

ORDINANCE NO. 15-20

CODIFICATION OF THE MUNICIPAL CODE

AN ORDINANCE OF SMITHFIELD CITY, UTAH, CODIFYING THE SMITHFIELD CITY MUNICIPAL CODE, MAKING TECHNICAL CHANGES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, in accordance with Utah Code Annotated 10-3-707, the City is "empowered to revise, codify and compile from time to time and to publish in book, pamphlet or loose-leaf form all Ordinances of the municipality of a general and permanent character";

WHEREAS, the City retained the services of Municipal Code Online, Inc. to provide codification services and online support for its municipal code;

WHEREAS, the City desires to codify its municipal code along with the applicable maps and attachments provided herein;

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

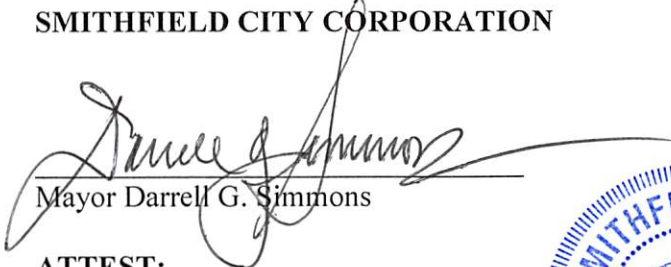
SECTION 1. Codification. All Ordinances of Smithfield City, Utah prior to the date of this Ordinance are hereby codified, subsumed and replaced with the *Smithfield City Municipal Code* adopted herein.

SECTION 2. Adoption. The Smithfield City Municipal Code attached hereto as Exhibit "A" along with and including all city maps and other attached documents is hereby codified and adopted in its entirety as provided in Exhibit "A" and incorporated herein by this reference.

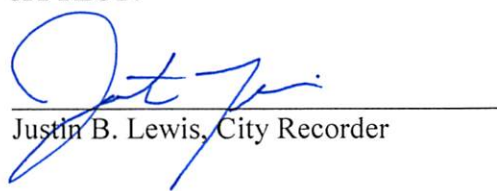
SECTION 3. Effective Date. This Ordinance shall become effective immediately upon posting or publication.

APPROVED by the Smithfield City Council this 11th day of November, 2015.

SMITHFIELD CITY CORPORATION


Mayor Darrell G. Simmons

ATTEST:


Justin B. Lewis, City Recorder





Smithfield City

Cache County, Utah

Municipal Code

Compiled: Wednesday, November 11, 2015

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Preface

The Smithfield Municipal Code of Smithfield, Utah, was initially published by Sterling Codifiers. The Code was maintained and updated through Ordinance No. 14-05, passed January 14, 2015.

In September 2015, codification and administration of the Municipal Code began in-house under the direction of the City Recorder Justin Lewis and City Manager Craig Giles, and with the assistance of Municipal Code Online, Inc. This Municipal Code shall be cited as the Smithfield Municipal Code or “SMC” as an acronym.

SMC is current up to September 2015.

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 identifies the specific legal sources of a section as may be provided in footnotes.

The Municipal Code is supplemented from time to time with amendments and additions made by Smithfield City. 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 ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE CITY COUNCIL THAT HAS YET TO BE UPDATED ONLINE. IN THE EVENT OF CONFLICT BETWEEN THE MUNICIPAL CODE AND A WRITTEN ORDINANCE, THE ORDINANCE TYPICALLY GOVERNS. ALSO, THE MUNICIPAL CODE MAY NOT REFLECT RULES OR OTHER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING TECHNICAL SPECIFICATIONS. FOR MORE INFORMATION CONTACT JUSTIN LEWIS, CITY RECORDER, AT 435-792-7990 OR jlewis@smithfieldcity.org

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1.01.070 EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS

1.01.080 CONSTITUTIONALITY

1.01.090 REFERENCES TO PRIOR CODE

1.01.100 EFFECTIVE DATE

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The "Smithfield municipal code", as compiled, edited and published by Book Publishing Company, Seattle, Washington, is adopted as the ordinances of Smithfield City, Cache County, state of Utah.

1.01.020 TITLE; CITATION; REFERENCE

This code shall be known as the *SMITHFIELD MUNICIPAL CODE* and it shall be sufficient to refer to said code as the Smithfield municipal code in any prosecution for the violation of any provisions thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part of or portion thereof as an addition to, amendment to, correction or repeal of the Smithfield municipal code and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.

1.01.030 REFERENCE APPLIES TO ALL AMENDMENTS

Whenever a reference is made to this code as the Smithfield municipal code, or to any portion thereof, or to any ordinance of the city of Smithfield, Utah, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now and hereafter made.

1.01.040 TITLE, CHAPTER AND SECTION HEADINGS

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter or section hereof.

1.01.050 REFERENCE TO A SPECIFIC ORDINANCE

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with, ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

1.01.060 ORDINANCES PASSED PRIOR TO ADOPTION OF THE CODE

The last ordinance included in this code was ordinance 95-10 passed April 26, 1995, and zoning ordinance 1-194 passed April 16, 1995. The following ordinances, passed subsequent to ordinance 95-10 and 1-194, but prior to adoption of this code, are adopted and made a part of this code: 95-10 passed June 14, 1995, 95-11 passed June 18, 1995, 95-12 passed August 23, 1995; and zoning ordinance 1-195 passed May 10, 1995, 1-198 passed August 23, 1995, 1-199 passed September 27, 1995, 1-200 passed October 11, 1995, and 1-201 passed December 13, 1995.

1.01.070 EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS

The adoption of this code does not affect prosecutions for ordinance violations committed prior to the effective date of this code, does not waive any fee or penalty due and unpaid on the effective date of this code, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance.

1.01.080 CONSTITUTIONALITY

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

1.01.090 REFERENCES TO PRIOR CODE

References in city forms, documents and regulations to the chapters and sections of the former city code, "Code Of Revised Ordinances Of Smithfield", shall be construed to apply to the corresponding provisions contained within this code.

1.01.100 EFFECTIVE DATE

This ordinance and the code adopted hereby shall become effective on December 21, 1995, after posting of three (3) copies of this adopting ordinance at three (3) public places within the corporation limits of Smithfield.

1.04 CITY CODE GENERAL PROVISIONS

1.04.010 REPEAL OF EXISTING ORDINANCES

1.04.020 EFFECT OF REPEALING ORDINANCES

1.04.030 DEFINITIONS AND RULES OF CONSTRUCTION

1.04.040 SEVERABILITY

1.04.050 NUMBERING OF ORDINANCES

1.04.060 STATUTES OR CODES INCLUDED AND EXCLUDED

1.04.070 SEAL ADOPTION

1.04.010 REPEAL OF EXISTING ORDINANCES

- A. So far as the provisions of these revised ordinances are the same as those of previously existing ordinances, they shall be construed as continuations thereof. All ordinances and resolutions of this municipality heretofore in force, except such as are of a private, local or temporary nature including franchises, grants, dedications, bond issues, elections and special levies for local assessments, are repealed except as otherwise provided in SMC 2 of this section.
- B. Those ordinances of this municipality which are of a general nature which are not repealed and which the recorder/clerk is authorized and directed to insert in the appropriate place in this code and which shall be deemed part of this code are:
 - 1. None.
- C. The fees or charges established by the ordinances repealed by this code shall remain in effect until subsequently changed by ordinance or resolution, except that the fees and charges established by this code shall prevail in the event of a conflict.

1.04.020 EFFECT OF REPEALING ORDINANCES

The repeal of the ordinances as provided in SMC 1.04.010 of this chapter, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

1.04.030 DEFINITIONS AND RULES OF CONSTRUCTION

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

- A. **General Rule:** All words and phrases shall be construed and understood according to the common use and understanding of the language. The technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
- B. **Gender; Singular And Plural:** Unless otherwise indicated from the context of the ordinance, all words used in the singular shall include the plural and all words used in the masculine gender shall extend to and apply to the feminine gender.
- C. **Tenses:** The use of any verb in the present tense shall include the future and past tense when applicable.
- D. **Time; How Computed:** The time within which an act is to be done as provided in any ordinance or in any resolution or order of this municipality, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a holiday, then the last day shall be the next day following such Sunday or holiday. When time is expressed in hours, Sunday and all holidays shall be excluded.
- E. **Definitions:**

BUSINESS: Means and includes any trade, profession, calling, activity, operation or enterprise for which a license is required by any ordinance of this municipality.

GOVERNING BODY: The city council of this municipality.

HIGHWAY AND ROAD: Includes public bridges, and may be equivalent to the words "county way", "county road", "common road", and "state road".

LICENSE: Means and includes any certificate or license issued by this municipality.

LOCATION: Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of this municipality.

MUNICIPALITY: The city of Smithfield.

OFFENSE: Any act, action or conduct prohibited by this code or the failure to perform any acts required in this code.

OFFICER OR OFFICIAL: Any elected or appointed person employed by the municipality unless the context clearly indicates otherwise.

ORDER: A directive or decision given by an official in the administration of or interpretation of the zoning ordinance.

OWNER: As applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or lessee of a whole or part of such building or land.

PERSON: Means and includes all individuals both male and female, any governmental agency, corporation, partnership, association, company, and every other form of organization whether formed voluntarily or involuntarily.

PROPERTY: Means and includes both real and personal property.

REASONABLE TIME: In all cases where any ordinance requires an act to be done in a reasonable time or that reasonable notice be given, such reasonable time for

such act or notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

RECORDER/CLERK: The individual appointed to act as the recorder of the municipality.

STREET: Means and includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.

TENANT OR OCCUPANT: As applied to a building or land, applies to any person who occupies all or any part of such building or land either alone or with others.

WEEK: Any seven (7) day period.

1.04.040 SEVERABILITY

It is declared to be the intention of the governing body that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or without effect by any final judgment or decree of a court of competent jurisdiction, such judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

1.04.050 NUMBERING OF ORDINANCES

- A. The recorder/clerk shall, in so far as possible, assign all ordinances of a general nature adopted after these revised ordinances a number which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.
- B. The recorder/clerk shall keep all ordinances of a local, private or temporary nature, include franchises, grants, dedications, bond issues and tax levies, in a separate book of "special ordinances" properly indexed and organized according to date adopted. The first number of such an ordinance shall be the last two (2) digits of the year the ordinance is adopted, followed by a dash which is followed by a number which shall be a sequential, ascending number indicating the order in which such special ordinance was adopted during the year.
- C. Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

1.04.060 STATUTES OR CODES INCLUDED AND EXCLUDED

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

1.04.070 SEAL ADOPTION

The official seal to be used by the city of Smithfield when required in the execution, authentication, certification or endorsement of bonds, obligations, or other legal documents shall be held by the city recorder.

1.08 ADMINISTRATIVE APPEALS

1.08.010 REQUEST FOR HEARING

1.08.020 FORM OF REQUEST

1.08.030 PROCEDURE

1.08.040 NOT ADDITIONAL REMEDY

1.08.010 REQUEST FOR HEARING

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

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

1.08.020 FORM OF REQUEST

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

1.08.030 PROCEDURE

- A. Following receipt of a request for hearing, the governing body shall inform the person requesting a hearing of the time and place the hearing is to be held.
- B. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of this contention.
- C. The governing body shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the governing body.

1.08.040 NOT ADDITIONAL REMEDY

This chapter shall not be constructed so as to afford any aggrieved party more than one hearing before the governing body nor shall the hearing provided in this chapter apply

to any criminal complaint or proceeding.

1.12 ANNEXATION

1.12.010 POLICY

1.12.020 ANNEXATION POLICY PLAN

1.12.030 APPLICATION FEE

1.12.040 PLANNING COMMISSION REVIEW

1.12.010 POLICY

All annexations to the corporate boundaries of Smithfield City shall be made in accordance with the latest requirements for annexations as outlined in the Utah Code Annotated (1953 as amended) which are incorporated in this chapter by reference.

1.12.020 ANNEXATION POLICY PLAN

An annexation policy plan, developed in accordance with the provisions of section 10-2-401.5 Utah Code Annotated (1953 as amended) has been adopted and shall be used as a guide in making decisions relative to all annexation requests.

1.12.030 APPLICATION FEE

An application fee, as established in the most current version of the adopted prevailing fee schedule, shall be paid at the time the application for annexation is filed with the city recorder.

1.12.040 PLANNING COMMISSION REVIEW

Following acceptance of a petition for annexation, but prior to final action on the annexation by the city council, applications for annexation including the petition, an accurate recordable map prepared by a licensed land surveyor of the area proposed for annexation, and any support documentation required shall be submitted for review to the planning commission. The planning commission shall review the annexation request for compliance with the adopted annexation policy plan and general plan. Following their review the planning commission shall recommend to the city council to either approve, disapprove, or approve the application with conditions. Consideration of an annexation request by the planning commission shall not require a public hearing.

1.16 GENERAL PENALTY

1.16.010 INCORPORATION OF STATE CODE

1.16.020 SENTENCING IN ACCORDANCE WITH CHAPTER

1.16.030 DESIGNATION OF OFFENSES

1.16.040 MISDEMEANORS CLASSIFIED

1.16.050 INFRACTIONS

1.16.060 SENTENCES OR COMBINATIONS OF SENTENCES ALLOWED; CIVIL PENALTIES

1.16.070 MISDEMEANOR CONVICTION; TERM OF IMPRISONMENT

1.16.080 INFRACTION CONVICTION; FINE, FORFEITURE AND DISQUALIFICATIONS

1.16.090 FINES OF PERSONS

1.16.100 FINES OF CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS OR GOVERNMENTAL INSTRUMENTALITIES

1.16.110 CONTINUING VIOLATION

1.16.010 INCORPORATION OF STATE CODE

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

1.16.020 SENTENCING IN ACCORDANCE WITH CHAPTER

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

1.16.030 DESIGNATION OF OFFENSES

Offenses are designated as misdemeanors or infractions.

1.16.040 MISDEMEANORS CLASSIFIED

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

1.16.050 INFRACTIONS

- A. Infractions are not classified.

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

1.16.060 SENTENCES OR COMBINATIONS OF SENTENCES ALLOWED; CIVIL PENALTIES

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

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

1.16.070 MISDEMEANOR CONVICTION; TERM OF IMPRISONMENT

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

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

1.16.080 INFRACTION CONVICTION; FINE, FORFEITURE AND DISQUALIFICATIONS

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

1.16.090 FINES OF PERSONS

- A. A person who has been convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed one thousand dollars (\$1,000.00) when the conviction is of a class B misdemeanor and not to exceed seven hundred fifty dollars (\$750.00) when the conviction is of a class C misdemeanor or infraction.
- B. Any ordinance, chapter or other enactment previously adopted by the city which provides for a maximum fine or penalty other than as set forth in SMC A of this section is repealed and the provisions of SMC A of this section shall in all such cases apply.

1.16.100 FINES OF CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS OR GOVERNMENTAL INSTRUMENTALITIES

- A. The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code or the ordinances of the municipality or for any offense defined outside of this code over which this municipality has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount, fixed by the court, not exceeding one thousand dollars (\$1,000.00), whether the conviction is for a class B misdemeanor, a class C misdemeanor or for an infraction.
- B. Any ordinance, chapter or other enactment previously adopted by the city which provides for a maximum fine or penalty other than as set forth in SMC A of this section is repealed and the provisions of SMC A of this section shall in all such cases apply.

1.16.110 CONTINUING VIOLATION

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

2 ADMINISTRATION AND PERSONNEL

2.04 SIX MEMBER COUNCIL FORM OF MUNICIPAL GOVERNMENT

2.08 CITY COUNCIL

2.12 MAYOR

2.16 CITY OFFICERS GENERALLY

2.18 OPEN AND PUBLIC MEETINGS

2.20 BUILDING OFFICIAL

2.24 ELECTIONS

2.28 POLICE DEPARTMENT

2.32 FIRE DEPARTMENT

2.36 PLANNING COMMISSION

2.40 BOARD OF ADJUSTMENT

2.44 BOARD OF HEALTH

2.48 REDEVELOPMENT AGENCY

2.52 CONSTITUTIONAL TAKING REVIEW

2.56 PUBLIC RECORDS

2.04 SIX MEMBER COUNCIL FORM OF MUNICIPAL GOVERNMENT

2.04.010 ESTABLISHED

2.04.010 ESTABLISHED

- A. **Established:** There is established a six (6) member council form of municipal government for Smithfield, Cache County, Utah.
- B. **Governing Body:** The powers of the municipal government are vested in a council consisting of six (6) members, one of which is the mayor.
- C. **Powers And Duties:** The governing body shall exercise the legislative and executive powers of Smithfield, except as may be legally delegated to the mayor, by state or city law, and may perform such other functions as may be specifically provided or necessarily implied by law. It is the responsibility of the governing body to adopt, ordain, and resolve by majority vote of a quorum of the governing body, all laws, ordinances, resolutions, policies and procedures of Smithfield, except as may be legally delegated to another city body or official.

2.08 CITY COUNCIL

2.08.010 GOVERNING BODY

2.08.015 TIME OF REGULAR COUNCIL MEETING

2.08.020 QUORUM

2.08.030 VOTING

2.08.040 AGENDA

2.08.050 ORDER OF BUSINESS

2.08.060 RECORD OF PROCEEDINGS

2.08.010 GOVERNING BODY

The city council shall constitute the legislative and governing body of the city and as such shall have, exercise and discharge all of the rights, powers, privileges and authority conferred by law upon the city council and shall perform all duties required of them by law, 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.

The city council may:

- A. Adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct and business of the city;
- B. Prescribe by resolution additional duties, powers, and responsibilities for any elected or appointed municipal official, unless prohibited by statute;
- C. Require by ordinance that any or all appointed officers reside in the city; and
- D. Perform any function provided for by statute or necessarily implied by law.

2.08.015 TIME OF REGULAR COUNCIL MEETING

The governing body shall hold regular meetings on the second and fourth Wednesday of each month at the Smithfield City office building or other location as set forth by resolution. If the meeting date is a legal holiday, or a quorum of the city council is not available, the meeting may be canceled or may be held on an alternate date set by the city council.

2.08.020 QUORUM

No action of the city council shall be official nor of any effect except when a quorum of the members are present. Three (3) members of the city council, excluding the mayor, are necessary to constitute a quorum. The city council shall have power to compel the attendance of its own members.

2.08.030 VOTING

- A. The minimum number of "yes" votes required to pass any ordinance or resolution, or to take any action by the city council, unless otherwise prescribed by law, shall be a majority of the voting members of the quorum, but shall never be less than three (3).
- B. Any ordinance, resolution or motion of the city council having fewer favorable votes than required in this chapter shall be deemed defeated and invalid.
- C. A majority of the remaining members of the city council, regardless of number, may fill any vacancy in the city council in accordance with state law, and notwithstanding SMC B of this section, a council meeting may be adjourned to a specific time by a majority vote of the council even though the majority vote is less than required by this section.

- D. A roll call vote shall be taken and recorded for all ordinances, resolutions, and for any action which would create a liability against the municipality, and in any other case at the request of any member of the governing body, by a "yes" or "no" vote, and such roll call vote shall be recorded.
- E. Every ordinance or resolution shall be in final written form before the vote is taken.
- F. Any action taken by the city council in a regular, special or emergency meeting shall not be reconsidered or rescinded at any regular, special or emergency meeting unless the number of members of the city council present at the regular, special or emergency meeting in which the prior action is to be reconsidered or rescinded, is equal to or greater than the number of city council members present at the meeting when the action was approved. The motion to reconsider or rescind any action taken by the city council shall first be approved by formal motion and vote of the city council in a regular, special or emergency meeting and the reconsideration and/or rescission may occur in the same meeting in which the motion to reconsider or rescind is approved, or at a subsequent meeting designated by the city council.

2.08.040 AGENDA

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the governing body shall be delivered to the recorder-clerk, at least forty eight (48) hours prior to each governing body meeting, whereon the recorder-clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the governing body, and when present, the attorney, with a copy of the same prior to the governing body meeting and as far in advance of the meeting as time for preparation will permit. Only the foregoing matters shall be presented to the governing body by administrative officials, except those of an urgent nature, provided that the governing body may, by motion, waive the requirements of this section.

2.08.050 ORDER OF BUSINESS

At the time and place set for each meeting of the members of the governing body, the business of the municipality shall be taken up for consideration and disposition as provided for by the agenda.

2.08.060 RECORD OF PROCEEDINGS

The recorder-clerk, or designee, shall keep a record of proceedings of the meetings of the governing body and any executive sessions of the governing body as prescribed by the open and public meeting laws of the state of Utah then in effect.

2.12 MAYOR

- 2.12.010 CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER
- 2.12.020 PRESIDING OFFICER OF THE CITY; MAYOR PRO TEMPORE
- 2.12.030 VOTING RIGHTS AND PRIVILEGES
- 2.12.040 DUTIES OF THE MAYOR
- 2.12.050 APPOINTMENTS OF THE MAYOR
- 2.12.060 BUDGET OFFICER
- 2.12.070 VETO

2.12.010 CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER

The mayor shall be the chief executive and administrative officer of Smithfield City to whom all employees of the city report.

2.12.020 PRESIDING OFFICER OF THE CITY; MAYOR PRO TEMPORE

The mayor is the chair and presides at all meetings of the governing body. In the event the mayor is absent, unable or refuses to act, the council may elect a member of the council as mayor pro tempore to preside over any meeting and perform, during the mayor's absence, disability, or refusal to act, the duties and functions of mayor. The mayor pro tempore shall be elected by the council and shall serve as needed until December 31 of the year in which she/he was elected. In the event the mayor pro tempore is absent, unable or refuses to act, the council may elect another member of the council as mayor pro tempore to preside at a council meeting, who shall serve as needed until the end of the council meeting in which he or she was elected. The mayor pro tempore shall have all the powers and duties of the mayor during the mayor's absence, disability or refusal to act.

2.12.030 VOTING RIGHTS AND PRIVILEGES

The mayor is a nonvoting member of the city council except the mayor shall vote:

- A. On each matter for which there is a tie vote of the other council members present at a council meeting; or
- B. When the council is voting on whether to appoint or dismiss a municipal manager or on an ordinance that enlarges or restricts the mayor's powers, duties, or functions.

2.12.040 DUTIES OF THE MAYOR

As the chief executive and administrative officer of the city, the mayor shall have the following powers, responsibilities, and duties. The mayor:

- A. Shall keep the peace and enforce the laws of the municipality.
- B. May remit fines and forfeitures and may release any person imprisoned for violation of any city ordinance.
- C. Shall report any such remittance or release to the city council at its next regular session.
- D. Shall perform all duties prescribed by law, ordinance or resolution.
- E. Shall ensure that all laws, ordinances and resolutions are faithfully executed and observed.
- F. Shall report to the city council the condition and needs of the city and may recommend for city council consideration any measures as deemed to be in the best interest of the city.

- G. Shall, when necessary, call on the residents of the city over the age of twenty one (21) years to assist in enforcing the laws of the state and the ordinances of the city.
- H. Shall exercise ceremonial functions for the city.
- I. May, at any reasonable time, inspect and examine the books, papers, records, or documents of the city, or of any officer, employee or agency of the city.
- J. Shall conduct annual performance evaluations of the city recorder, treasurer, manager, chief of police and fire chief, based upon the duties of each officer as provided in city, state or federal law. The mayor may request formative evaluation data from city staff or supervisors.

