.34.030.6(2). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within ninety (90) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 15.34.030.9.
4. See also Perry Municipal Code Chapter 15.35 (Nonconforming Uses/ Noncomplying Structures).

15.35 Nonconforming Uses

15.35.010 Existing Nonconforming Uses And Noncomplying Structures
15.35.020 Additions, Enlargements, Or Moving
15.35.030 Lapse And/Or Continuation Of Use And Miscellaneous Provisions

15.35.010 Existing Nonconforming Uses And Noncomplying Structures

15.35.010.1 Maintenance Permitted
15.35.010.2 Repairs And Alterations
15.35.010.3 Certificate Of Existence

15.35.010.1 Maintenance Permitted

A nonconforming use or noncomplying structure, which was legal at the time, may be maintained and operated as long as there is no change in the use, building, or structure.

15.35.010.2 Repairs And Alterations

General repairs and necessary structural alterations for safety purposes shall be allowed to be made to a nonconforming building or noncomplying use.

15.35.010.3 Certificate Of Existence

The Community Development Department may grant a Certificate of Existence for a nonconforming use and/or a noncomplying structure upon proof of existence and mailing notice (at applicant's expense) to immediately adjacent landowners and posting on the City's website, with a two week waiting period after mailing and posting (thus allowing for mail delivery and the 10-day appeal period as per Sections 15.05.040(E)(2) and 15.05.040(E)(3)).

15.35.020 Additions, Enlargements, Or Moving

15.35.020.1 Requirements For Amending, Modifying, And/Or Enlarging
15.35.020.2 Public Hearing And Finding
15.35.020.3 Additions Or Extensions To Residential Noncomplying Structures
15.35.020.4 Alteration Where Parking Is Insufficient
15.35.020.5 Restoration Of Damaged Buildings
15.35.020.6 Change Of Use
15.35.020.7 Expansion Of Use Permitted

15.35.020.1 Requirements For Amending, Modifying, And/Or Enlarging

A building or structure occupied by a nonconforming use or a building or structure that is noncomplying as to height, area or yard requirements shall not be added to or enlarged in any manner or moved to another location on the lot it occupies except as provided in Sections 15.35.020.2 and 15.35.020.3 below.

15.35.020.2 Public Hearing And Finding

A permit may be authorized by the Special Uses and Appeals Board (as per Section 15.05.040(D)(1), item (5)(C)) to enlarge or move a building or structure, as stated above, provided that said board, after holding a public hearing to allow adjacent landowners the right of input concerning a change to a nonconforming use, shall make the following findings:

1. The addition, enlargement of or moving of the building will be in harmony with one or more of the purposes of this ordinance.
2. The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying structure.

15.35.020.3 Additions Or Extensions To Residential Noncomplying Structures

Additions or extensions may be made to a residential building which is noncomplying as to height, area, or yard requirements providing such additions conform to all requirements of the zoning district in which it is located and do not increase the number of dwelling units.

15.35.020.4 Alteration Where Parking Is Insufficient

A building or structure lacking sufficient number of vehicle parking spaces in connection therewith as required by Perry Municipal Code, Chapter 15.19; Streets, Trees, Parkways, may be altered or enlarged after a permit has been issued by the Special Uses and Appeals Board (as per Section 15.05.040(D)(1), item (5)(C)) as previously noted provided additional vehicle parking spaces are supplied to bring the use into compliance with the Perry Municipal Code, Chapter 15.19; Streets, Trees, Parkways. Approval for the alteration or enlargement must follow the Design Review process.

15.35.020.5 Restoration Of Damaged Buildings

A noncomplying building or structure or a building or structure occupied by a nonconforming use that is damaged or destroyed by fire, flood, wind, earthquake or other natural calamity or act of God or public enemy may be restored and the occupancy or use of said building, structure or part thereof, which existed at the time of such damage or destruction, may be continued, resumed, or restored, provided that such restoration is started within a period of one (1) year after destruction and is worked on continually until completion.

15.35.020.6 Change Of Use

The nonconforming use of a building or structure may not be changed to another nonconforming use but may be changed to a conforming use or as allowed by this Title. If a change to a conforming use is made, the use shall not thereafter be changed back to a nonconforming use.