2.12.050 APPOINTMENTS OF THE MAYOR

Except as may be otherwise provided by law, the mayor, by and with the advice and consent of the city council, may assign or appoint a member of the city council to administer one or more departments of the city, appoint a person to fill a city office or vacancy on a city commission or committee, and may assign or appoint all other officers and agents of the city as may be provided by law, and in the like manner, fill all vacancies occurring in the same. The mayor may, within budget restraints, appoint one or more administrative assistants to the mayor.

2.12.060 BUDGET OFFICER

The mayor shall be the budget officer of the city, and may appoint, with approval of the city council, another individual or individuals, as needed, to assist in the budgetary process. The mayor, as the budget officer, shall perform all duties which are prescribed by the Utah uniform municipal fiscal procedures act for Utah cities, section 10-6-101 through 10-6-159 of the Utah Code Annotated 1953, as amended.

2.12.070 VETO

The mayor may not veto an ordinance, a levy, or appropriation passed by the city council.

2.16 CITY OFFICERS GENERALLY

2.16.010 APPOINTED OFFICERS

2.16.020 APPOINTMENT AND VACANCIES

2.16.030 OATH OF OFFICE

2.16.040 BONDS REQUIRED OF CERTAIN OFFICIALS; AMOUNT

2.16.050 SALARIES

2.16.060 COMPENSATION LIMITED FOR SEVERAL POSITIONS

2.16.070 TRANSFER OF RECORDS

2.16.080 CONFLICTS OF INTEREST

2.16.090 CITY MANAGER

2.16.100 CITY RECORDER

2.16.110 CITY TREASURER

2.16.120 CITY ATTORNEY

2.16.130 CITY ENGINEER:

2.16.140 CITY CHIEF OF POLICE

2.16.150 CITY FIRE CHIEF

2.16.160 JUSTICE COURT JUDGE:

2.16.010 APPOINTED OFFICERS

- A. **Powers And Duties:** The city council may create any office or position deemed necessary to ensure the efficient operation of the government of the city and shall prescribe the powers and duties to be performed by appointed and other officials, including, but not limited to, the city manager, the city recorder, the city treasurer, the city attorney, the city engineer, the city police chief, the city fire chief and the city justice court judge, to the extent permitted by state law. Duties of appointed officers shall be detailed in this title, state law, other city law and/or in the personnel manual, as determined by the city council and required by law.
- B. **City Residence May Be Required:** The city council may require by ordinance that any or all appointed officers reside in the city, subject to the provisions of SMC 2.16.090C of this chapter, regarding residency requirements for a city manager. A reasonable period of time shall be extended to all appointed officers to allow them to settle their affairs, arrange family matters and complete the required change of residence, in the event the residency requirement is enacted.

2.16.020 APPOINTMENT AND VACANCIES

The mayor, as provided in SMC 2.12.050 of this title and with the advice and consent of the city council, may appoint and fill vacancies in all offices and positions provided for by law or ordinance, except for the office of city manager, who shall be appointed and dismissed as provided in SMC 2.16.090B of this chapter. Unless sooner removed by the mayor, with the advice and consent of the city council, or as otherwise provided by law, all appointed officers shall continue in office until their successors are appointed and qualified. Unless otherwise provided by law, appointed officers shall serve at the pleasure of the mayor and city council and may be removed with or without cause by recommendation of the mayor and a majority vote of the city council, in accordance with sections 10-3-1105 and 1106, Utah Code Annotated, 1953 as amended.

2.16.030 OATH OF OFFICE

- A. **Required:** Before entering on their respective duties, all officers of the city shall take the constitutional oath of office as set forth in article IV, section 10 of the Utah constitution.
- B. **Administered:** The oath of office shall be administered by the city recorder, any judge, including a justice court judge, or notary public.
- C. **Filed:** All oaths of office shall be filed with the city recorder.
- D. **Failure To Comply:** No official act of any officer shall be invalid for the reason that he or she failed to take the oath of office.

2.16.040 BONDS REQUIRED OF CERTAIN OFFICIALS; AMOUNT

- A. Before taking the oath of office and entering on the duties of their respective office, the following municipal officials shall each be bonded with good and sufficient securities, payable to Smithfield City for faithful performance of the duties of their office and the payment of all monies received by such officers according to law and

the ordinances of Smithfield City in the following amounts:

Office	Amount Of Bond
Mayor	\$ 1,000 .00
Council member	500 .00
City manager	10,000 .00
Treasurer	5,000 .00
Recorder-clerk	500 .00
Chief of police	500 .00
Justice court judge	500 .00
Golf professional	2,000 .00

- B. The treasurer's bond shall be superseded by any rule, regulation or directive of the state money management council when such rule, regulation or directive is binding on this municipality.
- C. The premium charged by any corporate surety for any bond required in this section shall be paid by this municipality.
- D. The bond required in this section may be a blanket bond.

2.16.050 SALARIES

- A. The salary of the officers of this municipality shall be paid in the amount and at such time as is set by ordinance.
- B. In addition to the salary paid the officers and employees of this municipality, they shall receive the following benefits:
 - 1. Health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the governing body may from time to time establish by resolution;
 - 2. Vacation and sick leave on such basis as the governing body may from time to time establish by resolution;
 - 3. Participation in the Utah state retirement program on such basis and cost as the governing body may from time to time by resolution establish.

2.16.060 COMPENSATION LIMITED FOR SEVERAL POSITIONS

Whenever any person serves in two (2) or more positions either as officers or employees of this municipality, unless otherwise specifically provided in the employment agreement, by ordinance or resolution, the person shall receive the salary or compensation of the office or employment paying the greater amount.

2.16.070 TRANSFER OF RECORDS

Every officer of the city, upon expiration of his or her term of office or employment, for any cause whatsoever, shall deliver to his or her successor all books and records which may be the property of the city immediately after notification and/or request to do so, and in any event, not later than five (5) calendar days after the said expiration of his or her term of office or employment, whether notified and requested to do so or not.

2.16.080 CONFLICTS OF INTEREST

All appointed officers of the city shall disclose conflicts of interest and otherwise adhere to provisions of the Utah officers' and employees' ethics act, set forth at Utah Code Annotated 10-3-1301 et seq., as amended, hereby adopted by reference as if fully set forth herein.

2.16.090 CITY MANAGER

- A. **Position Created:** There is created the position of city manager, who shall be known as the Smithfield City manager.
- B. **Appointment And Dismissal:** Subject to the provisions of section 10-3b-302(1)(b)(ii)(A), Utah Code Annotated, 1953 as amended, providing for the mayor to vote as a voting member of the city council, the city council shall appoint and dismiss the city manager in accordance with section 10-3b-303, Utah Code Annotated, 1953, as amended.
- C. **Office:** The city manager shall maintain an office in city hall and shall spend such time in the performance of his/her duties as is necessary or as may be required from time to time by the city council, but not less than forty (40) hours per week. Any city manager appointed, after the city manager filling the position at the time this ordinance is adopted and effective, may, as a condition of his/her appointment, be required to establish his/her residence within the boundaries of Smithfield City, provided a reasonable period of time shall be allowed for the city manager to settle his/her affairs, arrange family matters and complete the required change of residence subsequent to his/her appointment.
- D. **Resignation:** Before voluntarily resigning from the position of city manager, the city manager shall give the city council at least thirty (30) days' notice in writing of his or her intent to resign.
- E. **Other Employment:** The city manager shall not accept any outside employment in addition to employment by the city without prior annual written approval of the city council.
- F. **Duties:** The city manager shall at all times be under the control and supervision of the mayor, and shall administer the day to day operations of the city and its services according to the policies and programs established by the city council. The following duties and the authority to perform them are hereby delegated to the city manager.
 - 1. **Appoint And Remove Employees:** The city manager may, under the direction of the mayor, have the authority to appoint, employ and remove employees as provided herein. The city manager shall also be responsible for reviewing the status and performance of any personnel being considered for promotion in and discharge, transfer, or demotion from appointment or employment with the city. The city manager shall also perform annual performance evaluations of all appointed officials and employees, except for the city recorder, treasurer, chief of police and fire chief, which shall be performed by the mayor, and except for any others performed by department heads or other city supervisors.
 - 2. **Supervisory Responsibilities:** The city manager provides supervision of the city officers as deemed necessary by the mayor for the efficient and orderly day to day business of the city. The mayor may also assign, with council approval, specific supervisory duties over city departments.
 - 3. **Personnel Director:** The city manager may under direction of the mayor, and with approval of the council, be the personnel director, and as such shall be

responsible for implementing and enforcing the personnel policies and procedures of the city, as outlined and adopted by the mayor and council.

4. **Property Care:** The city manager shall be responsible for the care and custody of all city property, including equipment, buildings, parks and all other city property which is not by law assigned to some other officer or body for care and control.
5. **Purchasing And Claims:** The city manager shall act as purchasing agent for the city, and as such shall implement and enforce all provisions of the ordinances of the city relating to purchasing.
6. **Assistance With City Budget:** The city manager may assist the mayor, as directed, to ensure conformance with the Utah uniform municipal fiscal procedures act, which may include assisting in the preparation of the annual city budget and responsibility for the administration of the budget upon adoption.
7. **Review Contracts:** The city manager shall review and make recommendations to the mayor and city council concerning all proposed contracts to which the city may be a party, and shall see that the terms of any contract to which the city is a party are fully performed by all parties thereto.
8. **Propose Plans And Programs:** The city manager shall propose plans and programs concerning the development, operation and needs of the city and submit such plans to the mayor and city council for consideration.
9. **Implement Policy:** The city manager shall implement all policy changes and directives of the mayor and the city council through regularly scheduled staff meetings.
10. **Management Controls:** The city manager shall set performance standards and exercise managerial control to ensure that the city government is functioning in the most efficient and effective manner, as determined by the mayor and city council.
11. **Organization:** The city manager shall recommend creation and organization of all necessary departments, divisions, bureaus and offices necessary for the government of the city to the mayor and the city council for consideration and implementation.
12. **Meetings Of The City Council:** The city manager shall attend all city council meetings and such other meetings as requested by the mayor and/or city council.
13. **Additional Duties:** The city manager may have such other powers and shall perform such other duties and obligations as may be required of him or her by state law or by ordinance, resolution, or policy of the city council.

2.16.100 CITY RECORDER

- A. **Appointment:** On or before the first Monday in February following a municipal election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to the office of city recorder.
- B. **Office:** The city recorder shall occupy an office in the city offices or at some other place convenient thereto as the city council may direct.
- C. **City Auditor:** The city may engage the services of an independent auditor to perform audit services for the city from time to time, however, if no such independent auditor is engaged, the city recorder shall be ex officio city auditor, and shall perform the duties of such office.
- D. **Corporate Seal:** The city recorder shall keep the corporate seal. When certified by the city recorder under the corporate seal, copies of all papers filed in the city recorder's office and transcripts from all records of the city council shall be admissible in all courts as originals.
- E. **Meetings Of City Council:** The city recorder, or his or her designee, shall attend all meetings as requested by the mayor, city council and/or as required by law, and keep the record of the proceedings of the city council.
- F. **Actions Of City Council:** The city recorder shall record all ordinances, resolutions, and regulations passed by the city council.
- G. **Contracts:** The city recorder shall countersign all contracts made on behalf of the city or to which the city is a party and shall maintain a properly indexed record of all such contracts.
- H. **Accounting:** The city recorder shall maintain the general books for each fund of the city and shall keep accounts with all receiving and disbursing officers of the city including all subsidiary records relating thereto.
- I. **Bonds:** The city recorder shall maintain a list of all outstanding bonds of the city, including their purpose, amount, terms, date and place payable.
- J. **Claims:** The city recorder shall preaudit all claims and demands against the city before they are allowed.
- K. **Payments:** The city recorder shall prepare and certify the necessary checks in payment pursuant to Utah Code Annotated 10-6-139, as amended.
- L. **Elections And Appointments:** The city recorder shall manage all municipal election procedures and requirements as provided in the Utah Code Annotated, as amended, and shall keep a record of all persons elected or appointed to any office within the city, including the date of appointment or election, term of office, date of death, resignation, or removal, and name of person appointed to fill any vacancy.
- M. **Records Of The City:** The city recorder shall keep all of the books, records, accounts and documents of the city at the recorder's office. Such records shall be open for public inspection pursuant to the provisions of the Utah government records access and management act.
- N. **Limitations:** The city recorder shall not serve as the city treasurer.
- O. **Additional Duties:** The city recorder shall perform such other and further duties as the city council may provide by ordinance, resolution, regulation or directive.

2.16.110 CITY TREASURER

- A. **Appointment:** On or before the first Monday in February following a municipal election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to the office of city treasurer.
- B. **Custodian:** The city treasurer shall be the custodian of all money, bonds, or other securities belonging to the city.
- C. **Collections:** The city treasurer shall collect and receive all monies payable to the city, including taxes, assessments, licenses, fines, forfeitures, service charges, fees and other revenues of the city. The city treasurer shall keep an accurate account of all monies received hereunder and shall promptly deposit all such monies in the appropriate bank accounts of the city.
- D. **Receipts:** The city treasurer shall give or cause to be given to every person paying money to the city treasury, a receipt or other evidence of payment therefor, specifying the date of payment and the amount paid. The city treasurer shall file the duplicate of such receipt, a summary report, or other evidence of payment in the office of the city recorder.
- E. **Checks:** The city treasurer, or other designated person, shall sign all checks prepared by the city recorder and shall, prior to affixing said signature, determine or cause to be determined that sufficient funds are on deposit in the appropriate bank account of the city to honor such check.
- F. **Warrants:** The city treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the city. The city treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment.
- G. **Special Assessments:** All monies received by the city treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made.
- H. **Accounting:** The city treasurer shall keep an accurate and detailed accounting of all transactions, receipts, collections, disbursements and other matters within the treasurer's charge as provided by state law or as the city may by ordinance or resolution direct.
- I. **Limitations:** The city treasurer shall not serve as the city recorder.
- J. **Additional Duties:** The city treasurer shall perform such other and further duties as the city council may provide by ordinance, resolution, regulation or directive.

2.16.120 CITY ATTORNEY

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- A. **Appointment:** The city council may contract with, retain, or appoint an attorney licensed to practice law in the state of Utah to the office of city attorney to provide such legal assistance to the city as may be necessary. The city attorney shall act as legal advisor to the city in all matters pertaining to contracts with or by the city or questions of legality arising out of any law, ordinance or otherwise, and shall advise all city officers in relation to their official duties. Any legal assistance provided to the city that includes written advice, counsel and/or legal opinions and recommendations regarding city ordinances, city finances, contracts, city employee issues or other matters that may imply or involve city liability or similar concerns, shall be provided to the requesting city official, with a copy to the mayor, and to members of the city council, when appropriate.
- B. **Criminal Prosecutor:** The city may make a separate contract with an attorney or attorneys for the performance of criminal prosecutorial legal services.

2.16.130 CITY ENGINEER:

- A. **Appointment:** The city council may contract with, retain or appoint an engineer licensed to practice engineering in the state of Utah to the office of city engineer. Any person appointed or retained as city engineer shall be a registered professional engineer under title 58, chapter 22 of the Utah Code Annotated, as amended and with sufficient experience to perform municipal engineering duties.
- B. **Records:** The city and/or the city engineer shall maintain all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the city and the holder of such records shall ensure public accessibility to the same as required by law.
- C. **Recording:** The city engineer shall record and file all drawings and documents pertaining to public lands and improvements of the city, and shall maintain such records and files in good condition allowing no alternation, mutilation or changes to be made. The recording or filing of any drawing or instrument with the city shall not conflict in any way with the recording or filing of the same in other offices of record.
- D. **Fees:** The city engineer shall not record any drawings or instruments, file any papers or notices, furnish any copies, or render any service connected with his or her official duties, until the required fees for the same are paid or tendered.
- E. **Seal:** The city engineer shall have a seal for his or her use, which seal shall be affixed to every certification approval as allowed by law.
- F. **Additional Duties:** The city engineer shall perform such other and further duties as the city council may provide by ordinance, resolution, regulation or directive.

2.16.140 CITY CHIEF OF POLICE

- A. **Appointment:** The mayor shall, with the advice and consent of the city council, appoint a qualified person to the office of city chief of police.
- B. **Supervised By Mayor:** The chief of police shall be under the direction, control and supervision of the mayor, or as delegated by the mayor to the city manager, and shall exercise and perform such duties as may be prescribed by the city council.
- C. **Duties:** The duties of the chief of police shall be as outlined in SMC 2.28.020 and SMC 2.28.030 of this title.
- D. **Additional Duties:** Perform such other and further duties as the city council may provide by ordinance, resolution, regulation or directive.

2.16.150 CITY FIRE CHIEF

- A. **Appointment:** The mayor shall, with the advice and consent of the city council, appoint a qualified person to the office of chief of the fire department to be known as the fire chief of Smithfield City.
- B. **Supervised By Mayor:** The fire chief shall be under the direction, control and supervision of the mayor, or as delegated by the mayor to the city manager, and shall exercise and perform such duties as may be prescribed by the city council.
- C. **Duties:** The duties of the fire chief shall be as outlined in SMC 2.32.030 of this title.
- D. **Additional Duties:** Perform such other and further duties as the city council may provide by ordinance, resolution, regulation or directive.

2.16.160 JUSTICE COURT JUDGE:

The office of city justice court judge is hereby created and the person appointed to this office shall act as the justice court judge of the Smithfield City justice court. The justice court judge shall be appointed and shall have such powers and duties as set forth in the Utah Code Annotated, as amended.

2.18 OPEN AND PUBLIC MEETINGS

2.18.010 MINUTES OF PUBLIC MEETINGS

2.18.010 MINUTES OF PUBLIC MEETINGS

- A. **Definitions:** For purposes of this chapter the following definitions shall apply so long as they are consistent with the definitions of the same terms found in the Utah open and public meetings act. If a term is defined differently in the Utah open and public meetings act, the definition found in that act shall apply:
1. **CONVENING:** The calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.
 2. **MEETING:**
 - a. The convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.
 - b. Meeting does not mean:
 - (1) A chance meeting;
 - (2) A social meeting; or
 - (3) The convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:
 - (D) The public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or
 - (E) The public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.
 3. **MEETING CLERK:** The city recorder (or acting deputy) for the city council, or the person assigned by a public body, other than the city council, to record

and to take the written minutes of a meeting of a public body of this municipality.

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

- a. The date, time, and place of the meeting;
- b. The names of members present and absent;
- c. The substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
- d. A record, by individual member, of each vote taken by the public body;
- e. The name of each person who:
 - (1) Is not a member of the public body; and
 - (2) After being recognized by the presiding member of the public body, provided testimony or comments to the public body;
 - (3) The substance, in brief, of the testimony or comments provided by the public under SMC 5b of this definition;
 - (4) Any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

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

6. **PUBLIC BODY:** Any administrative, advisory, executive, or legislative body of this municipality that:

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

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

1. Written minutes shall be taken for all public meetings of any public body of this municipality. The minutes of all public meetings of any public body of this municipality shall be recorded and taken down by the meeting clerk during the course of any public meeting of the public body.
2. Within a reasonable time from the end of the meeting, the meeting clerk shall prepare proposed minutes for the meeting and give a copy of the proposed minutes to each member of the public body for his or her review and comments.
3. Once the proposed minutes have been given to the members of the public body, the meeting clerk shall make available to the public the proposed written minutes, which shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that the proposed minutes are subject to change until formally approved and they shall become a public document available to any member of the public who requests to read or copy the proposed minutes.
4. The public body shall consider the proposed minutes for approval at a meeting of the public body held within forty five (45) days following the date the meeting clerk gave the proposed minutes to the members of the public body. The members of the public body shall either approve the proposed written minutes as presented, or vote to correct and amend the proposed written minutes and then approve the corrected and amended written minutes at that meeting.
5. Once the proposed minutes have been approved by the public body, they shall become the official record of the proceedings of the public body and shall be signed by the clerk of the meeting and shall be retained in the official records of this municipality and shall be a public document available for the inspection and copying by members of the public as appropriate under Utah law.

2.20 BUILDING OFFICIAL

2.20.010 POSITION CREATED

2.20.020 STOP WORK ORDER

2.20.030 ENTRY POWERS

2.20.040 ADDITIONAL DUTIES OF BUILDING INSPECTOR

2.20.010 POSITION CREATED

There is created the position of building official who shall also be known as the municipal building inspector.

2.20.020 STOP WORK ORDER

The building inspector shall have the power to order all work stopped on construction, alteration or repairs of buildings in the municipality when such work is being done in violation of any provisions of any ordinance relating thereto, or in violation of the subdivision or zoning ordinance. Work shall not be resumed after the issuance of such order except on the written permission of the inspector, provided that if the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written stop order may be served by any peace officer or other authorized person.

2.20.030 ENTRY POWERS

The building inspector shall have the power to enter into any building or the premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspections at any reasonable hour, pursuant to any of the provisions of this code regarding such entry powers.

2.20.040 ADDITIONAL DUTIES OF BUILDING INSPECTOR

The building official (inspector) shall in addition to all other duties imposed on him by this municipality:

- A. Enforce the provisions of the uniform building code;
- B. Inspect all buildings, structures, ditches, signs, fences and objects to determine their safety and effect on the persons who are within this municipality;
- C. Until such time as a plumbing inspector is appointed or designated, the building inspector shall be responsible for enforcing SMC 15.16 of this code;
- D. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must: 1) be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, 2) use construction materials and utility equipment that are resistant to flood damage, and 3) use construction methods that will minimize flood damage;

- E. Review subdivision proposals and other proposed new developments to assure that: 1) all such proposals are consistent with the need to minimize flood damage, 2) all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and 3) adequate drainage is provided so as to reduce exposure to flood hazards;F. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and require on site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

2.24 ELECTIONS

2.24.010 ELECTIONS CONDUCTED ACCORDING TO STATE STATUTE

2.24.020 PRIMARY ELECTION

2.24.030 CAMPAIGN FINANCIAL REQUIREMENTS

2.24.040 DEFINITIONS

2.24.050 FILING OF DISCLOSURE REPORTS

2.24.060 TIME OF FILING

2.24.070 CONTENTS OF STATEMENTS

2.24.080 MUNICIPAL CLERK DUTIES

2.24.090 PUBLIC INFORMATION

2.24.100 PENALTY FOR NONCOMPLIANCE

2.24.010 ELECTIONS CONDUCTED ACCORDING TO STATE STATUTE

Election for mayor and council members shall be conducted according to the municipal election section of the Utah code, reference 20A-9-404(1) and (2).

2.24.020 PRIMARY ELECTION

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.

2.24.030 CAMPAIGN FINANCIAL REQUIREMENTS

All candidates for elective municipal office shall comply with the following campaign disclosure requirements.

2.24.040 DEFINITIONS

CANDIDATE: Any person who files a declaration of candidacy for an elective office in the city; or is nominated by a committee or party; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nomination or election to such office; or cause on his behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek such office.

CONTRIBUTION: Monetary and nonmonetary contributions such as in-kind contributions and contributions of tangible things but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

ELECTION: Both primary and final elections.

EXPENDITURES: A purchase, payment distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

REPORTING DATE:

- A. Ten (10) days before a municipal general election, for a campaign finance statement required to be filed no later than seven (7) days before a municipal general election and
- B. The day of filing, for a campaign finance statement required to be filed no later than thirty (30) days after a municipal primary or general election.

REPORTING LIMIT: Fifty dollars (\$50.00).