15.35.020.7 Expansion Of Use Permitted

A nonconforming use may be extended, with the approval of the Special Uses and Appeals Board (see Section 15.05.040(D)(1), item (5)(C)), to include the entire floor area of an existing building in which such nonconforming use is conducted at the time the use became nonconforming.

15.35.030 Lapse And/Or Continuation Of Use And Miscellaneous Provisions

15.35.030.1 One-Year Vacancy
15.35.030.2 Continuation Of Use

15.35.030.3 Occupation Withing One Year After Use Became Nonconforming
15.35.030.4 Nonconforming Use Of Land
15.35.030.5 Yearly Fluctuation Of Inventory

15.35.030.1 One-Year Vacancy

A building or structure or portion thereof occupied by a nonconforming use, that is or hereinafter becomes vacant and/or remains unoccupied by a nonconforming use for a continuous period of one (1) year, shall not thereafter be allowed to resume. Re-occupancy shall be allowed for uses that are conforming to the regulations of the zoning district in which the building or use is located.

15.35.030.2 Continuation Of Use

The occupancy of a building or structure by a nonconforming use, existing at the time this ordinance became effective, may be continued.

15.35.030.3 Occupation Withing One Year After Use Became Nonconforming

A vacant building or structure may be occupied by a use for which the building or structure was designed and/or intended if occupied within a period of one (1) year after the use became nonconforming.

15.35.030.4 Nonconforming Use Of Land

The nonconforming use of land, existing at the time this ordinance became effective may be continued, provided no such nonconforming use of land shall be expanded in any way or extended either on the same or adjoining property and provided if such nonconforming use of land, or any portion thereof, is abandoned and/or changed for a continuous period of one (1) year, any future use of such land shall be required to be in conformity with the requirements of the zoning district where the land is located.

15.35.030.5 Yearly Fluctuation Of Inventory

Businesses or uses that experience fluctuations of inventory on a periodic or yearly basis for agricultural and/or other purposes will not have these considered as a change of use or cause the use to become nonconforming.

16 Temporary Ordinances

16.01 Temporary Emergency Exceptions: Temporary Use And/or Obstruction Of Right-of-Way
16.03 Temporary Noise And Gravel Pit Provisions
16.05 Temporary Allowance For An Existing Sign At Approx 2645 S On Highway 89

16.01 Temporary Emergency Exceptions: Temporary Use And/or Obstruction Of Right-of-Way

1. Temporary Emergency Exceptions (to the land use ordinances) and Permits to Temporarily Use or Obstruct the Public Right-of-way may be granted by the City Council, in accordance with Perry Municipal Code or Chapter 10.03 herein.
2. Temporary Emergency Exceptions (to the land use ordinances) may be granted by the City Council, in accordance with Perry Municipal Code. Such exceptions may be granted in unusual emergency, disaster, or “act of God” situations. Permits to Temporarily Use or Obstruct the Public Right-of-way may also be granted by the City Council. Such permits may be granted for public parades, public events, and other special circumstances.

16.03 Temporary Noise And Gravel Pit Provisions

1. That for the special Utah Department of Transportation project identified above, commencing on or about March 25, 2011, for trucks and vehicles operated by Geneva Rock or its affiliates or sub-contractors, as well as for trucks and vehicles otherwise authorized by the State of Utah regarding said special project:
    a. Regular noise ordinance provisions (Perry Municipal Code Chapter 8.03) and gravel pit ordinance provisions (PMC Section 15.31.020), as well as all other related and applicable provisions are hereby waived during the next 45 days;
    b. This 45 day waiver includes 3:30 a.m. to 9:30 a.m. each day, and all other pertinent and applicable times during said 45 day time period.

16.05 Temporary Allowance For An Existing Sign At Approx 2645 S On Highway 89

1. That for the historical sign located on the west side of Highway 89 at approximately 2645 South in Perry:
    a. The sign shall be allowed to continue exist during the 90 day time period referenced herein;
    b. The sign may be modified without enlarging the size of the sign during said 90 day time period.

Benchmarks / Statistics

COVER: 2.8584523 second(s).
TOC: 3.2076315 second(s).
FIRST CHAIN: 0.0567451 second(s).
CONTENT: 47.7702175 second(s).
SECOND CHAIN: 0.6787502 second(s).
FOOTER: 0.1204287 second(s).
TOTAL: 54.6922253 second(s).