2.24.050 FILING OF DISCLOSURE REPORTS

- A. Each candidate filing for elective offices shall file with the city recorder, dated, signed and sworn financial reports which comply with this chapter.
- B. Each candidate for municipal office who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement: 1) no later than seven (7) days before the municipal general election; and 2) no later than thirty (30) days after the municipal general election.
- C. Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement no later than thirty (30) days after the municipal primary election.

2.24.060 TIME OF FILING

- A. The reports required by the ordinance shall be filed at least seven (7) days before the general election and at least once within thirty (30) days following the final election.
- B. A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by five o'clock (5:00) P.M. on the date that it is due.

2.24.070 CONTENTS OF STATEMENTS

Each campaign finance statement shall:

- A. Report all of the candidate's itemized and total:
 - 1. Campaign contributions, including in-kind and other nonmonetary contributions, as of the reporting date; and
 - 2. Campaign expenditures as of the reporting date; and
- B. Identify:
 - 1. For each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor;
 - 2. The aggregate total of all contributions that individually do not exceed the reporting limit; and
 - 3. For each campaign expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or
 - 4. Report the total amount of all campaign contributions and expenditures if the candidate receives five hundred dollars (\$500.00) or less in campaign contributions and spends five hundred dollars (\$500.00) or less on the candidate's campaign.

2.24.080 MUNICIPAL CLERK DUTIES

- A. The municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy and again fourteen (14) days before each municipal general election, notify the candidate in writing of:
 - 1. The provisions of statute or municipal ordinance governing the disclosure of campaign contributions and expenditures;
 - 2. The dates when the candidate's campaign finance statement is required to be filed; and
 - 3. The penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

2.24.090 PUBLIC INFORMATION

The statements required by this chapter shall be public documents and shall be available for public inspection and copying during all regular city business hours.

2.24.100 PENALTY FOR NONCOMPLIANCE

- A. If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified, the municipal clerk or recorder shall inform the appropriate election official who shall:
 - 1. If practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
 - 2. If removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
 - 3. Not count any votes for that candidate.
- B. Notwithstanding, a candidate who files a campaign finance statement seven (7) days before a municipal general election is not disqualified if:
 - 1. The statement details accurately and completely the information required except for inadvertent omissions or insignificant errors or inaccuracies; and
 - 2. The omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

2.28 POLICE DEPARTMENT

2.28.010 POLICE DEPARTMENT ESTABLISHED

2.28.020 CHIEF OF POLICE

2.28.030 ADDITIONAL POWERS AND DUTIES OF POLICEMEN

2.28.040 RECORD OF ARREST

2.28.050 PROPERTY TAKEN FROM THE PERSON ARRESTED

2.28.060 RECORD OF PROPERTY TO BE KEPT

2.28.070 STOLEN PROPERTY DISPOSITION

2.28.010 POLICE DEPARTMENT ESTABLISHED

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

2.28.020 CHIEF OF POLICE

- A. The municipal chief of police and other police officers shall have such powers as are granted by state law.
- B. He shall organize, supervise and be responsible for all the activities of the police department and shall define and assign the duties of the different police officers.
- C. He shall, when required, attend meetings of the governing body to consult with and advise them on matters of public safety. He shall execute all lawful orders of the mayor and governing body and see that all orders and judgments of the Smithfield justice court are carried into effect.

2.28.030 ADDITIONAL POWERS AND DUTIES OF POLICEMEN

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

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

2.28.040 RECORD OF ARREST

The chief of police shall provide and cause to be kept a records management system documenting arrests. In such records management system shall be entered the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.

2.28.050 PROPERTY TAKEN FROM THE PERSON ARRESTED

When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must ensure that the property is accurately entered into a records management system.

2.28.060 RECORD OF PROPERTY TO BE KEPT

The chief of police must enter or cause to be entered in a records management system a description of every article of property alleged to be stolen or embezzled and brought into his office or taken from the person of the prisoner and must attach a number to each article.

2.28.070 STOLEN PROPERTY DISPOSITION

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

2.32 FIRE DEPARTMENT

2.32.010 CREATED

2.32.020 CREATION OF POSITION OF CHIEF

2.32.030 POWERS AND DUTIES OF CHIEF

2.32.040 EMPLOYEES:

2.32.050 EMERGENCY VEHICLES

2.32.060 REMOVAL OF OBSTRUCTIONS AT FIRE

2.32.070 CONTROL OF PERSONS

2.32.080 INTERFERENCE WITH FIREMEN IN DISCHARGE OF DUTIES

2.32.090 UNLAWFUL INTERFERENCE WITH OFFICERS, APPARATUS, WATER, ETC.

2.32.100 INVESTIGATION AFTER FIRE REPORT

2.32.110 RIGHT TO ENTER UPON AND INSPECT PREMISES

2.32.120 PERSONS PRESENT AT FIRE SUBJECT TO ORDERS

2.32.130 FALSE ALARM

2.32.010 CREATED

There is created a fire department to be known as the Smithfield City volunteer fire department.

2.32.020 CREATION OF POSITION OF CHIEF

There is created the position of chief of the fire department.

2.32.030 POWERS AND DUTIES OF CHIEF

- A. The chief shall have the responsibility for the general supervision of the department.
- B. During a fire, the chief shall have full authority to take all measure as he shall deem necessary, subject to state law, to control and extinguish the fire and for that purpose he is made a special peace officer.
- C. The chief shall at least quarterly report to the governing body the condition of the fire equipment, the number of fires and their causes and the estimated loss therefrom together with such other information as the governing body may request or as he shall deem appropriate.
- D. The chief shall strictly enforce all of the provisions of the ordinances of this municipality relating to the protection against and prevention of fire.
- E. The chief shall maintain the equipment of the department in good repair and order and ready for use.
- F. The chief, subject to the approval of the mayor and governing body, shall establish rules and regulations for the operation of the department.
- G. The chief may delegate his duties to any person employed by the department, but such delegation shall not relieve the chief of his responsibility for the performance thereof.
- H. The chief shall cause all fires to be promptly investigated to determine the cause of the fire and report the cause of the fire, the time originated and such other information as may be relevant to prevent other fires.

2.32.040 EMPLOYEES:

The chief may make recommendations to the mayor or councilman in charge relating to the employment of firemen and such other personnel as may be necessary to enforce the provisions of this chapter. The chief may employ such additional personnel as the mayor and governing body may direct or authorize.

2.32.050 EMERGENCY VEHICLES

Fire trucks are designated authorized emergency vehicles.

2.32.060 REMOVAL OF OBSTRUCTIONS AT FIRE

The officer in charge of any fire may order the removal or destruction of any fence, building or structure, or that any utility be closed, cut or removed when deemed necessary to control, extinguish or prevent the spread of fire.

2.32.070 CONTROL OF PERSONS

All persons present at a fire shall obey the orders of any firemen.

2.32.080 INTERFERENCE WITH FIREMEN IN DISCHARGE OF DUTIES

Every person at the scene of any fire who disobeys the lawful orders of any public officer or fireman, or offers any resistance to or interference with the efforts of any fireman, or company of firemen to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of an infraction.

2.32.090 UNLAWFUL INTERFERENCE WITH OFFICERS, APPARATUS, WATER, ETC.

2.32.100 INVESTIGATION AFTER FIRE REPORT

The chief, or other such persons as he shall designate, shall, after extinguishing a fire, make a prompt and thorough investigation of the cause of the fire, the time the fire began, the amount of loss and insurance, a description of the affected buildings and premises, and shall secure all other useful information available, and record the same in a record book kept for that purpose in the office of the department and shall report the same to the governing body at such time as it may direct.

2.32.110 RIGHT TO ENTER UPON AND INSPECT PREMISES

The fire chief or his deputies upon presentation of proper credentials shall have the right to enter upon any premises at all reasonable hours for the purpose of making inspections.

2.32.120 PERSONS PRESENT AT FIRE SUBJECT TO ORDERS

Every person eighteen (18) years or older present at a fire shall be subject to the orders of the officer in command and shall render assistance in the manner directed by the officer in command.

2.32.130 FALSE ALARM

It is unlawful for any person to turn in or report to the fire department a false alarm or report of a fire or to tamper or remove any part of the fire alarm system.

2.36 PLANNING COMMISSION

2.36.010 PLANNING COMMISSION CREATED

2.36.015 PLANNING DEPARTMENT CREATED

2.36.020 TERM OF OFFICE

2.36.030 ORGANIZATION

2.36.040 DUTIES AND POWERS

2.36.050 POWERS OF THE GOVERNING BODY TO CHANGE ZONING

2.36.060 PETITION FOR CHANGE

2.36.070 FILING FEE AND PUBLICATION CHARGES

2.36.080 REFERRAL OF PETITION TO PLANNING COMMISSION

2.36.010 PLANNING COMMISSION CREATED

There is created a planning commission to be composed of seven (7) members and two (2) alternate members. Members of the planning commission shall serve without compensation, except for reasonable expenses incurred in performing their duties as members of the commission. Members of the governing body may be appointed to the planning commission.

2.36.015 PLANNING DEPARTMENT CREATED

There is established a planning department consisting of a city planner, planning and zoning administrator, and other such individuals designated by resolution of the city council.

2.36.020 TERM OF OFFICE

The terms of the planning commission shall be staggered. Each member of the planning commission shall serve for a term of five (5) years and until his successor is appointed, provided that the term of the first members shall be such that the terms of two (2) members shall expire each year. Terms of members of the planning commission shall begin on or before the first Monday in February of each year. The governing body may remove any member of the planning commission for cause and after a public hearing, if one is requested. Vacancies shall be promptly filled in the same manner as the original appointment for the remainder of the unexpired term.

2.36.030 ORGANIZATION

- A. The members of the planning commission shall select from their own members a chairman and such other officers as deemed necessary and shall adopt rules and regulations for their organization and for the transaction of business and the conduct of their proceedings.
- B. Reports of official acts and recommendations of the planning commission shall be public and made by the chairman in writing to the governing body and shall indicate

how each member of the commission voted with respect to such act or recommendation. Any member of the commission may also make a concurring or dissenting report or recommendation to the governing body.

- C. The planning commission shall meet on the third Wednesday each month and at such other times as the planning commission may determine.
- D. Four (4) members of the planning commission shall constitute a quorum.

2.36.040 DUTIES AND POWERS

The planning commission shall have all of the powers and duties explicitly or impliedly given planning commissions by the laws of the state.

2.36.050 POWERS OF THE GOVERNING BODY TO CHANGE ZONING

It shall be lawful for the governing body from time to time as necessity may arise to change or modify any regulation or restrictions with respect to zoning or building or uses of land.

2.36.060 PETITION FOR CHANGE

In each instance where any person shall desire to have such change made, petition shall be made to the governing body definitely setting out such request and particularizing the change desired.

2.36.070 FILING FEE AND PUBLICATION CHARGES

At the time the petition is filed requesting change with respect to zoning or building or uses of land as contemplated by this part, there shall be paid to the treasurer a filing fee as provided for in the most recently adopted prevailing fee schedule.

2.36.080 REFERRAL OF PETITION TO PLANNING COMMISSION

Such petition, together with any protests thereto, shall be referred to the planning commission for consideration and recommendation. The planning commission shall return such petition together with its recommendation to the governing body no later than thirty (30) days after referral to it.

2.40 BOARD OF ADJUSTMENT

(Repealed)

2.44 BOARD OF HEALTH

2.44.010 BOARD OF HEALTH ESTABLISHED

2.44.020 DUTIES AND POWERS OF BOARD OF HEALTH

2.44.030 PERMITS

2.44.040 APPLICATIONS

2.44.010 BOARD OF HEALTH ESTABLISHED

The Bear River district health department is designated as the board of health of this municipality.

2.44.020 DUTIES AND POWERS OF BOARD OF HEALTH

- A. The municipality may contract with the Bear River district health department on such terms and conditions as the parties may agree to enforce the provisions of this chapter and such other ordinances of this municipality which authorize or require action or impose any duty on the board of health.
- B. The board of health shall adopt such rules and regulations as it shall deem necessary to govern its board meetings and conduct.
- C. The board of health shall review and approve all applications for permits to operate any business or engage in any construction for which a permit is required from the board of health pursuant to any ordinances or regulations of this municipality.
- D. The board of health shall recommend to the mayor for promulgation by the governing body such health rules, regulations and ordinances as it deems necessary for the health of the persons within this municipality.

2.44.030 PERMITS

It is unlawful for any person to engage in any of the following businesses or activities without first obtaining a permit from the board of health:

- A. Handling, selling, offering for sale, preparing or serving food or food products or beverages or water intended for human consumption;
- B. Operating or permitting public access to any public swimming pool;
- C. Commercially operating any public dump, garbage or refuse collection or disposal facility, or cleaning out or installing any privy, cesspool or septic tank;
- D. Fumigating or eradicating pests, insects, vermin or any other infestation from any building occupied or to be occupied by humans.

2.44.040 APPLICATIONS

- A. Applications for a permit from the board of health shall be made in writing to the recorder/clerk.
- B. The application shall be referred by the recorder/clerk to the board of health for review and recommendation. The board of health shall then forward the application with its recommendation to the mayor for approval or disapproval by the governing body.

2.48 REDEVELOPMENT AGENCY

2.48.010 PURPOSE

2.48.020 NEED

2.48.030 DESIGNATION OF REDEVELOPMENT AGENCY

2.48.010 PURPOSE

The purpose of this chapter is to establish a redevelopment agency and to designate the legislative body of Smithfield City as the governing body of the agency. This is pursuant to the provisions of the Utah neighborhood development act, specifically Utah Code Annotated section 17A-2-1203 (1990 of the act, as amended).

2.48.020 NEED

The city council of Smithfield, Utah finds that in order to preserve and further promote the continued peace, health, safety, welfare and good order of the city, that it is necessary to create and designate the city council of Smithfield City as the Smithfield City redevelopment agency.

2.48.030 DESIGNATION OF REDEVELOPMENT AGENCY

The city council of Smithfield establishes a redevelopment agency and designates itself as the governing body of said agency complete with all powers and duties, and subject to all restrictions provided in said Utah neighborhood development act, Utah Code Annotated 1953, as amended.

2.52 CONSTITUTIONAL TAKING REVIEW

2.52.010 POLICY CONSIDERATIONS

2.52.020 DEFINITIONS

2.52.030 GUIDELINES ADVISORY

2.52.040 REVIEW OF DECISION

2.52.050 REVIEWING GUIDELINES

2.52.060 RESULTS OF REVIEW

2.52.010 POLICY CONSIDERATIONS

There is an underlying policy in the city, strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending law suits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist Smithfield City in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review be provided, as well as guidelines for such considerations. This chapter is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, yet preserve the ability of the city to lawfully regulate real property and fulfill its other duties and functions.

2.52.020 DEFINITIONS

For the purposes of this chapter:

- A. "Constitutional taking" means actions by the city involving the physical taking or exaction of private property that might require compensation to a private real property owner because of:
 - 1. The fifth or fourteenth amendment to the constitution of the United States;
 - 2. Article I, section 22, of the Utah constitution;
 - 3. Any court ruling governing the physical taking or exaction of private real property by a government entity.
- B. Action by the city involving the physical taking or exaction of private real property is not a constitutional taking if the physical taking or exaction bears an essential nexus to:
 - 1. A legitimate governmental interest; and
 - 2. Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

2.52.030 GUIDELINES ADVISORY

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory, and shall not be construed to expand or limit the scope of the city's liability for a constitutional taking. The reviewing body or person shall not be required to make any determination under this chapter except pursuant to SMC 2.52.040 of this chapter.

2.52.040 REVIEW OF DECISION

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

- A. A person requesting a review must have obtained a final and authoritative determination, internally, within the city, relative to the decision from which they are requesting review.
- B. Within thirty (30) days from the date of the final decision that gave rise to the concern that a constitutional taking has occurred, the person requesting the review shall file in writing, in the office of the city recorder, a request for review of that decision. A copy shall also be filed with the city attorney. The city recorder shall determine, with the assistance of the city attorney, if necessary, if the request for review is from the decision of a Smithfield City land use authority which acted upon a land use application under the provisions of a Smithfield City land use ordinance. Any request for review from the decision of a Smithfield City land use authority shall be

transferred to the administrative appeals hearing officer (appeal authority) for disposition as herein provided. All other requests for review related to a constitutional taking claim shall be transferred to the city council for disposition as herein provided.

- C. The appeal authority or the city council, respectively, or an individual, or other body designated by the city council to hear nonland use related requests for review, shall immediately set a time to review the decision that gave rise to the constitutional taking claim. Until further action by the city council, the city council is designated as the body to review such nonland use related requests for review.
- D. In addition to the written request for review, the applicant must submit, prior to the date of the review, the following:
 - 1. Name of the applicant requesting review;
 - 2. Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for profit or not for profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners;
 - 3. A detailed description of the grounds for the claim that there has been a constitutional taking;
 - 4. A detailed description of the property taken;
 - 5. Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired;
 - 6. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;
 - 7. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three (3) years prior to the date of application;
 - 8. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application;
 - 9. The assessed value of and ad valorem taxes on the property for the previous three (3) years;
 - 10. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including, but not limited to, right of purchasers to assume the loan;
 - 11. All listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;
 - 12. All studies commissioned by the petitioner or agents of the petitioner within the previous three (3) years concerning feasibility of development or utilization of the property;
 - 13. For income producing property, itemized income and expense statements from the property for the previous three (3) years;
 - 14. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
 - 15. The appeal authority or the city council, respectively, may request additional information reasonably necessary, in its opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.
- E. An application shall not be deemed to be complete or submitted until the city recorder certifies to the applicant that all the materials and information required in this section have been received by the city. The appeal authority or the city council, respectively, shall promptly notify the applicant of any incomplete application.
- F. The appeal authority or the city council, respectively, shall hear all the evidence related to and submitted by the applicant, city or any other interested party.
- G. A final decision on the review shall be rendered within thirty (30) days from the date the complete application for review has been received by the city recorder. The decision of the appeal authority or the city council, respectively, regarding the results of the review shall be given in writing to the applicant and the officer, employee, board, commission or council that rendered the final decision that gave rise to the constitutional taking claim. A copy of the decision shall also be given to the mayor, city council and city attorney.
- H. If the appeal authority or the city council, respectively, fails to hear and decide the request for review within thirty (30) days from the date the complete application is received by the city recorder, the decision appealed from shall be presumed to be approved.

2.52.050 REVIEWING GUIDELINES

The appeal authority or the city council, respectively, shall review the facts and information presented by the applicant to determine whether or not the action by the city constitutes a "constitutional taking" as defined in this chapter. In doing so, the appeal authority or the city council, respectively, shall consider:

- A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest;
- B. Whether a legitimate governmental interest exists for the action taken by the city;
- C. Is the property and exaction taken, roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

2.52.060 RESULTS OF REVIEW

After completing the review, the reviewing body shall make a determination regarding the above issues and where determined to be necessary and appropriate, shall make a recommendation to the officer, employee, board, commission or council that made the decision that gave rise to the constitutional takings claim.

2.56 PUBLIC RECORDS

2.56.010 SHORT TITLE

2.56.020 PURPOSE AND INTENT

2.56.030 DEFINITIONS

2.56.040 RIGHT OF PUBLIC ACCESS

2.56.050 ACCESS TO NONPUBLIC RECORDS

2.56.160 APPEALS

2.56.170 JUDICIAL REVIEW

2.56.180 CONFIDENTIAL TREATMENT OF RECORDS FOR WHICH NO EXEMPTION APPLIES

2.56.190 REQUEST TO AMEND A RECORD

2.56.200 RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED

2.56.210 CRIMINAL PENALTIES

2.56.010 SHORT TITLE

This chapter is known as the *SMITHFIELD CITY GOVERNMENT RECORDS AND ACCESS AND MANAGEMENT ACT*.

2.56.020 PURPOSE AND INTENT

A. In enacting this act, the city recognizes two (2) fundamental constitutional rights:

1. The right of privacy in relation to personal data gathered by the city; and
2. The public's right of access to information concerning the conduct of the public's business.

B. It is the intent of the city to:

1. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records;
2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards;
3. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this chapter.

2.56.030 DEFINITIONS

As used in this chapter:

AUDIT:

- A. A systematic examination of financial, management, program and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls or compliance with laws and regulation; or
- B. A systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency and compliance with statutes and regulations.

CHRONOLOGICAL LOGS: The regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire and paramedic calls made to the agency and any arrests or jail bookings made by the agency.

CLASSIFICATION, CLASSIFY (And Their Derivative Forms): Determining whether a record series, record or information within a record is public, private, controlled or protected, or exempt from disclosure under Utah code, section 63-2-201(3)(b).

COMPUTER PROGRAM: A series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not mean:

- A. The original data, including numbers, text, voice, graphics and images;
- B. Analysis, compilation and other manipulated forms of the original data produced by use of the programs; or
- C. The mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that could be used if the manipulated forms of the original data were to be produced manually.

CONTRACTOR:

- A. Any person who contracts with the city to provide goods or services directly to the city; or
- B. Any private nonprofit organization that receives funds from the city.

"Contractor" does not mean a private provider.

CONTROLLED RECORD: A record containing data on individuals that is controlled as provided by SMC 2.56.110 of this chapter.

DESIGNATION, DESIGNATE (And Their Derivative Forms): Indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

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

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

- A. The date, time, location and nature of the complaint, the incident or offense;
- B. Names of victims;
- C. The nature or general scope of the agency's initial actions taken in response to the incident;
- D. The general nature of any injuries or estimate of damages sustained in the incident;
- E. The name, address and other identifying information about any person arrested or charged in connection with the incident;
- F. The identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.

Initial contact reports do not include follow up or investigative reports prepared after the initial contact report. However, if the information specified above appears in follow up or investigative reports, it may only be treated confidentially if it is private, controlled, protected or exempt from disclosure under section 63-2-201(3)(b) of the Utah code.

INDIVIDUAL: A human being.

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

PRIVATE RECORD: A record containing data on individuals that is classified private as provided by SMC 2.56.100 of this chapter.

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

PROTECTED RECORD: A record that is classified protected as provided by SMC 2.56.120 of this chapter.

PUBLIC RECORD: A record that has not been appropriately classified private, controlled or protected as provided in SMC 2.56.100, 2.20.110 and 2.56.120 of this chapter.

RECORD: All books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received or retained by the city. "Record" does not mean:

- A. Temporary drafts or similar materials for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;
- B. Materials that are legally owned by an individual in his private capacity;
- C. Materials to which access is limited by laws of copyright or patent unless the copyright or patent is owned by the city;
- D. Proprietary software;
- E. Junk mail or commercial publications received by the city or an official or employee of the city;
- F. Books and other materials that are cataloged, indexed or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;
- G. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the use of an individual for whom he is working;
- H. Computer programs as defined that are developed or purchased by or for the city for its own use.
- I. Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the board of pardons or a member of any other body charged by law with performing a quasi-judicial function.

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

RECORDS OFFICER: The city recorder and other individuals as appointed by the mayor to work in the care, maintenance, scheduling, designation, classification, disposal and preservation of records.

SUMMARY DATA: Statistical records and compilations that contain data derived from private, controlled or protected information but that do not disclose private, controlled or protected information.

2.56.040 RIGHT OF PUBLIC ACCESS

- A. Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to SMC 2.56.060 of this chapter.
- B. All records are public unless otherwise expressly provided by this chapter or state or federal law or regulation.
- C. The following records are not public:
 1. Records that are appropriately classified, controlled or protected as allowed by SMC 2.56.100, 2.56.110 and 2.56.120 of this chapter; and
 2. Records to which access is restricted pursuant to court rule, another state statute or federal regulations, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
- D. Only those records specified in SMC 2.56.100, SMC 2.56.110 and SMC 2.56.120 of this chapter may be classified private, controlled or protected.
- E.
 1. The city may not disclose a record that is private, controlled, or protected to any person except as provided in SMC E2 of this section or SMC 2.56.050 of this chapter.
 2. The city may, at its discretion, disclose records that are private under SMC J2 of this section or protected under SMC 2.56.120 of this chapter to persons other than those specified in SMC 2.56.050 of this chapter if the city council, or a designee, determines that there is no interest in restricting access to the record, or that the interests favoring access outweigh the interest favoring restriction of access.
- F.
 1. The disclosure of records to which access is governed or limited pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provision of that statute, rule or regulation.
 2. This chapter applies to records described in SMC F1 of this section insofar as this chapter is not inconsistent with the statute, rule or regulation.
- G. The city shall provide a person with a certified copy of a record if:
 1. The person requesting the record has a right to inspect it;
 2. Identifies the record with reasonable specificity; and
 3. Pays the lawful fees.
- H.
 1. The city is not required to create a record in response to a request.
 2. Nothing in this chapter requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests for that person.
- I. If a person requests copies of more than fifty (50) pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may:
 1. Provide the requester with the facilities for copying the requested records and require that the requester make the copies himself; or
 2. Allow the requester to provide his own copying facilities and personnel to make the copies at the city offices and waive the fees for copying the records.
- J.
 1. If the city owns an intellectual property right and offers the intellectual property right for sale or license, the city may control by ordinance or policy the

duplication and distribution of the material based on terms the city considers to be in the public interest.

2. Nothing in this chapter shall be construed to limit or impair the rights or protection granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right.

- K. The city may not use the physical form, electronic or otherwise, in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record under this chapter.

2.56.050 ACCESS TO NONPUBLIC RECORDS

- A. Upon request the city shall disclose a private record to:

1. The subject of the record;
2. The parent or legal guardian of an unemancipated minor who is the subject of the record;
3. The legal guardian of a legally incapacitated individual who is the subject of the record;
4. Any other individual who:
 - a. Has a power of attorney from the subject of the record; or
 - b. Submits a notarized release from the subject of the record or his legal representative dated no later than ninety (90) days before the date the request is made; or
5. Any person to whom the records must be provided pursuant to court order.

- B.

1. Upon request, the city shall disclose a controlled record to:

- a. A physician, psychologist or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than ninety (90) days prior to the date the request is made and a signed acknowledgement of the terms of disclosure of controlled information as provided by SMC B2 of this section; and
- b. Any person to whom a record must be disclosed pursuant to court order.

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

- C. If there is more than one subject of a private or controlled record, a portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

- D. Upon request the city shall disclose a protected record to:

1. The person who submitted the information in the record;
2. Any other individual who:
 - a. Has a power of attorney from all persons, governmental entities or political subdivisions whose interests were sought to be protected by the protected classification, or
 - b. Submits a notarized release from their legal representatives dated no more than ninety (90) days prior to the date the request is made; or
3. Any person to whom a record must be provided pursuant to a court order.

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

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

- G. The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

1. The record deals with a matter in controversy over which the court has jurisdiction;
2. The court has considered the merits of the request for access to the record;
3. The court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of privacy or controlled records, business confidentiality interests in the case of records protected under Utah Code Annotated subsections 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;
4. To the extent the record is properly classified private, controlled or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and
5. Where access is restricted by a rule or regulation referred to in SMC 2.56.040C2 of this chapter, the court has authority independent of this chapter to order disclosure.

- H.

1. The city may disclose or authorize disclosure of private or controlled records for research purposes if the city:

- a. Determines that the research purpose cannot reasonably be accomplished without the use of disclosure of the information to the researcher in individually identifiable form;
- b. Determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;
- c. Requires the researcher to assure the integrity, confidentiality and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;
- d. Prohibits the researcher from disclosing the record in individually identifiable form except as provided in SMC H2 of this section, or from using the record for purposes other than the research approved by the city; and
- e. Secures from the researcher a written statement of his understanding of and agreement to the conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under section 63-2-801 of the Utah code.

2. researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.
3. The city may require indemnification as a condition of permitting research under this subsection.

I.

1. Under SMC 2.56.040E2 and SMC 2.56.160D of this chapter the city may disclose records that are private under SMC 2.56.100 of this chapter or protected under SMC 2.56.120 of this chapter to persons other than those specified in this section.
2. Under SMC 2.56.160 of this chapter the city council may require the disclosure of records that are private under SMC 2.56.110 of this chapter or protected under SMC 2.56.120 of this chapter to persons other than those specified in this section.
3. Under subsection 63-2-404(8) of the Utah code the court may require the disclosure of records that are private under SMC 2.56.100 of this chapter, controlled under SMC 2.56.110 of this chapter or protected under SMC 2.56.130 of this chapter to persons other than those specified in this section.

2.56.160 APPEALS

A.

1. Any person aggrieved by the city's access determination under this chapter, including a person not a party to the city's proceeding, may appeal the determination to the mayor and city council by filing a notice of appeal.
2. If the city claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within thirty (30) days after notification of a claim of extraordinary circumstances by the city, despite the lack of a determination or its equivalent.

B.

1. If the appeal involves a record that is the subject of a business confidentiality claim under section 63-2-308 of the Utah code, the city recorder shall:
 - a. Send notice of the requester's appeal to the business confidentiality claimant within three (3) business days after receiving notice, except that if notice under this section must be given to more than thirty five (35) persons, it shall be given as soon as reasonably possible;
 - b. Send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three (3) business days after receiving notice of the requester's appeal.
2. The claimant shall have seven (7) business days after notice is sent by the city recorder to submit further support for the claim of business confidentiality.

C.

1. The mayor shall make a determination on any appeal within the following period of time:
 - a. Within five (5) business days after the mayor's receipt of notice of appeal; or
 - b. Within twelve (12) business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.
 2. If the mayor fails to make a determination within the time specified in SMC C1 of this section, the failure shall be considered the equivalent of an order denying the appeal.
 3. The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.
- D. The mayor may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under SMC 2.56.100B of this chapter or protected under SMC 2.56.120 of this chapter if the interests favoring access outweigh the interest favoring restriction of access.
- E. The city shall send written notice of the determination of the mayor to all participants. If the mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the city council, and the time limits for filing an appeal.
- F. The duties of the mayor under this section may be delegated.
- G. The notice of appeal to the city council must be filed with the city recorder no later than thirty (30) days after the mayor has denied the appeal or fails to make a determination within the time specified in subsection C1 of this section.
- H. The notice of appeal shall contain the following information:
1. The petitioner's name, mailing address and daytime telephone number; and
 2. The relief sought.

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

J. No later than three (3) days after receiving a notice of appeal, the recorder shall:

1. Schedule a hearing for the city council to discuss the appeal which shall be held no sooner than fifteen (15) days and no later than thirty (30) days from the date of the filing of the appeal;
2. At the hearing, the city council shall allow the parties to testify, present evidence and comment on the issues. The city council may allow other interested persons to comment on the issues;
3. No later than three (3) business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part;
4. The order of the city shall include:
 - a. A statement of reasons for the decision, including citations to this chapter or federal regulation that governs disclosure of the record, provided that the citations do not disclose private, controlled or protected information,
 - b. A description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled or protected information,
 - c. A statement that any party to the appeal may appeal the city's decision to district court, and
 - d. A brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

K. A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedure provided in this section. If a nonrequestor is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty (30) days after receiving the notice of appeal.

2.56.170 JUDICIAL REVIEW

Any party to a proceeding before the city council may petition for judicial review by the district court of the city council's order. The petition shall be filed no later than thirty (30) days after the date of the city council's order.

2.56.180 CONFIDENTIAL TREATMENT OF RECORDS FOR WHICH NO EXEMPTION APPLIES

- A. A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:
 - 1. There are compelling interests favoring restriction of access to the record; and
 - 2. The interests favoring restriction of access clearly outweigh the interests favoring access.
- B. If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorney fees incurred by the lead party in opposing the city's request, if:
 - 1. The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
 - 2. The court denies confidential treatment under this section.
- C. This section does not apply to records that are specifically required to be public under SMC 2.56.090 of this chapter or section 63-2-301 of the Utah code, except as provided in SMC D of this section.
- D.
 - 1. Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information and not to the deliberative nature of the record.
 - 2. Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

2.56.190 REQUEST TO AMEND A RECORD

- A.
 - 1. Subject to SMC G of this section, an individual may contest the accuracy or completeness of any public, or private, or protected record concerning him by requesting the city to amend the record. However, this section does not affect the right of access to private or protected records.
 - 2. The request shall contain the following information:
 - a. The requester's name, mailing address and daytime telephone number; and
 - b. A brief statement explaining why the city should amend the record.
- B. The city shall issue an order either approving or denying the request to amend no later than thirty (30) days after receipt of the request.
- C. If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until it has amended it.
- D. If the city denies the request it shall:
 - 1. Inform the requester in writing; and
 - 2. Provide a brief statement giving its reasons for denying the request.
- E.
 - 1. If the city denies a request to amend a record, the requester may submit a written statement contesting the information in the record.
 - 2. The city shall:
 - a. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and
 - b. Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.
- F. The requester may appeal the denial of the request to amend a record pursuant to SMC 2.56.160 of this chapter.
- G. This section does not apply to records relating to title to real or personal property, medical records, judicial case files or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

2.56.200 RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED

- A.
 - 1. The city shall file with the state archivist a statement explaining the purposes for which record series designated private or controlled are collected and used by that city.
 - 2. That statement is a public record.
- B. Upon request, the city shall explain to an individual:
 - 1. The reasons the individual is asked to furnish to the city information that could be classified private or controlled;
 - 2. The intended uses of the information; and
 - 3. The consequences for refusing to provide the information.
- C. The city may not use private or controlled records for purposes other than those given in the statement filed with the state archivist under SMC A of this section or for purposes other than those for which another governmental entity could use the record under section 63-2-206 of the Utah Code Annotated.

2.56.210 CRIMINAL PENALTIES

- A.
 - 1. A public employee or other person who has lawful access to any private, controlled or protected record under this chapter, and who intentionally discloses or

provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.

2. It is a defense to prosecution under SMC A1 of this section that the actor released private, controlled or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office or misappropriation of public funds or property.
3. It is a defense to prosecution under SMC A1 of this section that the record could have lawfully been released to the recipient if it had been properly classified.

B.

1. A person who by false pretenses, bribery or theft, gains access to or obtains a copy of any private, controlled or protected record to which he is not legally entitled is guilty of a class B misdemeanor.
2. No person shall be guilty under SMC B1 of this section who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.

- C. A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a city, the records committee, or a court, is guilty of a class B misdemeanor.

3 REVENUE AND FINANCE

3.04 FINANCIAL ADMINISTRATION

3.08 SALES AND USE TAX

3.12 SPECIAL IMPROVEMENT TAXES

3.16 SPECIAL IMPROVEMENT GUARANTY FUND

3.20 MUNICIPAL IMPACT FEES

3.24 PURCHASING POLICY

3.28 MUNICIPAL ENERGY SALES AND USE TAX

3.30 TELECOMMUNICATIONS LICENSE TAX

3.04 FINANCIAL ADMINISTRATION

3.04.010 MAYOR CITY'S FINANCIAL OFFICER

3.04.010 MAYOR CITY'S FINANCIAL OFFICER

3.08 SALES AND USE TAX

3.08.010 SHORT TITLE

3.08.020 PURPOSE

3.08.030 SALES AND USE TAX

3.08.040 VIOLATION; PENALTY

3.08.010 SHORT TITLE

This chapter shall be known as the *SALES AND USE TAX ORDINANCE OF THE CITY/TOWN OF SMITHFIELD*.

3.08.020 PURPOSE

- A. 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 (1%) tax.
- B. It is the purpose of this chapter to conform 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.

3.08.030 SALES AND USE TAX

A. Tax Levied:

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 (1%).
2. 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 the ordinance codified in this chapter at the rate of one percent (1%) of the sales price of the property.
3. 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 determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax 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.

B. Adoption And Exceptions:

1. 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.
2. Whenever, and to the extent that in chapter 12 of title 59, Utah Code Annotated, 1953, the state of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in SMC B of this section 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 of Utah, nor shall the name of the municipality be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the state tax commission in performing the functions incident to the administration or operation of this chapter.
3. If an annual license has been issued to a retailer under section 59-12-106 of the said Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.
4. There shall be excluded from the purchase price paid or changed by which the tax is measured:
 - a. The amount of any sales or use tax imposed by the state upon a retailer or consumer;
 - b. 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 ordinances enacted by that county or municipality in accordance with the sales and use tax act.

3.08.040 VIOLATION; 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 (6) months, or by both such fine and imprisonment.

3.12 SPECIAL IMPROVEMENT TAXES

3.12.010 PURPOSE

3.12.020 DELINQUENCY; NOTICE OF SALE
3.12.030 COSTS
3.12.040 EXPENSE OF SALE
3.12.050 MINIMUM SALE PRICE
3.12.060 SALE
3.12.070 FEES
3.12.080 INTEREST
3.12.090 TAX SALE RECORD
3.12.100 CERTIFICATE OF SALE
3.12.110 CERTIFICATE OF SALE TO MUNICIPALITY
3.12.120 SALE TO MUNICIPALITY
3.12.130 GENERAL TAXES ON DELINQUENT PROPERTY
3.12.140 REDEMPTION
3.12.150 INSTALLMENT REDEMPTION
3.12.160 CERTIFICATE OF REDEMPTION
3.12.170 NOTICE OF REDEMPTION
3.12.180 TAX DEED
3.12.190 TAX DEED RECORD
3.12.200 RECORDER'S FEE
3.12.210 SALE AFTER DEED

3.12.010 PURPOSE

It is the purpose of this chapter to supplement and provide details necessary to implement the powers and procedures whereby the municipality may levy, assess and collect special taxes for special improvements under the provisions of the Utah municipal improvement district act, Utah Code Annotated section 17A-3-301.

3.12.020 DELINQUENCY; NOTICE OF SALE

After the date of delinquency, as fixed in the levy and notice of tax adopted by the governing body in connection with the creation of a special improvement district and the levy of taxes necessary to pay for the project, the treasurer shall proceed to make up a list of all property upon which the special tax remains due and unpaid and cause the same to be published at least once in some newspaper having general circulation in the municipality at least ten days prior to the date of sale. The delinquency list shall contain a description of the property delinquent according to lots, block or parcels, together with the owner's name or names, if known, and if not known, in lieu thereof, the words "unknown owner" with the amount of taxes due on each separate parcel exclusive of costs, and shall be accompanied by a notice of sale substantially in the following form:

NOTICE OF SALE FOR SPECIAL TAXES

Notice is hereby given that special taxes for (here insert briefly the purpose of the tax) are due and unpaid in amounts and upon the lands set forth and described in the delinquent list hereto attached. Unless the taxes, including interest, together with the cost of publication, are paid on or before the day of (here fix a day at least 12 days from the date of first publication), the real property upon which such taxes are a lien will, on that day, be sold for the taxes, interest, costs of advertising, and expenses of sale, at the front door of the (here insert name of building and address) beginning at the hour of 12:00 o'clock noon, and continuing until all of the property shall have been sold.

(Prior code § 6-212)

3.12.030 COSTS

The treasurer shall tax against each parcel of land advertised as delinquent the sum of thirty five dollars (\$35.00) for the cost of advertising the delinquency and shall, after the first publication, in all instances of payment, collect such amount in addition to the tax.

3.12.040 EXPENSE OF SALE

In case of a sale of any land for special taxes, the treasurer shall add to the amount of tax and costs of advertising the further sum of five dollars (\$5.00) as the expense of sale and shall, in all instances of sale or redemption, collect such sum.

3.12.050 MINIMUM SALE PRICE

In no case shall lands advertised for sale for delinquent special taxes be sold for less than the amount of such special taxes, interest, the cost of advertising and expense of sale.

3.12.060 SALE

On the day fixed for the sale, the treasurer, in person or by deputy, shall appear at the hour and place named in the notice of sale and at public auction, and there offer to the highest responsible bidder sufficient of the delinquent real estate for a sum sufficient to pay the taxes, interest and costs. The offer of sale shall be substantially in the following language:

There is delinquent upon (here describe the piece of property as in the notice) special taxes amounting to dollars with interest, costs, and expenses of dollars.

What is the smallest portion of this property which you will take and pay the taxes, interest, costs, and expenses?

If the sale is not concluded by four o'clock (4:00) P.M. of the day advertised it may be, by the treasurer, continued until twelve o'clock (12:00) noon of the next succeeding business day and thereafter in the same manner proceeded with and continued until completed.

3.12.070 FEES

The treasurer shall collect a fee of five dollars (\$5.00) for each certificate issued, which shall be paid into the treasury.

3.12.080 INTEREST

Interest at the rate of ten percent (10%) per year shall be charged on the special tax due from the date of delinquency until date of sale and interest at the rate of ten percent (10%) per year shall be charged on the full amount for which the property was sold from the date of sale.

3.12.090 TAX SALE RECORD

- A. The treasurer shall make a record of all sales of real property in a book to be kept by him for that purpose. The record shall be kept substantially in the same order as that for which the property was advertised for sale, but shall list, as applicable, in separate columns, a description of the property, the amount of the tax, interest, costs, expenses, how much of what part of each tract was sold, by whom purchased, the date of sale and the date of redemption.
- B. At the end of each calendar year, the book shall be endorsed "Smithfield Treasurer, Special Tax Sale Record For The Year 19_", and it shall then be filed in his office. Whenever thereafter any portion of property so sold shall be redeemed, the fact of redemption shall be entered by the treasurer opposite the description of the property in the tax sale record. At the expiration of three years from the date of filing in his office, the treasurer shall file each yearly tax sale record in the office of the recorder/clerk.

3.12.100 CERTIFICATE OF SALE

When real estate is sold for special taxes, the treasurer shall make out, sign, acknowledge and deliver a certificate of sale which shall recite the facts of sale as in the tax sale record, and what payment has been made therefor, and which certificate shall be substantially in the following form:

(name of municipality)

TREASURER'S OFFICE

CERTIFICATE OF SALE FOR SPECIAL TAX

THIS CERTIFIES, That on the day of , 19_, in pursuance of law and ordinance, I , as treasurer and collector of special taxes for , Utah, sold to , subject to redemption, as provided by law, the following property in (name of municipality) for delinquent special taxes assessed against the property in the name of (delinquent taxpayer) to-wit:

DESCRIPTION

Ext. No. Page

Frontage abutting the improvement to the full depth back therefrom (or other depth)

Feet

of Lot Block Plat _____

TAX AND COSTS

Amount of tax

\$ _____ *Interest to date of sale*

\$ _____ *Advertising*

\$ _____ *Expense of sale*

\$ _____ *Certificate of sale*

\$ _____ *Total tax and costs at date of sale*

\$ _____

treasurer and collector of special taxes

DATED, (name of municipality),

(acknowledgement in statutory form.)

3.12.110 CERTIFICATE OF SALE TO MUNICIPALITY

When property is sold to the municipality for special taxes, the treasurer shall make out, sign, acknowledge and deliver the certificate of sale described in SMC 3.12.100 of this chapter to the recorder/clerk, whose duty it shall be to see that such certificate is properly recorded in the office of the county recorder, and it shall thereafter be kept as a part of the records of the recorder/clerk's office.

3.12.120 SALE TO MUNICIPALITY

Where no bid at least equal to the amount of the tax, interest, cost of advertising and expenses of sale on each separate parcel is received as each separate parcel is offered for sale, the municipality shall be deemed to have bid for such property, and the property shall be sold by the treasurer to the municipality for the amount of the tax, interest, cost of advertising and expenses of sale. The sale shall have the same effect as if made to an individual. The recorder/clerk shall draw a check or warrant on the special

improvement guarantee fund for which the special tax was levied in the amount necessary.

3.12.130 GENERAL TAXES ON DELINQUENT PROPERTY

- A. Between November 15 and December 15 in each year, the recorder/clerk shall ascertain, by examination of the county records, which, if any, of the property sold to the municipality is delinquent and about to be sold for general taxes, and report the property and the amount of taxes in each instance to the governing body, with the request that the amount thereof be appropriated to the county.
- B. It shall be the duty of the governing body to appropriate the amount recommended by the recorder/clerk. The treasurer shall thereon draw a warrant in favor of the county for the total sum of such delinquent taxes, and the recorder/clerk shall deliver the warrant to the county treasurer, taking duplicate receipts therefor for each separate piece or parcel of property upon which the general taxes are thus paid. The recorder/clerk shall thereon deliver one of each such receipts to the treasurer and file and attach the other to the corresponding certificate of sale in his office.
- C. On receiving such receipt, the treasurer shall make entry on his tax sale record, opposite the corresponding property, of the date and amount of taxes paid. Such taxes shall thereafter draw interest at the rate of ten percent (10%) per annum, and shall be included in the amount required to be paid for redemption of such property.

3.12.140 REDEMPTION

Real estate sold for special taxes may be redeemed by any person interested therein, at any time within three (3) years after the date of the sale thereof, by such person paying to the treasurer, for the use of the purchaser or his legal representative, the amount paid by such purchaser and all costs and expenses, including the cost of the certificate of sale, together with the sum of five dollars (\$5.00) for the redemption certificate, and all special taxes that have been accrued thereon and which have been paid by the purchaser after his purchase to the time of redemption, together with interest at the rate of one percent (1%) per month on the whole from the date of payment to the date of redemption, provided, that:

- A. In all cases where property has been sold to this municipality, and general taxes thereon have been thereafter paid by this municipality, it shall be necessary for a redemptioner to pay the amount of such general taxes, so paid as aforesaid, with interest thereon from the date of payment to the date of redemption, at the rate of ten percent (10%) per annum; and
- B. When two (2) or more parties are interested in a piece of property which has been sold for taxes, either party may redeem the property in which he is interested, upon payment of that portion of the taxes, interest and costs which his property bears to the whole property sold, together with the sum of five dollars (\$5.00) for a redemption certificate.

3.12.150 INSTALLMENT REDEMPTION

- A. Any property sold to this municipality, on which tax sale certificates have been issued but for which no tax deed has been issued to the municipality, may be redeemed by any person having an interest in such property on the payment in installments of the unpaid principal, interest and all costs and charges, provided that the installments shall be paid within such time and in such amounts as will discharge the indebtedness within the period in which the right to redeem from such tax sale shall expire.
- B. Credit shall be given for each installment as paid, and the interest shall be reduced proportionately.
- C. Interest shall be paid at the rate of ten percent (10%) per annum on the unpaid balance due under this section.
- D. There is imposed the sum of one dollar (\$1.00) per installment payment to cover the additional bookkeeping expenses incurred by any person taking advantage of this section, and such charge shall not be credited against the delinquent assessment.
- E. Every person who takes advantage of this section shall enter into an agreement with the municipality which shall be substantially in the following form:

AGREEMENT OF INSTALLMENT REDEMPTION

I, the undersigned hereby:

- A. Acknowledges that he is delinquent in the payment of the special improvement taxes levied against the property described below in the amount of \$ which amount is the total of the unpaid tax, principal and interest, costs of advertising and expense of sale.
- B. Agrees and promises to pay the above-stated amount in equal installments of \$ which payment will be made on or before the day of each month from the period beginning , 19 to and including , 19 .
- C. Acknowledges having received and read a copy of section 6-225 of the "Revised Ordinances of ", and understands the same.
- D. Agrees that should he fail to make payment of the installments when due, the right of the municipality to receive a tax deed for the property below described shall not be impaired thereby and the undersigned shall not be entitled to receive any refund of any amount paid hereunder.

The property covered by the provisions of this agreement is described as follows:

DATED this day of , 19.

Mayor

ATTEST:

Recorder/Clerk

3.12.160 CERTIFICATE OF REDEMPTION

The treasurer shall, when any property is fully redeemed, make the proper entry in the tax sale record file in his office, and issue a certificate of redemption, which certificate shall be by him acknowledged, and which entry or certificate shall be prima facie evidence of such redemption.

3.12.170 NOTICE OF REDEMPTION

In all cases where property sold to this municipality is fully redeemed, the treasurer shall issue a formal notice of such redemption in writing and file the same with the recorder/clerk, whose duty it shall be to attach such notice to the corresponding certificate of sale on file in his office, and endorse on the filing face of such certificate in red ink the word "REDEEMED" and the date of redemption.

3.12.180 TAX DEED

- A. If any property as set out in this chapter is not fully redeemed within the time and in the manner provided in this chapter, on the deposit of the tax sale record in the year in which the property was sold by the treasurer with the recorder/clerk, the recorder/clerk shall, on presentation of the treasurer's certificate of sale, make and acknowledge a deed conveying the property therein described to the purchaser, his heirs, or assigns, as the case may be. If any person shall be entitled to receive deeds for more than one parcel of property, he may have the whole included in one deed, but each parcel shall be separately described. In January of each year, or as soon thereafter as the business of the office will permit, the recorder/clerk shall make and acknowledge a deed, conveying to this municipality all property purchased in the name of the municipality at special tax sale not theretofore redeemed, as in this chapter provided, shall see that such deeds are properly recorded in the office of the county recorder and shall keep such deeds on file in his office for the benefit of the special improvement guarantee fund.
- B. Deeds issued by the recorder/clerk in pursuance of the provisions of this chapter shall recite in substance the amount of tax for which the property was sold, the particular purpose of the tax levied, the year in which the levy was made, the day and year of sale, the amount for which the real estate was sold, a description of the property sold, in accordance with the certificate of sale, the name of the purchaser or the purchaser's assignee, and shall be executed by the recorder/clerk on behalf of the municipality, and by him acknowledged so as to be entitled to record.

3.12.190 TAX DEED RECORD

The recorder/clerk shall keep on file in his office a record of all tax deeds issued by him, which shall be a photocopy of the deeds so issued by him, and which shall be indexed in the name of the party whose property was sold for taxes, and also in the name of the individual to whom the tax deed was issued.

3.12.200 RECORDER'S FEE

The recorder/clerk shall collect five dollars (\$5.00) for each deed issued, for the first description of property contained in such deed, and for each additional description of property in such deed, and shall pay such fees monthly to the treasury. However, in cases where this municipality is the tax sale purchaser, no fee shall be collected.

3.12.210 SALE AFTER DEED

Whenever property sold for special taxes and purchased by this municipality shall not have been redeemed within the time specified, but shall have been conveyed to the municipality by recorder's deed, and which shall not have been sold by the municipality, such property may thereafter be purchased by the prior owner, his heirs, personal representative or assigns, or any other person, upon petition therefor addressed to the governing body and upon such terms as the governing body may determine. The proceeds of such purchase shall be paid into the special improvement guarantee fund, provided, however, that nothing contained in this section shall prevent this municipality from selling any property conveyed to it by recorder's deed to any person at any time after such conveyance is made.

3.16 SPECIAL IMPROVEMENT GUARANTY FUND

3.16.010 SPECIAL IMPROVEMENT GUARANTY FUND CREATED

3.16.020 MAINTENANCE OF FUND

3.16.030 INTEREST AND PENALTIES

3.16.040 PAYMENT OF BONDS OR WARRANTS

3.16.050 REPLENISHMENT OF FUND

3.16.060 RECORDER TO ISSUE WARRANTS

3.16.070 SUBROGATION OF MUNICIPALITY

3.16.010 SPECIAL IMPROVEMENT GUARANTY FUND CREATED

There is created a special fund to be known as the special improvement guaranty fund, which fund shall be used for the purpose of guaranteeing to the extent of the fund the payment of special improvement bonds or special improvement warrants and interest thereon theretofore or hereafter issued against the local improvement districts for the payment of local improvements therein and for the purchase of property sold to the municipality at tax sales or under foreclosure for delinquent special improvement taxes.

3.16.020 MAINTENANCE OF FUND

The governing body shall create and maintain the special improvement guaranty fund by appropriations from the general fund, by the levy of a tax not to exceed one mill in any one year, by the issuance of general bonds or by appropriation from such other sources as may be determined by the governing body to provide the money necessary for that purpose. The fund shall be held by the treasurer and shall be kept by him separate and apart from all other funds held by him. Payments out of the fund shall be made only by checks drawn by the recorder/clerk.

3.16.030 INTEREST AND PENALTIES

All excess charges and penalties collected by the treasurer for the benefit or credit of any special improvement fund and remaining on hand after all the bonds or warrants, together with interest thereon, drawn against the special improvement fund shall have been fully paid and canceled, shall be transferred by the recorder/clerk to the special improvement guaranty fund.

3.16.040 PAYMENT OF BONDS OR WARRANTS

When any bond, warrant or coupon drawn against any special improvement fund is presented to the treasurer for payment and there is not a sufficient amount in the special improvement fund against which it is drawn, payment therefor shall be made by warrant drawn by the recorder/clerk against the special improvement guaranty fund (unless otherwise requested by the holder).

3.16.050 REPLENISHMENT OF FUND

Whenever there is not a sufficient amount of cash in the special improvement guaranty fund at any time to make any and all purchases of property bid on by the municipality at sales of property for delinquent special improvement taxes, the governing body shall replenish the special improvement guaranty fund by transfer or appropriation from the general fund or other available sources as may be determined by the governing body.

3.16.060 RECORDER TO ISSUE WARRANTS

Warrants drawing interest at a rate not to exceed eight percent (8%) per annum may be issued by the recorder/clerk against the fund to meet any financial liabilities accruing against it. At the time of making its annual tax levy, the governing body shall provide for the levy of a sum sufficient with the other resources of the fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

3.16.070 SUBROGATION OF MUNICIPALITY

Whenever the municipality shall have paid under its guaranty any sum on account of principal or interest on the bonds or warrants of any district, it shall be subrogated to the rights of the holders of such bonds or warrants or interest coupons so paid, and such bonds or warrants or coupons, and the proceeds thereof, shall become a part of the guaranty fund.

3.20 MUNICIPAL IMPACT FEES

3.20.010 IMPACT FEES IMPOSED

3.20.020 SERVICE AREAS

3.20.030 TIME OF COLLECTION

3.20.040 ADJUSTMENT OF IMPACT FEES

3.20.050 ACCOUNTING, EXPENDITURE AND REFUND OF IMPACT FEES

3.20.060 ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE

3.20.010 IMPACT FEES IMPOSED

Impact fees are imposed as a condition of the issuance of a building permit by the city for any development activity which creates additional demand and need for public facilities for parks and recreation, the culinary water system and the wastewater (sewer) system.

3.20.020 SERVICE AREAS

- A. The entire area of the city and any areas outside the city serviced by such systems or facilities are designated and established as one service area with respect to the parks and recreation system and the wastewater (sewer) system.
- B. The five (5) culinary water pressure zones as identified in figure 1-3 of the Smithfield City water master plan 2005-2020 which was adopted as a part of the Smithfield general plan 2005, on July 27, 2005, shall represent the five (5) culinary water service areas for the purposes of assessing the water impact fees.

3.20.030 TIME OF COLLECTION

Unless otherwise provided by the city council, impact fees shall be paid to the city prior to the issuance of a building permit by the city.

3.20.040 ADJUSTMENT OF IMPACT FEES

- A. The city may adjust the impact fees imposed pursuant to this chapter as necessary in order to:
 1. Respond to unusual circumstances in specific cases;
 2. Ensure that the impact fees are imposed fairly;
 3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the city council; and
 4. Allow a credit against impact fees, as approved by the city council, for dedication of land for, improvement to, or new construction of, any system improvements by the applicant or developer if the facilities are identified in the city's capital facilities plans and are required by the city as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah impact fees act.
- B. The city planning commission shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from the city engineer/manager.
- C. The city may adopt policies consistent with this chapter and any resolutions passed by the city council to assist in the implementation, administration and interpretation of this chapter related to municipal impact fees.
- D. If the applicant, developer, person or entity is not satisfied with the city planning commission's decision, an appeal may be made to the city council under the procedures set forth in SMC 3.20.060 of this chapter.

3.20.050 ACCOUNTING, EXPENDITURE AND REFUND OF IMPACT FEES

The city shall account for, expend and refund impact fees collected pursuant to this chapter in accordance with the provisions of the Utah impact fees act.

3.20.060 ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE

- A. Any person or entity required to pay an impact fee imposed by the city who believes the fee does not meet the requirements of law may file a written request for information with the city as provided by law.
- B. Within two (2) weeks of the receipt of the request for information, the city shall provide the person or entity with the written analysis required by the act and with any other relevant information relating to the impact fee.
- C. Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall file a written appeal with the city manager setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the city manager shall forward the appeal, together with a recommendation, to the city council and

shall schedule a public hearing before the city council on the appeal for the purpose of receiving input from all interested persons. The city council shall thereafter render its decision on the appeal no later than thirty (30) days after the date the appeal was filed with the city manager. Any person or entity who has failed to comply with the administrative remedies established by this section, may not file or join an action challenging the validity of any impact fee.

- D. Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the city council may petition the district court for a review of the decision within ninety (90) days of a decision upholding an impact fee by the city council or within twenty (20) days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the first district court for Cache County.
- E. In the event a petition is filed with the district court, the city shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- F. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of SMC E of this section.
- G. If there is a record:
 - 1. The district court's review is limited to the record provided by the city; and
 - 2. The district court may not accept or consider any evidence outside the city's record unless that evidence was offered to the city and the court determines that it was improperly excluded by the city.
- H. If there is an inadequate record, the court may call witnesses and take evidence.
- I. The district court shall affirm the decision of the city if the decision is supported by substantial evidence in the record.
- J. The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.

3.24 PURCHASING POLICY

3.24.010 PURPOSE

3.24.020 LAWS/UTAH CODE CITATIONS

3.24.030 DEFINITIONS

3.24.040 ADMINISTRATION; GENERAL

3.24.050 INTERLOCAL PURCHASING AGREEMENTS

3.24.060 PURCHASING PROCEDURES; GENERAL

3.24.070 DISPOSAL OF PUBLIC PROPERTY

3.24.080 PENALTIES AND ILLEGAL ACTIVITIES

3.24.010 PURPOSE

It is the purpose of this chapter to establish for Smithfield City a purchasing policy pursuant to section 10-7-20, 10-8-2 and other provisions of the laws of the state of Utah. The underlying purposes and policies are to:

- A. To simplify, clarify, and modernize the procedure governing procurement by Smithfield City;
- B. To ensure the fair and equitable treatment of all persons who deal with the procurement system of the city;
- C. To provide increased economy in city procurement activities; and
- D. To foster effective broad based competition within the free enterprise system.

3.24.020 LAWS/UTAH CODE CITATIONS

The purchasing ordinance codified in this chapter includes the following Utah code citations either by reference, intent, or both:

- A. Rules And Regulations: Rules and regulations shall be adopted governing the preparation and content of specifications for supplies, services and construction required by the city. Said rules shall determine the extent to which nonemployees who have prepared specifications may participate in city procurement using such rules and regulations.
- B. Purpose Of Specifications: All specifications shall seek to promote overall economy and best use for the purposes intended and encourage competition, and shall not be unduly restrictive. The requirements of SMC A and B of this section shall apply to all specifications.
- C. Contracts Awarded By Sealed Bids:
 - 1. Contracts shall be awarded by competitive sealed bidding or competitive sealed proposals except for small purchases, emergency purchases, or where there is only one source for the required supply, service or construction item.
 - 2. An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a purchase description and contractual terms and conditions applicable to the procurement.
 - 3. Public notice of the invitation for bids shall be given a reasonable time prior to the date set forth therein for the opening of bids. The notice shall include publication in a newspaper of general circulation a reasonable time prior to bid opening.
 - 4. Bids shall be opened publicly in the presence of two (2) or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection. Bidders shall be invited to the bid opening. The city council shall be informed of the results.
 - 5. Bids shall be unconditionally accepted without alteration or correction. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for the particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable.
 - 6. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in accordance with rules and regulations. After bid opening, changes in bid prices or other provisions of bid prejudicial to the interest of the city or fair competition shall not be permitted. Except as otherwise provided, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the procurement officer. The city council shall be informed.
 - 7. The contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
- D. Preference For Providers Of Local Product: When awarding contracts for construction or purchasing goods or services, the procurement officer shall grant reciprocal preference to resident contractors or Utah products from any state that gives or requires a preference to contractors or goods and services from that state.

- a. As used in this section, "resident contractor" means a person, partnership, corporation, or other business entity that: Either has its principal place of business in Utah or that employs workers who are residents of this state when available; and
- b. Was transacting business on the date when bids for the public contract were first solicited.

E. Use Of Competitive Sealed Proposals In Lieu Of Bids; Procedure:

1. Determination:

- a. When the procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by competitive sealed proposals. The city council shall be informed.
- b.

(1) Competitive sealed proposals may be used for the procurement of services of consultants, professionals, and providers.

(2) The city shall assure maximum practicable competition in those procurements, including the relative importance, if any, of the fee to be charged by an offeror and the total cost.

2. Solicitation Of Proposals: Proposals shall be solicited through a request for proposals.

3. Opening And Inspection Of Proposals:

- a. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.
- b. A register of proposals shall be prepared and shall be open for public inspection after the contract is awarded.

4. Request For Proposals Requirements: The request for proposals shall state the relative importance of price and other evaluation factors.

5. Discussion Of Proposals: As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

6. Determination Of Award:

- a. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals.
- b. No other factors or criteria shall be used in the evaluation.
- c. The contract file shall contain the basis on which the award is made.

F. Circumstance Justifying Award Of Contract Without Competition: A contract may be awarded for supply, service, or construction items without competition when the procurement officer determines by written justification that there is only one source for the required supply, service, or construction item.

G. Emergency Procurements: Notwithstanding any other provision of this chapter, when there exists a threat to public health, welfare, or safety under emergency conditions as defined in rules and regulations, the procurement officer may make or authorize others to make emergency procurements; provided that emergency procurements shall be made with as much competition as practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The city council shall be informed as soon as possible.

H. Cancellation And Rejection Of Bids: An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interest of the city. The reasons shall be made part of the contract file.

I. Determination Of Nonresponsibility Of Bidder: A written determination of nonresponsibility of a bidder or offerer may be made. The unreasonable failure of a bidder or offerer to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the bidder or offerer. Information furnished by a bidder or offerer shall not be disclosed without prior written consent by the bidder or offerer.

J. Rules And Regulations To Determine Allowable Incurred Costs: Rules and regulations may be made regarding the separate handling of small purchases. However, purchases shall not be artificially divided up so as to qualify for purchasing under the small purchases rules.

K. Cost Plus A Percentage Of Cost Contract: "Cost plus a percentage of cost" contracts are prohibited.

L. Period Of Time For Contract Of Supplies: Contracts for supplies and services may be entered into for any period of time deemed to be in the best interest of the city. However, the contract should state that payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

M. Right Of City To Inspect Place Of Business Of Contractor Or Subcontractor: The city may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by city.

N. Records Of Contracts Made: The procurement officer shall maintain a record listing of all contracts made and shall maintain the record in accordance with title 63, chapter 2, government records access and management act. The record shall contain each contractor's name, the amount and type of each contract, and a listing of the supplies, services, or construction procured under each contract.

O. Bid Security Requirements: Bid security in an amount equal to at least five percent (5%) of the amount of the bid shall be required for all competitive sealed bidding for construction contracts.

P. Bonds: When a construction contract is awarded, the following bonds or security shall be delivered to the city:

- 1. A performance bond in an amount equal to one hundred percent (100%) of the price specified in the contract; and
- 2. A payment bond in an amount equal to one hundred percent (100%) of the price specified in the contract for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the contract.

3.24.030 DEFINITIONS

Unless the context requires otherwise, the terms as used in this chapter, the rules and regulations adopted pursuant to this chapter shall have the following meaning:

ADEQUATE APPROPRIATION BALANCE: Sufficient fund balance which must exist in the line item appropriation of the account number against which the purchase order is to be charged.

BIDDING: Procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipment and contractual services.

BUDGET OFFICER: The city manager as prescribed by city ordinance.

BUSINESS: Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

CAPITALIZED PERSONAL PROPERTY: Those items with a cost value of five thousand dollars (\$5,000.00) or more and listed on the depreciation schedule.

CHANGE ORDER: A written order directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

CONTRACT: Any agreement for the procurement or disposal of supplies, services, or construction.

CONTRACTUAL SERVICES: Public works projects and other professional services such as auditing, architects, engineers, or other consulting services.

DEPARTMENT HEAD: The individual who administers a department or his/her designee as specified in writing to the purchasing agent or in the absence of a department head, the city manager. The department head shall be responsible for maintaining a system of inventory for his/her department.

ESTIMATES OF REQUIREMENTS: Forecasts of future requirements of supplies, equipment, or contractual services submitted by department heads.

INVITATION FOR BIDS: All documents, whether attached or incorporated by reference, used for soliciting bids.

LOCAL BIDDER: A firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by Smithfield City.

NONCAPITALIZED REAL PROPERTY: Those items with a cost value of less than five thousand dollars (\$5,000.00) and not listed on the depreciation schedule.

PERFORMANCE BOND: A contract of guaranty executed subsequent to award by a successful bidder to protect the city from loss due to the inability of the bidder to complete the contract as agreed. It may include a description of any requirement for inspecting, testing, or preparing a supply, service or construction item for delivery.

PERSON: Any business, individual, union, committee, club, other organization, or group of individuals.

PROCUREMENT: Buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.

PROCUREMENT OFFICER: Any person authorized to enter into and administer contracts and make written determinations with respect thereto. It also includes an authorized representative acting within the limits of authority.

PUBLIC PROPERTY: Any item of real or personal property owned by the city.

PURCHASE DESCRIPTION: The words used in a solicitation to describe the supplies, services or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

PURCHASE ORDERS: Official document used in committing city funds toward the purchase of supplies, equipment and contractual services.

PURCHASING OFFICER: The city manager.

REQUEST FOR PROPOSALS: All documents, whether attached or incorporated by reference, utilized for soliciting proposals (RFP).

REQUISITIONS: Standard forms used by departments providing detailed information as to quantity, description, estimated price, recommended supplier and signature authorization for requested purchases.

RESPONSIBLE BID: An offer, submitted by a responsible bidder to furnish supplies, equipment or contractual services in conformity with the specification, delivery terms and conditions and other requirements included in the invitation for bids.

RESPONSIBLE BIDDER: A bidder who submits a responsible bid; who has furnished, when requested, information and data to prove that his financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, equipment, or contractual services on which he bids; and who has not violated or attempted to violate any provisions of this chapter.

SERVICES: The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.

SPECIFICATION: Any description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service, or construction item for delivery.

SUPPLIES, MATERIALS AND EQUIPMENT: Any and all articles or things which shall be furnished to or used by any city department.

3.24.040 ADMINISTRATION; GENERAL

This chapter shall be implemented by the city manager or his agent. The city manager or his agent shall have the authority and duty to perform the following:

- A. Administer and maintain the purchasing system and other rules and regulations established by this chapter;
- B. Recommend to the city and city council such new or revised purchasing rules and regulations as deemed desirable and in conformance with other statutory requirements and to interpret the provisions of this chapter and applicable statutes;
- C. Negotiate and recommend execution of contracts for the purchase of supplies, equipment and contractual services;
- D. With respect to public improvements, the purchasing officer shall work with the engineer, attorney and other professional persons retained by the city to assist in the

preparation of plans and specifications, and to discharge other related duties. The professional persons may direct bid openings, conduct investigations of lowest responsible bidders, supervise construction work and perform such other tasks as are provided for by their prospective contracts;

- E. Seek to obtain full and open competition on all purchases as possible;
- F. Prescribe and maintain such forms as reasonably necessary to the operation of this chapter and other rules and regulations;
- G. Keep informed of current developments in the field of purchasing;
- H. Supervise the inspection of all supplies and equipment to assure conformance with specifications;
- I. Maintain a bidder's list, vendors' catalog file and other records needed for the efficient operation of the purchasing system;
- J. Adopt office policies governing the internal functions of the purchasing division;
- K. Exercise general supervision and control over all inventories or supplies belonging to the city;
- L. Establish and maintain programs for the inspection, testing and acceptance of supplies, services, and construction;
- M. Prepare statistical data concerning the procurement and usage of all supplies, services, and construction.

3.24.050 INTERLOCAL PURCHASING AGREEMENTS

The city shall have the power to enter into joint purchase agreements with the state of Utah for the purchase of any commodity or service wherein it is determined by the city council to be in the best interests of the city.

3.24.060 PURCHASING PROCEDURES; GENERAL

Except as hereinafter provided, purchases of supplies, equipment, and letting of contracts shall follow one of the following procedures:

- A. Supplies, Material And Equipment: "Supplies, material and equipment" means any and all articles or things which shall be furnished to or used by any city department. This purchasing classification includes items ranging from office supplies to motorized equipment.

- 1. Formal Bidding; Unit Or Project Cost In Excess Of Fourteen Thousand Nine Hundred Ninety Nine Dollars:

- a. Step 1. Budget Appropriation. Department receives appropriation for specific item during budget development process.
- b. Step 2. Purchase Initiation. Department determines time during FY item purchase is desired.
- c. Step 3. Approval To Initiate Formal Process. Department head informs budget officer that department desires to make purchase. Budget officer considers budget and approves initiation of process if budget conditions allow. Budget officer informs mayor and council of impending purchase.
- d. Step 4. Development Of Bid Specifications. Department head works with purchasing officer to determine and develop bid specifications.
- e. Step 5. Formal Request For Bids. Department head and purchasing officer work with city recorder to develop formal legal notice for newspaper. City recorder places ad in newspaper of general circulation.
- f. Step 6. Receipt Of Bids. Written sealed bids must be submitted to the office of the city recorder. Upon receiving the sealed bids the city recorder shall record receipt.
- g. Step 7. Bid Opening. Formal public bid opening is held per legal notice. Bids are read and recorded by city recorder.
- h. Step 8. Bid Analysis. Department head and purchasing officer review and analyze bid for accuracy and pertinence.
- i. Step 9. Award Of Bid. Department head and budget officer inform successful bidder, prepare contract documents and initiate purchases. Budget officer informs mayor and council.
- j. Step 10. Consummation Of Purchase. Department head prepares purchase order. Once commodity is received, inspected and approved by department head, payment is made.

- 2. Open Market Bids; Unit Or Project Cost From Five Thousand Dollars To Fourteen Thousand Nine Hundred Ninety Nine Dollars:

- a. Step 1. Budget Appropriation. Department receives general appropriations for purchases during budget process.
- b. Step 2. Purchase Initiation. Department determines specific needs and time during FY when purchase is desired.
- c. Step 3. Bid Specification. Department head works with purchasing officer, determines specific needs and develops bid specifications.
- d. Step 4. Request For Bids. Department head and/or purchasing officer solicit bids from qualified bidders on bidders list either in writing, fax or electronic.
- e. Step 5. Receipt Of Bids. Bids shall be submitted either verbally or in writing by bidder. Bids may be submitted to either department head or purchasing officer.
- f. Step 6. Bid Analysis. Department head and/or purchasing officer review and analyze bid for accuracy and pertinence.
- g. Step 7. Award Of Bid. Department head and/or purchasing officer select acceptable bid and contact selected bidder.
- h. Step 8. Consummation Of Purchases. Department head prepares requisition and submits to purchasing officer. Purchasing officer issues purchase order to vendor. Once commodity is received, inspected and approved by department head, payment is made.

- 3. Open Market Bids; Unit Or Project Cost From Five Thousand Dollars To Fourteen Thousand Nine Hundred Ninety Nine Dollars:

- a. Step 1. Budget Appropriation. Department receives general appropriation for purchases during budget process.
- b. Step 2. Purchase Initiation. Department determines time during FY when purchase is to be initiated.
- c. Step 3. Purchase Specification. Department head and/or purchasing officer determines specific needs and desired quality/characteristics of item.
- d. Step 4. Price/Quality Checks. Department head working with purchasing officer checks price and quality from available vendors.
- e. Step 5. Consummation Of Purchase. Department head and/or purchasing officer determines selected vendor. Department head prepares requisition and purchasing officer issues purchase order to vendor. Once commodity is received, inspected and approved by department, payment is made.

- 4. Exception: As an exception to SMC A1 and A2 of this section, the city shall have the authority to purchase similar items that may be available through the use of the state of Utah procurement contracts.

- B. Contract Services: Contract services are services provided by a licensed contractor for capital construction projects and/or professional services such as auditing, architects, engineering and other professional services.

- 1. Formal Bidding; Capital Construction Projects In Excess Of Twenty Five Thousand Dollars:

- a. Step 1. Budget Appropriation. Department receives general appropriation for purchases during purchasing process.
- b. Step 2. Purchase Initiation. Department determines time during FY item purchase is desired.
- c. Step 3. Approval To Initiate Formal Process. Department head informs budget officer that department desires to initiate project. Department head seeks approval from city council to initiate project. If council approves, process is initiated.

- d. Step 4. Development Of Bid Specifications. Department head works with purchasing officer, determines specific needs and develops bid specifications.
 - e. Step 5. Formal Request For Bids. Department head and purchasing officer work with city recorder to develop formal legal notice for newspaper. City recorder places ad in newspaper of general circulation.
 - f. Step 6. Receipt Of Bids. Written sealed bids must be submitted to the office of the city recorder. Upon receiving the sealed bids the city recorder shall record receipt.
 - g. Step 7. Bid Opening. Formal public bid opening is held per legal notice. Bids are read and recorded by city recorder.
 - h. Step 8. Bid Analysis. Department head and/or purchasing officer review and analyze bid for accuracy and pertinence.
 - i. Step 9. Award Of Bid. Department head and/or purchasing officer selects acceptable bid and contacts selected bidder.
 - j. Step 10. Consummation Of Project/Contract Payments. Contract payment will be made on a scheduled basis upon approval of purchasing officer and pursuant to the city payment policy. City council will be advised of payments via accounts payable listing.
 - k. Step 11. Report. Report made to city council.
2. Open Market Bids; Capital Construction Project Five Thousand Dollars To Twenty Four Thousand Nine Hundred Ninety Nine Dollars:
 - a. Step 1. Budget Appropriation. Department receives general appropriations for purchases during budget process.
 - b. Step 2. Purchase Initiation. Department determines specific needs and time during FY that project should be initiated.
 - c. Step 3. Bid Specification. Department head works with purchasing officer, determines specific needs and develops bid specifications.
 - d. Step 4. Request For Bids. Department head and/or purchasing officer solicit bids from qualified bidders on bidders list either in writing or verbally.
 - e. Step 5. Receipt Of Bids. Bids shall be submitted in writing via fax, electronically or personal delivery by bidder. Bids may be submitted to either department head or purchasing officer.
 - f. Step 6. Bid Analysis. Department head and/or purchasing officer review and analyze bid for accuracy and pertinence.
 - g. Step 7. Award Of Bid. Department head and/or purchasing officer select acceptable bid and contact selected bidder.
 - h. Step 8. Consummation Of Purchase. Department head prepares requisition and submits to purchasing officer. Purchasing officer issues purchase order to vendor. Once commodity is received, inspected and approved by department head, payment is made. Purchase is listed on accounts payable roster and mayor and council informed.
 3. Formal Bidding; Competitive Professional Services:
 - a. Step 1. Budget Appropriation. Department receives specific and general appropriation for professional services during budget development process.
 - b. Step 2. Project Initiation. Department determines time during FY that professional services are needed.
 - c. Step 3. Approval To Initiate Acquisition Process. Department head informs budget officer of desire to acquire professional services. Department head seeks approval from city council to initiate acquisition process. If council approves, process is initiated.
 - d. Step 4. Development Of Specifications. Department head works with purchasing officer, determines specific needs and develops bid specifications.
 - e. Step 5. Request For Proposals. Department head and purchasing officer develop request for proposals.
 - f. Step 6. Formal Request For Bids. Department head and/or purchasing officer solicit bids for qualified bidders via publication of RFP in newspaper of general circulation.
 - g. Step 7. Receipt Of Bids. Bids must be submitted in writing by bidder. Bids may be submitted to either department head or purchasing officer.
 - h. Step 8. Bid Opening. Formal public bid opening is held per legal notice. Bids are read and recorded by city recorder.
 - i. Step 9. Bid Analysis. Department head and/or purchasing officer review and analyze bid for accuracy and pertinence.
 - j. Step 10. Award Of Bid. Department head, budget officer recommend, council awards. Department head and/or purchasing officer contact selected bidder.
 - k. Step 11. Consummation Of Project/Contract. Payments will be made on a scheduled basis upon approval of department head and implementation of payment policy. City council advised of payment via accounts payable listing.
 4. Qualification Analysis; Single Source Professional Services:
 - a. Step 1. Budget Appropriation. Department receives general appropriation for purchases during budget process.
 - b. Step 2. Project Initiation. Department determines time during FY that project should be initiated.
 - c. Step 3. Approval To Initiate Acquisition Process. Department head informs budget officer that department desires to initiate project. Department head seeks approval from city council to initiate project. If council approves, process is initiated.
 - d. Step 4. Professional Services Specification. Department head works with purchasing officer, determines specific needs and develops specifications.
 - e. Step 5. Review Of Professional Qualification. The department head and/or purchasing officer will obtain and develop a statement of qualifications and references from sole-source provider. Qualified providers will continue to be considered.
 - f. Step 6. Analysis Of Bid. Department head and/or purchasing officer review and analyze bid for accuracy and pertinence.
 - g. Step 7. Award Of Bid. Department head, budget officer recommend. Council awards, not to exceed, specific time period contract.
- C. Emergency Purchases: "Emergency purchases" means purchase of supplies, material, equipment or services to mitigate a situation which creates a threat to public health, welfare or safety.
1. Open Market; No Bids; All Emergency Situations:
 - a. Step 1. Purchase Needs Assessments. The city manager, department head or others involved with the emergency will assess and recommend the purchase need.
 - b. Step 2. Consummation Of Purchase. The city manager, department heads or others will determine selected vendors. The mayor or his designated agent will approve purchase.
 - c. Step 3. Inform Council. The city council will be informed of all major emergency purchases as soon as possible.

3.24.070 DISPOSAL OF PUBLIC PROPERTY

All disposal, leases and/or subleases of public property of the city shall be made, as nearly as possible, under the conditions and limitations that follow:

A. Disposal Of Capitalized Personal Property (See Definitions):

1. The city council shall, at a regular council meeting, declare all personal property to be disposed of as surplus property prior to disposal.
2. The city shall advertise through public notice, in a newspaper of general circulation, the sale of any personal property. The notice may be general in nature without

listing each item individually.

3. Following publication of the notice, the city may hold a public sale and dispose of items at a predetermined price or within a predetermined price range. In lieu of a public sale, the city may invite bids to be submitted. In such case, the date for submitting bids shall be given.
4. Bids shall be opened and read before the public. The sale of items shall be made to the highest responsible bidder.
5. Any personal property that cannot be sold at a public sale or through the bidding process may be disposed of in a manner acceptable to the city manager.

B. Disposal Of Noncapitalized Real Property (See Definitions):

1. The city manager may approve the disposal of all noncapitalized personal property.
2. The department head will determine if the property is nonrepairable or of no further value to the city.
3. The department head will provide a list of the items proposed for disposal to the city manager on a form provided by the city. The form will be signed by both the city manager and the department head.
4. A copy of the signed list of approved items for disposal will be given to the city recorder to be added to the listing of disposed items.
5. Upon approval of the city manager, the department head may dispose of the items in any manner that is deemed appropriate.

C. Disposal Of Real Property To Include Land, Buildings, Etc.:

1. The city may, but shall not be required to obtain from a certified public appraiser an appraisal of the property to be disposed of.
2. When in the best interest of the city, the city council may negotiate and consummate the sale of a parcel of land, with or without a building, with an individual, group, corporation, or consortium.
3. In cases where the property is to be disposed of through a sale to the general public, such action shall be accomplished through a sealed bid process. The city recorder shall cause a notice to be published in a newspaper of general circulation which shall describe the property to be sold, the minimum asking price of the property, the date and time bids shall be submitted and any other information pertinent to the property being sold.
4. The city council shall review bids in a setting of their choice.
5. Disposal of real property shall be made on the basis of bid amount, future use of the property, and any other factors the city council deems to be in the best interest of the city.

D. Leasing Of City Property: The city, at the direction of the city council, may lease or sublease any of the city property under fair and appropriate conditions, considering intended use and value, and the best interests of the city.

3.24.080 PENALTIES AND ILLEGAL ACTIVITIES

- A. **Personal Investments:** No person involved in making procurement decisions on behalf of the city may have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties.
- B. **Personal Compensation Prohibited:** Any person involved in making procurement decisions on behalf of the city is guilty of a felony offense if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization.
- C. **Conflict Of Interests:** No member of the city council or city employee may be interested directly or indirectly in any contract entered into by the city. A violation of this provision shall be cause for removal or other disciplinary action.
- D. **Collusion Among Bidders:** Any agreement or collusion among bidders or prospective bidders which may result in the restraint of freedom of competition by agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void.
- E. **Advance Disclosures:** Any disclosure in advance of the opening of bids, whether in response to advertising or any informal request for bids, made or permitted by a member of the city council or city employee shall render void the advertisement or request for bids.
- F. **Gratuities:** The acceptance of any gratuity in the form of cash, merchandise, or anything of value by officials or employees of the city from any vendor or contractor for the purpose of gaining favor or an advantage shall be deemed to be a violation of this chapter and shall be cause for termination or other disciplinary action.
- G. **Procurement Officer:** Any person acting as a procurement officer for the city or who in any official capacity participates in the procurement of supplies, services, construction, real or personal property, is guilty of a felony offense if the person asks, receives or offers to receive any emolument, gratuity, contribution, loan or reward, or any promise thereof, from any person interested in the sale of such supplies, services, construction, real or personal property, either for the person's own use or the use or benefit of any other person or organization.
- H. **Vendors And Contractors:** A person who is interested in any way in the sale of any supplies, services, construction, real or personal property, shall be guilty of a felony if the person gives or offers to give any emolument, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer, or who in any official capacity participates in the procurement of such supplies, services, construction, real or personal property, or insurance, whether it is given for his own use or for the use or benefit of any other person or organization.
- I. **Penalty:** Any employee or official of Smithfield City who shall purchase any goods or services in violation of the procedures set forth in this chapter shall be subject to penalties up to and including possible termination.

3.28 MUNICIPAL ENERGY SALES AND USE TAX

3.28.010 PURPOSE

3.28.020 DEFINITIONS

3.28.030 MUNICIPAL ENERGY SALES AND USE TAX

3.28.040 EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX

3.28.050 NO EFFECT UPON EXISTING FRANCHISE CREDIT FOR FRANCHISE FEES

3.28.060 TAX COLLECTION CONTRACT WITH THE STATE TAX COMMISSION

3.28.070 INCORPORATION OF PART 1, CHAPTER 12, TITLE 59, UTAH CODE, INCLUDING AMENDMENTS

3.28.080 NO ADDITIONAL LICENSE TO COLLECT OR REPORT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED

3.28.010 PURPOSE

It is the intent of Smithfield City to adopt the municipal energy sales and use tax, pursuant to, and in conformance with, Utah Code Annotated section 10-1-301 et seq., the municipal energy sales and use tax act.

3.28.020 DEFINITIONS

CONSUMER: A person who acquires taxable energy for any use that is subject to the municipal energy sales and use tax.

CONTRACTUAL FRANCHISE FEE:

A. A fee:

1. Provided for in a franchise agreement; and
2. That is consideration for the franchise agreement;

B.

1. A fee similar to SMC A of this definition; or
2. Any combination of SMC A of this definition or this SMC B.

DELIVERED VALUE: 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 usable form to each class of customer in the municipality.

"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.

ENERGY SUPPLIER: A person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the state tax commission.

FRANCHISE AGREEMENT: A franchise or an ordinance, contract, or agreement granting a franchise.

FRANCHISE TAX:

A. A franchise tax;

B. A tax similar to a franchise tax; or

C. Any combination of SMC A or B of this definition.

PERSON: Includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

SALE: Any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

A. Installment and credit sales;

B. Any closed transaction constituting a sale;

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.

STORAGE: Any keeping or retention of taxable energy in this city for any purpose except sale in the regular course of business.

TAXABLE ENERGY: Gas and electricity.

USE: 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 of the taxable energy in the regular course of business and held for resale.

3.28.030 MUNICIPAL ENERGY SALES AND USE TAX

There is levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Smithfield 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.

A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.

B. The tax shall be in addition to any sales or use tax on taxable energy imposed by Smithfield City authorized by title 59, chapter 12, part 2 of the Utah Code Annotated, the local sales and use tax act.

3.28.040 EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX

A. No exemptions are granted from the municipal energy sales and use tax except as expressly provided in Utah Code Annotated section 10-1-305(2)(b); notwithstanding an exemption granted by section 59-1-104 of the Utah code.

B. The following are exempt from the municipal energy sales and use tax, pursuant to Utah Code Annotated section 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 59, 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
7. The sale of taxable energy for use outside the boundaries of Smithfield City.

C. 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:

1. 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
2. Smithfield 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.

3.28.050 NO EFFECT UPON EXISTING FRANCHISES CREDIT FOR FRANCHISE FEES

- A. This chapter shall not alter any existing franchise agreements between Smithfield City and energy suppliers.
- B. 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 Smithfield City pursuant to a franchise agreement in effect on July 1, 1997;
 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.

3.28.060 TAX COLLECTION CONTRACT WITH THE STATE TAX COMMISSION

- A. On or before the effective date of this chapter, Smithfield City shall contract with the state tax commission to perform all functions incident to the administration and collection of the municipal energy sales and use tax, in accordance with this chapter. The mayor, with the approval of the city attorney, is authorized to enter into agreements with the state tax commission that may be necessary to the continued administration and operation of the municipal energy sales and use tax ordinance enacted by this chapter.
- B. An energy supplier shall pay the municipal energy sales and use tax revenues collected from consumers directly to Smithfield City monthly if:
 1. The Smithfield City is the energy supplier; or
 2.
 - a. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals one million dollars (\$1,000,000.00) or more, and
 - b. The energy supplier collects the municipal energy sales and use tax.
- C. An energy supplier paying the municipal energy sales and use tax directly to Smithfield 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 section 10-1-307(4), Utah Code Annotated.

3.28.070 INCORPORATION OF PART 1, CHAPTER 12, TITLE 59, UTAH CODE, INCLUDING AMENDMENTS

- A. Except as herein provided, and except insofar as they are inconsistent with the provisions of title 10, chapter 1, part 3, municipal energy sales and use tax act, as well as this chapter, all of the provisions of part 1, chapter 12, title 59 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 sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are adopted and made a part of this chapter as if fully set forth herein.
- B. Wherever, and to the extent that in part 1, chapter 12, title 59, Utah Code Annotated 1953, as amended, the state of Utah is named or referred to as the taxing agency, the name of Smithfield 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 subsection shall be deemed to require substitution of the name Smithfield City for the word "state" when that word is used as part of the title of the state tax commission, or of the constitution of Utah, nor shall the name of Smithfield City be substituted for that of the state in any section when the result of such a substitution would require action to be taken by or against Smithfield City 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.

Any amendments made to part 1, chapter 12, title 59, Utah Code Annotated 1953, as amended, which would be applicable to Smithfield City for the purposes of carrying out this chapter are incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

3.28.080 NO ADDITIONAL LICENSE TO COLLECT OR REPORT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED

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 a license issued under section 59-12-106 Utah Code Annotated.

3.30 TELECOMMUNICATIONS LICENSE TAX

3.30.010 DEFINITIONS

3.30.010 DEFINITIONS

As used in this chapter:

COMMISSION: The state tax commission.

CUSTOMER: Means and is subject to the following:

- A. For purposes of this chapter, "customer" means:
 1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 2. If the end user is not the person described in SMC A1 of this definition, the end user of telecommunications service.
- B. Customer does not include a reseller:
 1. Of telecommunications service; or
 2. For mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

END USER:

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

GROSS RECEIPTS ATTRIBUTED TO THE MUNICIPALITY: Those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah code title 59, chapter 12, sales and use tax act, and determined in accordance with Utah code section 59-12-207.

GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE: The revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

- A. A tax, fee, or charge:
 - 1. Imposed by a governmental entity;
 - 2. Separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - 3. Imposed only on a telecommunications provider;
- B. Sales and use taxes collected by the telecommunications provider from a customer under title 59, chapter 12, sales and use tax act; or
- C. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

MOBILE TELECOMMUNICATIONS SERVICE: As defined in the mobile telecommunications sourcing act, 4 USC section 124.

MUNICIPALITY: Smithfield City.

PLACE OF PRIMARY USE:

- A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
 - 1. The residential street address of the customer; or
 - 2. The primary business street address of the customer; or
- B. For mobile telecommunications service, is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

SERVICE ADDRESS: Notwithstanding where a call is billed or paid, "service address" means:

- A. If the location described in this subsection is known, the location of the telecommunications equipment:
 - 1. To which a call is charged; and
 - 2. From which the call originates or terminates;
- B. If the location described in SMC A of this definition is not known but the location described in this subsection is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - 1. The telecommunications system of the telecommunications provider; or
 - 2. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
- C. If the locations described in SMC A or B of this definition are not known, the location of a customer's place of primary use.

TELECOMMUNICATIONS PROVIDER:

- A. Subject to SMC B and C of this definition, means a person that:
 - 1. Owns, controls, operates, or manages a telecommunications service; or
 - 2. Engages in an activity described in SMC A1 of this definition for the shared use with or resale to any person of the telecommunications service.
- B. A person described in SMC A of this definition is a telecommunications provider whether or not the public service commission of Utah regulates:
 - 1. That person; or
 - 2. The telecommunications service that the person owns, controls, operates, or manages.

"Telecommunications provider" does not include an aggregator as defined in Utah code section 54-8b-2.

TELECOMMUNICATIONS SERVICE:

- A. Telephone service, as defined in Utah code section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
- B. Mobile telecommunications service, as defined in Utah code section 59-12-102:
 - 1. That originates and terminates within the boundaries of one state; and
 - 2. Only to the extent permitted by the mobile telecommunications sourcing act, 4 USC section 116 et seq.

5 BUSINESS LICENSES AND REGULATIONS

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5.04 BUSINESS LICENSES GENERALLY

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5.04.010 DEFINITIONS

As used in this title:

AUTHORIZED AGENT: One who has been given authority, either written or through formal action, to act in behalf of the business owner.

BUSINESS: Means and includes all trades, occupations, professions, or activities engaged in within this municipality carried on for the purpose of gain or economic profit, except the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.

BUSINESS OWNER:

- A. In a sole proprietorship, the sole proprietor;
- B. In a partnership, each general partner;
- C. In a limited liability company, each officer of the company with a resolution of the board; or
- D. In a corporation, each officer and director of the corporation with a resolution of the board.

CHARITABLE: For nonprofit benevolent purposes and includes the words patriotic, philanthropic, social service, religious, health, welfare, benevolent, educational, civic, cultural, or fraternal, either actual or purported.

CITY OR MUNICIPALITY: The municipality of the city of Smithfield, Utah.

CONTRACTOR: Means and includes anyone defined as a contractor in section 58-55-102, Utah Code Annotated, as amended and as may be subsequently amended, and licensed as such by the state of Utah. Each contractor and all other contracting services who provide services within the city limits shall be licensed as provided in this title.

EACH SEPARATE PLACE OF BUSINESS: Each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible personal property at either retail or wholesale, or both, in the municipality.

EMPLOYEE:

- A. The operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.
- B. A person receiving a W-2 form rather than a 1099 form for tax reporting purposes.

ENGAGING IN BUSINESS OR CONDUCT OF BUSINESS: Means and includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, and includes (as examples, and not by way of limitation): retail merchants; persons engaged in trades and crafts; professionals, including doctors, lawyers, accountants and dentists; contractors; banks; savings and loan associations; and real estate agents. The act of employees rendering services to employers shall not be included in such terms unless otherwise specifically prescribed.

HOBBY HOME OCCUPATION: Any business which has gross receipts of less than two thousand four hundred dollars (\$2,400.00) in any one year period or is not an enterprise engaged in selling tangible personal property or taxable services. Notwithstanding the fact that sales may be few or infrequent, isolated or occasional sales shall not be required to pay the license fee provided for in this title.

LICENSE: A certificate or document issued by the city evidencing permission or authority of its named holder to carry on a particular business or to pursue a particular occupation.

LICENSEE: The person to whom a license has been issued pursuant to the provisions of this chapter.

NUMBER OF EMPLOYEES: The average number of employees engaged in business at the place of business each regular working day during the preceding calendar year. In computing the number, each part time employee shall be counted as that fraction which is formed by using the total number of hours worked by such employee as the numerator and the total amount of hours regularly worked by a full time employee as the denominator.

PERMIT: A written license or instrument issued by the city authorizing and empowering the grantee thereof to some act not forbidden by law but not allowable without such authority.

PERSON(S): Any individual or natural person, receiver, assignee, trustee in bankruptcy, trust, firm, partnership, joint venture, corporation, club, company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise. Separate licenses shall not be required for persons who engage in business with others as a partnership or corporation. No "person" as defined herein shall claim or qualify in any status (e.g., a natural person, a partnership or corporation) inconsistent with the status claimed on the federal income tax return of that "person".

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.

RELIGIOUS OR CHARITABLE ORGANIZATION: Any organization that can provide written approval from the internal revenue service that the organization has been granted tax exempt status under section 501(c)(3) of the internal revenue code or its successor.

STATE TAX NUMBER: The identification number issued by the state of Utah for the filing of sales taxes to the state.

TEMPORARY BUSINESS: Any business which operates at a location owned, rented, or leased by another on a single occasion during a calendar year, for not more than fifteen (15) consecutive days with permission of the owner of the property being used.

WHOLESALE: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

WHOLESALE: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

5.04.020 LICENSE REQUIRED

Unless otherwise provided, it shall be unlawful for any person to engage in any business without first obtaining a business license pursuant to this title or to continue doing business after a previously issued business license has expired without renewing said license and paying any applicable fees and penalties. A separate license shall be required for each type of "business" defined herein and for each place of business. Each day of noncompliance shall constitute a separate violation.

5.04.025 CONTRACTOR REGISTRATION AND LICENSING

Any person desiring to engage in or conduct business as a contractor within the corporate limits of this municipality must comply with the following requirements:

- A. Register as a contractor with this municipality.
- B. Provide a copy of a current contractor business license issued by this municipality or other municipality or county.
- C. Provide a copy of their current contractor's license issued by the Utah state division of occupational and professional licensing for the services to be offered.

5.04.030 LICENSE ASSESSMENT, COLLECTION AND AUDITS

Smithfield City shall issue licenses and assess and collect license fees and may audit the records of applicants or licensees to ensure compliance with any licensing provision, and may refuse to issue a license or may suspend a license if the applicant or licensee, for any reason, fails or refuses to cooperate in such an audit.

5.04.040 INDEX OF LICENSES

Smithfield City shall maintain an index containing the names of all licensees and the type of license issued to each licensee.

5.04.050 PROCEDURE TO OBTAIN LICENSE

Applicants for a license shall submit a properly completed application form and the appropriate application fee, if any, to Smithfield City. Unless otherwise provided, if issuance of the requested license is consistent with applicable law, Smithfield City shall approve the application and a license shall be issued. Unless otherwise provided, if issuance of the requested license violates applicable law, Smithfield City shall disapprove the application and a license shall not be issued.

5.04.060 APPLICATION FOR A LICENSE

- A. Only the business owner or authorized agent may apply for a license in writing on a form approved by Smithfield City. The application shall show the following with respect to all business owners and persons (excluding shareholders or their equivalent) having a legal or equitable ownership interest in the subject business, trade, profession or other activity:
1. Name, address, date of birth, social security number, and both home and business telephone numbers.
 2. Name, address, date of birth, social security number, and both home and business telephone numbers of the registered agent, if any.
 3. If the primary management is going to be performed by someone other than a person listed in SMC A1 of this section, the name, address, date of birth, social security number, and both home and business telephone numbers of the primary person in charge of the overall day to day management of the business, trade, profession, occupation or activity.
 4. A description of the business, trade, profession, occupation or activity for which a license is requested, including any assumed or fictitious names which may be used.
 5. The address of the property where the subject business, trade, profession, occupation or activity is to be carried on.
 6. The state tax number of the subject business, trade, profession, occupation or activity.
 7. Documentation from the Utah state department of commerce verifying the business name has been properly registered.
 8. When applicable, a copy of the license to collect and remit sales tax issued by the state of Utah or an application for said license to be mailed to the state tax commission by the city.
 9. A statement of all facts deemed necessary by Smithfield City to calculate applicable fees.
 10. In the event the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.
 11. If the state of Utah requires registration and licensing of business, trade, or profession for which application is being made, a current copy of the license issued by the state to practice the business, trade, or profession shall be attached to the application.
 12. Any other information required by this code, by statute, or as reasonably required by Smithfield City.
- B. It shall be unlawful to incorrectly state any fact as part of applying for or retaining any license or in providing facts upon which the calculation of a fee will be based.
- C. The information required under this section shall be kept current. Should any of the information required in SMC A of this section change, the business owner(s) shall provide the city with the correct information within sixty (60) days from the date of the change.

5.04.070 INSPECTIONS

Prior to the issuance of a license to engage in a new business not heretofore licensed, the applicant shall permit inspections to be made of the prospective place of business, if requested, by the appropriate department of the city or other governmental agency to ensure compliance with building, fire and health codes. No license shall be granted without the approval of all such required inspections.

5.04.080 INSPECTIONS; NOTICE OF INFRACTIONS

Existing places of business licensed within the city may be inspected periodically by departments of the city for compliance with building, fire and health codes. Written notice shall be given by the city recorder or other authorized representative of the city to a licensee upon the finding of any code infractions, which notice shall provide for a reasonable period not to exceed sixty (60) days in which to correct such infractions, the failure of which shall result in the revocation of the license by the city recorder or other authorized representatives of the city.

5.04.090 INSPECTIONS; COMPLAINT IN CASE OF NONCOMPLIANCE

The city recorder or other authorized representative of the city may request the city attorney to file a complaint against any applicant or any licensee who continues to conduct business beyond the time limits provided in this section for noncompliance with the required standards.

5.04.100 POLICE APPOINTED INSPECTORS OF LICENSES; POWERS AND DUTIES

- A. All law enforcement officers of the city are appointed inspectors of licenses and, in addition to their several duties as law enforcement officers, are empowered and required in the performance of their duties to examine all places of business and persons who are required to be licensed to see that such licenses are in fact valid and that they are posted in a conspicuous place within the place of business or displayed as required. Law enforcement officers shall have and exercise the power:
1. To enter free of charge, at any time, any place of business for which a license is required; to demand the exhibition of a current license by any person engaged or employed in the conduct of such business; and if such person shall then and there fail to exhibit such license, such person shall be liable for the penalties provided for violation of this chapter;
 2. To make arrests for the violation of any provisions of this title.
- B. It shall be the duty of the city law enforcement officers to cause complaints to be filed for all persons violating any of the provisions of this title.

5.04.110 SEPARATE LICENSE REQUIRED FOR EACH LOCATION

A separate license must be obtained and a separate fee paid for each separate location at which the activities of the applicant take place. Each license shall authorize the person obtaining it to engage in only that activity described in such license and only at the location which is indicated thereon; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this title shall not be deemed to be separate places of business or branch establishments.

5.04.115 JOINT LICENSE

Whenever any person is engaged in two (2) or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license fee to be paid shall be computed at the

highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for each separate business.

5.04.120 TERM OF LICENSE; RENEWAL, TRANSFER PROHIBITED

Unless otherwise expressly provided, the following shall apply to all licenses issued pursuant to this title:

- A. All licenses shall be issued for one year commencing January 1 of any year and expiring December 31 of the same year.
- B. Any license may be renewed within ninety (90) days prior to expiration, without a new application, upon payment of the required fee.
- C. Any license may be suspended or revoked at any time as described in sections SMC 5.04.160 and SMC 5.04.165 of this chapter.
- D. Licenses shall not be transferred. A current license shall not authorize any person other than therein named, to do business or to authorize any other business, trade or profession than is therein named, unless by permission of the governing body. Provided, however, that upon the written consent of the city recorder or other designated representative of the city, a license granted or issued pursuant to this title may be transferred from one place of business to another; provided the licensee remains the same. A transfer fee which has been established in the most current prevailing fee schedule shall be paid for each such transfer.

5.04.130 LICENSE FEES

License fees shall be paid in advance for the term of the license. License fees may be prorated after June 30 on a monthly basis as necessary when a new application is made during the license term as provided in SMC 5.08.010 of this title. License fees shall not be refunded because the business or activity for which the same was obtained has been for any reason discontinued, or for any other reason, provided, however, a license fee or a portion thereof may be refunded if the same was erroneously required or if the amount thereof was erroneously calculated or if the subject business was discontinued at the request or requirement of Smithfield City.

5.04.140 COMPLIANCE WITH REGULATIONS

Issuance of a business license or any other regulatory license described in this title does not excuse an applicant from compliance with applicable zoning codes, building codes, fire regulations, electrical codes, or other regulatory requirements not described in this title. No license described in this title shall be issued without first obtaining written preliminary approval of the business location from the zoning administrator or other designated city representative and written preliminary approval as to regulatory code compliance from the building inspector. In addition, the following shall be printed in large type on the face of each license issued pursuant to this title:

NOTICE

To engage in the business for which this license is issued, you must comply with all Smithfield City health and safety codes, including those related to zoning, building, health and fire safety. If now, or in the future, you do not comply with these codes, this license does not authorize you to engage in business.

5.04.150 EXEMPTIONS

- A. Insurance companies shall apply in all respects for the obtaining of a business license pursuant to this title, but shall not be required to pay a fee as outlined in chapter SMC 5.08 of this title unless they provide financial consultation for a fee, in which case, they shall meet all requirements of this chapter. Insurance agencies and/or agents shall be exempt from the requirements of this title.
- B. Unless otherwise provided in this title, the provisions of this title shall not be construed to require a business license for an activity which is conducted, managed or carried on wholly for charitable, religious or other nonprofit purposes from which profit is not derived, directly or indirectly by any person. Qualification under the federal tax laws for nonprofit status shall be prima facie evidence that a person has the charitable, religious or nonprofit purposes described above.
- C. Vegetable and fruit stands which sell produce grown exclusively on property located within Cache County by a seller residing within the city limits of Smithfield City shall be exempt from the licensing requirements of this title.
- D. Businesses that are owned and operated by those under eighteen (18) years of age where the owner has no employees and is not required by state law to have a state tax number for reporting income. Examples - baby sitting, mowing lawns, newspaper delivery, house cleaning, etc.
- E. Hobby home occupations.
- F. A contractor whose principal place of business is outside the city limits shall not be required to obtain a license and pay the applicable fee as required in this title provided a copy of an approved business license is filed with the city from the jurisdiction in which the business is located or any other jurisdiction within the state of Utah.

5.04.155 QUALIFYING FOR EXEMPTIONS

With respect to exemptions from business license requirements claimed because of charitable, religious or other nonprofit status, the person claiming the exemption shall have the burden of establishing that exemption.

5.04.160 SUSPENSION OR REVOCATION; GROUNDS

Smithfield City may suspend or revoke a license:

- A. Because the license was issued in error;
- B. Because of failure or refusal to permit or cooperate with an audit or an inspection;
- C. For failure to pay a required fee;
- D. If continued operation of the licensed activity would constitute a nuisance, or present a danger to health, general welfare or morals of the community; or
- E. Because of a violation of this title or any other applicable provision of law.

5.04.165 SUSPENSION OR REVOCATION; PROCEDURE

The following procedures apply to the suspension or revocation of any license issued under this title:

- A. A license may be suspended without a hearing for a period not exceeding three (3) days based upon the reasonable belief that continued operation of the licensed activity

will be in violation of the requirements of this title. A written description of the reason for the suspension shall be delivered to the licensee, or an employee or agent of the licensee, with the order of suspension.

- B. A license may be revoked or denied renewal of an existing business license following a hearing before the governing body. Prior to the revocation of a license or denial of an application to renew a business license, the licensee or applicant shall be given a notice which shall state in substance that the governing body intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the governing body. The notice shall state the date for such hearing which shall be at least ten (10) days and not more than thirty (30) days from the date notice is sent and shall further state the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him/her, to cross examine witnesses and to present evidence as to why the license should not be revoked or the application denied.
- C. A license may be suspended or revoked without a hearing for failure to pay a required fee.

5.04.170 POSTING AND DISPLAYING LICENSE

Every certificate of license issued shall be posted by the licensee in a conspicuous place easily viewed by the public, in which the licensed business, trade, profession, occupation or activity is carried on, and when such certificate of license has expired it shall be removed from public view. A licensee without a fixed place of business shall have certificates of license in his possession while engaged in business. It shall be the duty of each licensee and its agents and employees to whom a certificate of license has been issued to show the same upon demand.

5.04.180 APPEALS FROM LICENSING DECISIONS

Any final decision related to licensing may be appealed to the mayor for an administrative review, pursuant to the provisions of SMC title 1, chapter 1.08 of this code, only by the person whose license is being denied, suspended, or revoked.

5.04.190 COMPLIANCE WITH LICENSING REQUIREMENTS

Whenever in this title a particular license is not required, such provisions shall not eliminate the obligation to conform to all other applicable licensing and regulatory requirements including those related to zoning, building, health and fire safety.

5.04.200 VIOLATION; PENALTY

Any person or business found doing business without a license shall be subject to a penalty of one hundred dollars (\$100.00) in addition to the regular fee, and shall be guilty of a class B misdemeanor. Each day such violation exists shall be considered a separate offense.

5.08 BUSINESS LICENSE FEES

5.08.010 LICENSE FEE

5.08.020 DELINQUENCY; LATE FEES, LEGAL ACTION

5.08.030 CALCULATION OF FEES

5.08.040 MISTAKES IN FEE CALCULATIONS

5.08.050 LICENSE IN ADDITION TO ALL REGULATORY LICENSES; EXCEPTION

5.08.060 EFFECTIVE DATE OF CHAPTER

5.08.010 LICENSE FEE

- A. Unless otherwise provided in this chapter, a yearly business license fee shall be paid by every person required by this title to have a business license. The fees are imposed to cover the cost of administering and enforcing the provisions of this chapter.
- B. The fees are due the first working day following the expiration date of the license, provided the licensee intends to remain in business for any portion of the year following the expiration date.
- C. The fee for a licensee, who applies for an initial license under this chapter after the expiration dates listed in SMC 5.04.120 of this title, shall be prorated for the remaining portion of the year. Such proration shall be on the basis of one-twelfth ($\frac{1}{12}$) of the total annual fee for each month remaining in the unexpired portion of the year, including the month in which the new license is issued.

5.08.020 DELINQUENCY; LATE FEES, LEGAL ACTION

- A. A late penalty of twenty five dollars (\$25.00) or ten percent (10%) of the license fee due, up to a maximum of two hundred fifty dollars (\$250.00), whichever is greater, shall be added to the annual fee required of any person who has not renewed his license by December 31.
- B. Any person more than sixty (60) days delinquent in making payment of his or her license fees shall be considered to be operating a business without a license and legal action may be initiated by the city attorney for prosecution of an action based on engaging in a business without a valid business license or for collection of the delinquent fees or both. In the event legal action is filed to collect delinquent and unpaid fees, the debtor shall pay a reasonable attorney fee and costs.

5.08.030 CALCULATION OF FEES

- A. The fee for any business license shall be as presented in the most recent prevailing fee schedule adopted by resolution of the city council.
- B. The number of employees for any newly commenced business, when used in the calculation of fees, shall be based on the average number of all employees for the type of business for which a license is sought.
- C. The city shall have the authority to conduct an audit of any business to determine the business license fee.

5.08.040 MISTAKES IN FEE CALCULATIONS

In no event shall any mistakes made by an applicant, a licensee, or the city in the calculation of a license fee prevent or prejudice the collection by the city of amounts actually due from any person subject to licensing under this chapter. Likewise, no such mistakes shall prevent or prejudice the refund to a licensee of amounts overpaid by the reason of a mistake.

5.08.050 LICENSE IN ADDITION TO ALL REGULATORY LICENSES; EXCEPTION

Unless otherwise expressly provided, the license and fee imposed by this chapter shall be in addition to any and all other licenses or taxes imposed by this title or elsewhere. Provided, however, the provisions of this chapter shall not apply to a business or activity which pays to Smithfield City a franchise fee, revenue tax or similar exaction, the total amount of which exceeds sixty dollars (\$60.00) per year.

The city recorder shall make a charge as required in the most recently adopted prevailing fee schedule for each duplicate license issued to replace any license issued under the provisions of this title when the same has been lost or destroyed. No refund shall be made against any fee for a license issued pursuant to this title unless such refund is approved by the city recorder.

5.08.060 EFFECTIVE DATE OF CHAPTER

The provisions of this chapter shall take effect January 1, 2005.

5.12 BEER LICENSES

5.12.010 LICENSE TO SELL BEER AT RETAIL

5.12.020 DEFINITIONS

5.12.030 RETAIL LICENSES

5.12.040 BEER LICENSE FEES

5.12.050 LICENSE FEES TO ACCOMPANY APPLICATION

5.12.060 APPLICATION FOR LICENSE

5.12.070 APPLICATIONS REFERRED TO CHIEF OF POLICE

5.12.080 RENEWALS

5.12.090 QUALIFICATIONS

5.12.100 BOND REQUIRED

5.12.110 DEPARTMENT OF HEALTH PERMIT

5.12.120 ISSUANCE AND TRANSFER OF LICENSE

5.12.130 RESTRICTIONS

5.12.140 INSPECTION

5.12.150 CURRENT STATUS OF OTHER CHARGES

5.12.160 PURCHASE OF BEER FOR RESALE

5.12.170 SUNDAY SALES PROHIBITED

5.12.180 REVOCATION OR SUSPENSION

5.12.010 LICENSE TO SELL BEER AT RETAIL

- A. It shall be a class B misdemeanor for any person to engage in the business of selling light beer at retail, in bottles or draft, without first having procured a license therefor from the governing body and paid the license fee required by this chapter.
- B. It shall be a class B misdemeanor for any person to sell light beer after the suspension or revocation of the license issued pursuant to this chapter.
- C. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the Utah alcoholic beverage control act and the regulations of the alcoholic beverage control commission.

5.12.020 DEFINITIONS

The words and phrases used in this chapter shall have the meanings specified in the Utah alcoholic beverage control act unless a different meaning is clearly evident. In addition, the terms "person", "applicant", "licensee" or "retailer", as used in this chapter, shall also include any member, manager or partner in a partnership making application to the city for a license and any officer, director or shareholder owning five percent (5%) or more of the stock in a corporation which has made application to the city for a license.

5.12.030 RETAIL LICENSES

Retail licenses issued under this chapter shall be of the following three (3) kinds and shall carry the following privileges and be known as class A, class B and class C licenses:

- A. Class A retail licenses shall entitle the licensee to sell light beer 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 this municipality.
- B. Class B retail licenses shall entitle the licensee to sell light beer in the original containers on the premises for consumption on the premises in accordance with the Utah alcoholic beverage control act and the ordinances of this municipality.
- C. Class C retail licenses shall entitle the licensee to sell light beer on draft for consumption on the premises and to all the privileges granted to holders of class A and B retail licenses, and to sell beer in accordance with the Utah alcoholic beverage control act and the ordinances of this municipality.
- D. The retail sale of beer in kegs is prohibited.
- E. Additional regulations relating to the purchase, consumption or possession of beer in kegs are found at SMC 9.20.010 of this code.

5.12.040 BEER LICENSE FEES

In addition to any other business license fee for which any person or place of business may be required to pay, there is an annual fee imposed on each business location of every person engaged in the sale or dispensing of beer as provided for in the most recently adopted prevailing fee schedule.

5.12.050 LICENSE FEES TO ACCOMPANY APPLICATION

Applications provided for in this chapter shall be accompanied by the fees provided in this chapter. The fee shall be returned to the applicant if the application is denied.

5.12.060 APPLICATION FOR LICENSE

- A. All applications for licenses authorized by this chapter shall be verified and shall be filed with the recorder/clerk. The applications must state the applicant's name in full and that he understands and has read and complied with the requirements and possesses the qualifications specified in the alcoholic beverage control act and this chapter. If the applicant is a partnership, the names and addresses of all partners and managers thereof, and if a corporation, the names and addresses of all officers, directors and shareholders owning five percent (5%) or more of the stock in the corporation, must be stated and it must be stated that all of said persons possess the same qualifications as designated in this chapter. Each application shall also state whether or not any person named therein has ever been refused a liquor or beer license at any time or had such a license suspended, revoked or not renewed, and the reasons for such action.
- B. The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true and further that there are no undisclosed ownership interests as required in this section. The city may also require the disclosure of social security numbers, birth dates and other identifying data as deemed necessary to complete the background check required by this chapter.
- C. All applications shall be accompanied by a criminal history report issued by the Utah state bureau of criminal investigation.

5.12.070 APPLICATIONS REFERRED TO CHIEF OF POLICE

All applications filed in accordance with the provisions of this chapter shall be referred to the chief of police or the Cache County sheriff's office for inspection and report. The chief of police or the Cache County sheriff's office shall, when possible, within thirty (30) days after receiving such application make report to the governing body of the general reputation and character of the applicant and all persons named in the application as partners, officers, directors, managers and shareholders, and their criminal record, if any, the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place; whether the place is or has been conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any, at such place; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any school or church. The chief of police or the Cache County sheriff's office shall also add to such report his recommendation as to whether or not the application should be granted.

5.12.080 RENEWALS

All applications for renewal licenses filed by the holders of existing licenses shall be filed with the recorder/clerk at least forty five (45) days prior to the expiration date of the then issued license and the renewal application shall be accompanied by the fees required by this chapter. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business for the sale of beer until the date his new license is issued by the governing body.

5.12.090 QUALIFICATIONS

- A. No license shall be granted to or renewed for any retailer to sell light beer within the municipality unless he/she shall be of good moral character, over the age of twenty one (21) years, and a citizen of the United States. If the applicant is a partnership, each partner or manager shall be a citizen of the United States; and if a corporation, it shall be a domestic corporation or a foreign corporation which has qualified to do business in the state, and each officer and director shall be a citizen of the United States.
- B. No license shall be issued to or renewed for any person who has been convicted of a felony or who has pleaded guilty to or has forfeited his bail on a charge of having committed a felony, or who has previously had any liquor or beer license permanently revoked by any licensing authority.
- C. No license shall be issued to or renewed for any person who, within six (6) months prior to application, has violated any provision of any law of the state or any provision of the ordinances of this municipality relating to intoxicating liquors or alcoholic beverages, or has violated laws or ordinances against keeping a gambling or disorderly house, and said prohibition shall apply whether the person has been convicted, pleaded guilty to or has forfeited his bail on a charge of having violated any such law or ordinance; nor shall a license be issued, to or renewed for any person whose license has been suspended or temporarily revoked within said six (6) month period. No partnership shall have its annual license renewed unless it has on file with the city recorder a current list of its partners and managers, and no corporation shall have its annual license renewed unless it has on file with the city recorder a current list of its officers, directors and stockholders who own five percent (5%) or more of its stock.

5.12.100 BOND REQUIRED

No license required by this chapter shall be granted by the governing body until the applicant shall have filed with the recorder/clerk a bond in the penal sum of one thousand dollars (\$1,000.00) and it shall be similar to and subject to the same conditions and requirements as are stated in section 32A-4-105, Utah Code Annotated, 1953, except that the bond shall be made in favor of this municipality. Provided, however, that once a license holder has had a license for five (5) continuous years without a suspension or revocation of such license and without a violation of this chapter, then such license holder will no longer be required to post the bond required in this section. If thereafter such license should be suspended, revoked or a violation of this chapter should occur by the license holder, then such bond shall be again required.

5.12.110 DEPARTMENT OF HEALTH PERMIT

No license under this chapter shall be issued until the applicant therefor shall have first procured from the department of health of the municipality a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution or sale of light beer complies with all the health regulations of this municipality and the state.

5.12.120 ISSUANCE AND TRANSFER OF LICENSE

The city council may, within its sole discretion, issue a license for the retailing of light beer only after satisfactory showing of the capability, qualifications and reliability of the applicant. Licenses issued pursuant to this chapter shall not be transferable, and if revoked by the governing body, the fee paid by the licensee to the municipality for the license shall be forfeited to the municipality.

5.12.130 RESTRICTIONS

- A. It is unlawful for any person to sell beer at any public dance or to any person intoxicated, or under the influence of any intoxicating beverage. It is unlawful for any person to sell beer in any dance hall or theater.
- B. No license shall be issued to any person to sell beer where the licensed premises would be located within six hundred feet (600') of a public or private school, church, public library, public playground, or park, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or

where applicable, vehicular travel along public thoroughfares, whichever is the closer to the property boundary of the public or private school, church, public library, public playground, school playground or park. Also, no license shall be issued to any person to sell beer where the licenses premises would be located within two hundred feet (200') of a public or private school, church, public library, public playground, or park, as measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, school playground or park. The restrictions of this subsection shall govern unless the city council finds after full investigation that compliance with the distance requirement would result in peculiar and exceptional practical difficulties or exceptional or undue hardships, in either of which events, the council may, after giving full consideration to the attending circumstances, and following a public hearing, authorize a variance from the distance require so as to relieve the difficulties or hardships, provided the variance may be granted without substantially impairing the intent and purpose of this section; provided however, that the holders of existing licenses and those who have held a license within one year prior to the effective date of the ordinance codified in this chapter shall not be subject to the distance requirements of this section.

- C. It is unlawful to sell beer for consumption on the premises unless so licensed, or to permit the drinking of liquor on such premises.
- D. A licensee having a class A license shall not permit the sale, bartering, distribution, giving away, exchanging or dispensing of beer in any manner to occur from the licensed premises between the hours of one minute after twelve o'clock (12:01) A.M. through six o'clock (6:00) A.M. on any day other than Sunday, and a licensee having a class B or C license shall not permit the licensed premises where beer is sold to remain open to patrons between the hours of one minute after twelve o'clock (12:01) A.M. and ten thirty o'clock (10:30) A.M. on any day, and all license holders shall observe the prohibition against sales on Sunday as set forth in SMC 5.12.170 of this title.
- E. Any person having a class B or C beer license, or his agents or employees, shall remove or cause to be removed from the licensed premises all patrons, customers or individuals not employed on the premises within fifteen (15) minutes following the closing time stated in SMC D of this section.
- F. It is unlawful for any person having a class B or C beer license or for his agents or employees to permit any patron, customer or individual not employed on the premises to remain on such premises after the time provided in this section.
- G. It is unlawful to advertise the sale of beer except under such regulations as are made by the alcoholic beverage control commission of Utah, provided that a simple designation of the fact that beer is sold under city license may be placed in or upon the window or front of the licensed premises.
- H. It is unlawful for any person to sell beer except in the manner for which he has been so licensed pursuant to the provisions of this chapter.
- I. It is unlawful to keep or maintain a nuisance as defined in this code.
- J. The number of class C licenses issued by the municipality and in use shall not exceed four (4) in any one license year, provided that this section shall not reduce the number of holders of licenses now issued by the municipality and that in the event this section affects the right of any person to continue in business by reason of the annexation of that person's property into the municipality, the governing body may authorize a class C or seasonal license to be issued to such person in addition to the number of licenses permitted by this section.
- K. It is unlawful for a licensee, or any agent or employee thereof, when engaged in waiting on or serving customers, to consume beer or other alcoholic beverages, or to remain on or about the premises while in an intoxicated or disorderly condition.
- L. A license which is not used by the licensee for a period in excess of six (6) months, without the consent of the city council, shall revert to the city, be deemed revoked and shall no longer have any validity.
- M. Beer shall not be sold or dispensed from any drive-up window.

5.12.140 INSPECTION

- A. All licensed premises shall be subject to inspection by any officer, agent or peace officer of the municipality or the alcoholic beverage control commission, or the state board of health, and every licensee shall, at the request of the board of health, furnish to it samples of beer which he shall have for sale.
- B. Any license granted pursuant to this chapter may be revoked on a finding by the governing body that the licensee has had ten (10) days or more notice from the board of health that the licensee is violating one or more health ordinances, rules or regulations of this municipality or of the Utah division of health and has failed to comply with such health ordinance, rule or regulation.
- C. The governing body may direct the chief of police or the Cache County sheriff's office to close down any business licensed under this chapter where the board of health has determined that the continued operation of the business presents an imminent danger to the health of the community or persons who may eat or drink at the business.

5.12.150 CURRENT STATUS OF OTHER CHARGES

No license provided in this chapter shall be issued to or renewed for any applicant who is delinquent in payment to the city for his business license fees, or who is otherwise delinquent in the payment of amounts due to the city. Failure to pay business license fees, annual beer license fees or other charges properly assessed by the city for any reason promptly when due shall be the basis for suspension or revocation of a license issued under this chapter.

5.12.160 PURCHASE OF BEER FOR RESALE

It is a class B misdemeanor for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the provisions of the Utah alcoholic beverage control act.

5.12.170 SUNDAY SALES PROHIBITED

It is unlawful for any person having a license for the sale of beer, whether an A, B or C license, to sell, barter, distribute, give away, exchange, dispense or serve beer on the first day of the week, commonly known as Sunday, for the full twenty four (24) hours of said day.

5.12.180 REVOCATION OR SUSPENSION

- A. The governing body may, after notice and a hearing, revoke, suspend or refuse to renew any license issued under this chapter. Such action shall be taken in accordance with the following guidelines:
 - 1. Such action may be taken by the council on a finding by it that the licensee or one or more of his/its partners, managers, officers, directors, shareholders as specified in this chapter, agents or employees, or any one of them have violated any of the provisions of this chapter or any ordinance of the city or law of the state whether now or hereafter enacted.
 - 2. A license shall be permanently revoked if the licensee knowingly submits false or fraudulent material information on any application or document filed with the city as a part of obtaining the license.
 - 3. The license of a licensee shall be permanently revoked if the licensee or any of his partners, managers, officers, directors, shareholders as specified in this chapter, agents or employees are convicted of a felony, with the exception that if said convicted person is an employee and said employee is immediately terminated and not

rehired by the licensee and the licensee was in no way associated with the felony for which the employee was convicted and further provided the felony was in no way associated with the sale of beer pursuant to the license granted under this chapter, the license may be retained in good standing by the licensee.

4. Any license issued shall be suspended, revoked or not renewed if the applicant or licensee or any of his/its managers, officers, directors, partners, shareholders, agents or employees fail to satisfactorily maintain or shall cease to possess or meet all of the qualifications required by the Utah alcoholic beverage control act, and the ordinances of Smithfield City, specifically including this chapter. The same sanction may be imposed upon the licensee should he attempt to assign, transfer or sell his license in violation of this chapter.
 5. Any license issued pursuant to this chapter may be revoked, suspended or not renewed if the licensee or any of his/its managers, officers, directors, partners, shareholders, agents or employees shall be found in violation of any law of the state or provisions of the ordinances of this city relating to alcoholic beverages, drugs or keeping a gambling or disorderly house whether such violation is established by a conviction, a guilty plea or the forfeiture of bail on such a charge and the same does not constitute a felony.
 6. Except where these provisions require the permanent revocation of a license, a licensee who is found to have violated any of the provisions of this chapter shall have his license suspended for a minimum of six (6) months for a first offense, for a minimum of twelve (12) months for a second offense, and the license shall be permanently revoked for a third offense. If a period of five (5) years passes between the date of the first offense and the next offense, then the succeeding offense shall be considered a first offense for purposes of this chapter. Provided, however, should any licensee accrue a total of four (4) such violations, then his license shall be permanently revoked. If five (5) years have passed since the last alleged offense, not requiring permanent revocation, at the time the ordinance codified in this chapter is adopted, then such licensee shall be currently deemed as having no such offenses. Any such offense(s) committed within five (5) years prior to the adoption of the ordinance codified in this chapter shall be considered a first offense. The city council retains full discretion, however, to suspend a license for a longer period of time than the minimum stated in this section or to revoke a license permanently, even though not specifically required by the provisions of this chapter, should the circumstances of any particular violation, in its judgment, warrant such action.
 7. Any license which has been suspended or revoked prior to the effective date of the ordinance codified in this chapter may be reviewed for reinstatement upon request of the licensee, provided a minimum of six (6) months has passed since the license was suspended or revoked and provided further, that the reason for the suspension or revocation was not one that requires the permanent revocation of such license according to the provisions of this chapter.
- B. The city recorder shall receive all complaints of alleged violation of this chapter and shall refer the same to the city council which shall be responsible for investigating, through and with the assistance of the city's police department or the Cache County sheriff's office, all allegations of a violation of or noncompliance with this chapter, the Utah alcoholic beverage control act or any other condition imposed upon the licensee by the license or the city. As deemed necessary, the city council may cause a notice of violation and a hearing to be directed to the licensee which shall set forth the date and place of the hearing and the alleged violations and shall direct that the licensee, within ten (10) days after service of the notice, appear before the city council at the named hearing. Failure of the licensee to appear shall be deemed an admission by him of his commission of the violations set forth in the notice and the city council may proceed immediately to take such action as allowed by this chapter. The city council shall conduct any hearing and may accept any relevant and material evidence and testimony. Such hearings shall be open to the public and shall be conducted informally with technical rules of evidence not applying to the proceedings. The licensee involved or any other person requesting such a hearing may be present and cross examine witnesses and give evidence before the council and may be represented by an attorney if so desired. The council shall issue a decision either at the conclusion of the hearing or within fourteen (14) days following the same, and all such decisions shall be in writing. The notice required by this chapter shall be sufficient if served personally upon the licensee or a partner, officer, director or legally constituted agent of the licensee or if sent to one of the named individuals by registered or certified mail not less than ten (10) days in advance of the hearing to the principal place of business of the licensee.
- C. A hearing may also be requested by any person:
1. That is denied or refused a beer license by any officer, agent or employee of this municipality; or
 2. Whose beer license is revoked, restricted, qualified or limited from that for which it was first issued.
- D. The request for hearing must be made in writing to the mayor or recorder and be made within ten (10) days following the date notice denying, refusing, revoking, qualifying or restricting the beer license is mailed by the municipality to the applicant or license holder at his address as it appears on the application or license.
- E. Following receipt of a request for hearing, the governing body shall inform the person requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of his contention. The governing body shall, within fourteen (14) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council.
- F. This chapter shall not be considered so as to afford any aggrieved party more than one hearing before the city council nor shall the hearing provided in this section apply to any criminal complaint or proceeding.

5.16 CHARITABLE SOLICITATIONS

5.16.010 DEFINITIONS

5.16.020 USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED; EXCEPTION

5.16.030 USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED

5.16.040 VIOLATIONS; CLASSIFICATION OF OFFENSE

5.16.010 DEFINITIONS

As used in this chapter:

CHARITABLE ORGANIZATION: Any organization that is benevolent, philanthropic, patriotic or eleemosynary or one purporting to be such.

CONTRIBUTION: The promise or grant of any money or property of any kind or value.

PERSON: Any individual, organization, group, association, partnership, corporation or any combination of them.

PROFESSIONAL FUNDRAISER: Any person who for compensation or any other consideration plans, conducts or manages the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization.

PROFESSIONAL SOLICITOR: Any person who is employed or retained for compensation by a professional fundraiser to solicit contributions in this municipality for charitable purposes.

5.16.020 USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED; EXCEPTION

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

5.16.030 USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED

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

5.16.040 VIOLATIONS; CLASSIFICATION OF OFFENSE

Any person who violates the provisions of this chapter is guilty of a class B misdemeanor.

5.20 CHILDCARE CENTERS AND PRESCHOOLS

5.20.010 CHILDCARE CENTERS; PURPOSE

5.20.020 CHILDCARE CENTERS; DEFINITIONS

5.20.030 CHILDCARE CENTERS; LICENSING

5.20.040 CHILDCARE CENTERS; LICENSE FEE

5.20.050 CHILDCARE CENTERS; LICENSING CONDITIONS

5.20.060 CHILDCARE CENTERS; REGULATIONS

5.20.070 CHILDCARE CENTERS; ADDITIONAL REQUIREMENTS

5.20.080 CHILDCARE CENTERS LICENSE REVOCATION

5.20.090 PRESCHOOL; PURPOSE

5.20.100 PRESCHOOL; DEFINITIONS

5.20.110 PRESCHOOL; LICENSING

5.20.120 PRESCHOOL; LICENSE FEE

5.20.130 PRESCHOOL; LICENSING CONDITIONS

5.20.140 PRESCHOOL; REGULATIONS

5.20.150 PRESCHOOL; ADDITIONAL REQUIREMENTS

5.20.160 PRESCHOOL; LICENSE REVOCATION

The purpose of sections 5.20.010 through 5.20.080 of this chapter is to establish a minimum level of care necessary to maintain and to facilitate the normal development, health, safety and welfare of children receiving care outside their homes.

5.20.010 CHILDCARE CENTERS; PURPOSE

The purpose of sections 5.20.010 through 5.20.080 of this chapter is to establish a minimum level of care necessary to maintain and to facilitate the normal development, health, safety and welfare of children receiving care outside their homes.

5.20.020 CHILDCARE CENTERS; DEFINITIONS

For the purposes of sections SMC 5.20.010 through SMC 5.20.080 of this chapter:

CAREGIVER: Any qualified person whose primary duties include direct care, supervision and guidance of a group of children other than his or her own in a group childcare center.

CHILDCARE CENTER, COMMERCIAL: A facility, separate from a home or residence, in which children are being cared for by persons other than their own parents or guardians. It is maintained for at least four (4) but less than twenty four (24) hours daily for the care of children less than fourteen (14) years of age and unrelated to the caregiver. This care may be given with or without charge and with or without stated educational or developmental purposes.

CHILDCARE CENTER, FAMILY GROUP: The care of children in a home or residence by two (2) caregivers, which provides for nine (9) and not more than sixteen (16) children when in compliance with the requirements established by the state of Utah. The facility is maintained for at least four (4) hours but less than twenty four (24) hours daily. This care may be given with or without charge and with or without stated educational or developmental purposes.

CHILDCARE CENTER, RESIDENTIAL: The care of children in a home or residence by a provider. The provider shall care for no more than eight (8) children, except for additional children when in compliance with age requirements established by the state of Utah. The facility is maintained for at least four (4) hours but less than twenty four (24) hours daily. This care may be given with or without charge and with or without stated educational or developmental purposes.

DFS OR DIVISION: The Utah state department of social services, division of children, youth and family services.

FAMILY GROUP CHILDCARE CENTER: The care of children in a home or residence by a provider. The provider shall care for no more than sixteen (16) children when in compliance with the requirements established by the state of Utah (R430, R430-90 _ R430-90.20). This care may be given with or without charge and with or without stated educational or developmental purposes.

PARENT: The child's natural parent, guardian or other legally responsible person or organization.

PROVIDER: Any qualified person whose primary duties include direct care, supervision and guidance of children in a family childcare center.

5.20.030 CHILDCARE CENTERS; LICENSING

Except as provided in sections SMC 5.20.010 through SMC 5.20.080 of this chapter, no family childcare center, group childcare center, person, association, corporation, institution or agency shall provide care and supervision for five (5) or more children under fourteen (14) years of age in lieu of care and supervision ordinarily provided by parents in their own homes for periods of more than four (4) but less than twenty four (24) hours in any one day, with or without charge, without having in full force a license issued by or under the authority of the division of family services and a license issued by Smithfield City Corporation. Nothing in sections 5.20.010 through 5.20.080 of this chapter shall apply to care given to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles or aunts, or as part of the program of an educational institution regulated by the board of education of the state or as part of the program of a parochial educational institution.

5.20.040 CHILDCARE CENTERS; LICENSE FEE

A license fee shall be charged by Smithfield City on an annual basis for the operation of any childcare center from January 1 to December 31 as set forth in SMC 5.08 of this title.

5.20.050 CHILDCARE CENTERS; LICENSING CONDITIONS

No license shall be issued pursuant to sections SMC 5.20.010 through SMC 5.20.080 of this chapter unless the childcare facility complies with and conforms to all local and state laws, ordinances and health and fire regulations applicable thereto. A change in the provider or caregiver or a change in the location of the childcare facility automatically voids the license issued by Smithfield City. In addition, no license shall be issued by the city clerk or recorder unless evidence of a state license has been presented and state requirements have been met. A municipal license for the operation of a childcare center must be inspected by the municipal building inspector before issuance.

5.20.060 CHILDCARE CENTERS; REGULATIONS

The legal authority for sections SMC 5.20.010 through SMC 5.20.080 of this chapter is set forth in title 62A, chapter 2 of the Utah Code Annotated, 1953, as amended. The most recent rules, regulations and standards governing childcare centers adopted or published by the state of Utah and amendments thereof are adopted and made a part of this chapter by reference. Sections SMC 5.20.010 through SMC 5.20.080 of this chapter are further regulated by this code. The governing body may adopt, from time to time, such regulations as in its opinion are necessary to implement sections 5.20.010 through 5.20.080 of this chapter and the objectives thereof.

5.20.070 CHILDCARE CENTERS; ADDITIONAL REQUIREMENTS

Sections SMC 5.20.010 through SMC 5.20.080 of this chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of this municipality and the requirements and fee herein shall be in addition to any other requirements and fees of any other ordinance of this municipality.

5.20.080 CHILDCARE CENTERS LICENSE REVOCATION

The municipal government reserves the right upon issuance of a license and has the authority to revoke a license governed by SMC 5.20.010 through SMC 5.20.080 of this chapter if at any time the childcare facility fails to meet the regulations set forth herein.

5.20.090 PRESCHOOL; PURPOSE

The purpose of sections SMC 5.20.090 through SMC 5.20.160 of this chapter is to establish a minimum level of instruction and care necessary to maintain and facilitate the normal development, health, safety and welfare of children receiving care and instruction outside their homes.

5.20.100 PRESCHOOL; DEFINITIONS

GROUP PRESCHOOL: A facility or establishment separate from a home or residence for the care and instruction of up to thirty (30) children by two (2) instructors which may or may not be related to the children. This instruction may be given with or without charge.

HOME PRESCHOOL: A home residence for the care and instruction of up to fifteen (15) children by an instructor who may or may not be related to the children. This instruction may be given with or without charge.

INSTRUCTOR: Any qualified person whose primary duties include the direct care, supervision, guidance and instruction of children in an approved preschool facility.

PARENT: The child's natural parent, guardian or other legally responsible person or organization.

PRESCHOOL: Both a "group preschool" and a "home preschool" as defined in this section.

5.20.110 PRESCHOOL; LICENSING

Except as provided in sections SMC 5.20.090 through SMC 5.20.160 of this chapter, no group preschool, person, association, corporation, institution or agency shall provide care, supervision, guidance and instruction, with or without charge, without having in full force a license issued by and under the authority of Smithfield City Corporation. Nothing in sections SMC 5.20.090 through SMC 5.20.160 of this chapter shall apply to care and training given to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles or aunts, or as part of the program of an educational institution regulated by the board of education of the state or as part of the program of a parochial educational institution licensed by the state.

5.20.120 PRESCHOOL; LICENSE FEE

A license fee shall be charged by Smithfield City on an annual basis for the operation of a preschool facility from January 1 to December 31 as set forth in chapter SMC 5.08 of this title.

5.20.130 PRESCHOOL; LICENSING CONDITIONS

No license shall be issued pursuant to sections SMC 5.20.090 through SMC 5.20.160 of this chapter unless the preschool facility complies with and conforms to all

municipal laws, ordinances and applicable health and fire regulations. A change in the instructor to whom the license is issued or in the location of the preschool automatically voids the license issued by Smithfield City. In order to obtain a municipal license for the operation of a preschool, the building must be inspected by the municipal building inspector and fire inspector.

5.20.140 PRESCHOOL; REGULATIONS

SMC 5.20.090 through 5.20.160 of this chapter are regulated by this code and by the rules, regulations and standards set forth as follows:

A. General Requirements:

1. Any instructors or staff persons living or working in a preschool facility must be free of physical or mental illnesses that would be harmful to the children being instructed.
2. The preschool facility shall be open for observation by parents during the regular hours of operation.
3. The preschool facility shall only be located in those areas within the municipality as permitted by SMC 17 of this code.
4. The preschool shall have adequate vehicle parking as required by SMC 17 of this code or as additionally required by the city council.

B. Instructor:

1. Each instructor must be:
 - a. At least eighteen (18) years of age;
 - b. Mentally, physically and emotionally able to provide quality instruction and care for the children;
 - c. Qualified to instruct and care for children as evidenced or demonstrated by any one of the following requirements: a minimum of two (2) years of full time experience as a staff member in a preschool; or, determination by the city council that the instructor is qualified by other experience or education.
2. An instructor shall not leave the preschool premises unless a substitute instructor is present. Substitute instructors shall meet the same qualifications as required for an instructor.
3. The instructor shall care for no more than fifteen (15) children per each staff member. The instructor or substitute instructor must be present as part of the ratio at all times.

C. Supervision, Discipline And Activities:

1. The instructor shall provide adequate supervision at all times to ensure the health and safety of each child.
2. The instructor shall not use any form of physical punishment. The child shall not be disciplined through the deprivation of food or rest and the instructor shall not use emotional abuse with children.
3. The daily activities of children shall be planned in accordance with the child's age and special needs to promote physical, emotional, social and intellectual development.

D. Indoor And Outdoor Areas And Equipment:

1. Indoor areas used for the preschool shall be clean, present no hazards to the children's health or safety and shall have a minimum activity area of twenty three (23) square feet for the daily activities of each home preschool child and twenty one (21) square feet for the daily activities of each group preschool child.
2. Outdoor areas used for the preschool shall be clean, present no hazards to the children's health or safety and shall have a minimum area of forty (40) square feet for each home preschool child and twenty one (21) square feet for each group preschool child.
3. Outdoor activity areas must be fenced. All fences must be constructed so as to contain the children in the activity area, such as a chainlink or solid board fence.

E. Physical Health:

1. The instructor shall have basic materials available for first aid and emergency procedures and shall be trained in those procedures.
2. If a child requires immediate medical attention due to accident or illness, the instructor shall notify the parent. If unable to contact the parent, the instructor shall obtain medical services as agreed upon by the parent.

F. Fire, Sanitation And Safety:

1. The preschool shall be equipped with a smoke detector and a fire department approved fire extinguisher on each floor occupied by children. The instructor and staff shall be knowledgeable on the operation of fire extinguishers.
2. The group preschool shall have a minimum of two (2) doors that exit from each floor or basement that is occupied by children of which one door must exit to the outside. All required preschool exits shall be of reach and operable by children.
3. Flammable materials and dangerous materials including matches, cleaning solutions, aerosol sprays, paints, medicine and other hazardous chemicals and poisons, firearms and plastic bags shall be stored so that they are inaccessible to children.
4. The culinary water in the preschool shall be from the municipal public water supply unless otherwise approved by the municipality.
5. The preschool shall be equipped with adequate bathroom facilities which shall be maintained in a sanitary manner and kept in good repair.
6. The preschool is subject to inspection by the local fire department chief or fire inspector prior to the issuance of a license to assure compliance with section 5.20.130 of this chapter and is subject to the implementation of all fire prevention requirements as set forth by the municipal ordinances. Inspections shall be made at least every six (6) months.
7. The preschool is subject to any required rules, regulations and inspections as set forth by the Bear River district health department.
8. The preschool is subject to inspection by the local building inspector prior to issuance of a license to assure compliance with section 5.20.130 of this chapter and is subject to the implementation of any safety requirements set forth by the municipal ordinances.
9. The preschool shall comply with all fire, sanitation and safety requirements within one year from the issuance of the city business license. The annual business license will not be renewed if the city council determines that the preschool is in violation of these requirements.

5.20.150 PRESCHOOL; ADDITIONAL REQUIREMENTS

Sections SMC 5.20.090 through SMC 5.20.160 of this chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of this municipality and the requirements and fees herein shall be in addition to any other requirements and fees of any other ordinance of this municipality.

5.20.160 PRESCHOOL; LICENSE REVOCATION

The municipal government reserves the right upon issuance of a license and has the authority to revoke a license governed by sections SMC 5.20.090 through SMC 5.20.160 of this chapter if at any time the preschool facility fails to meet the regulations set forth herein.

5.24 CONTRACTORS

5.28 PAWNBROKERS

5.28.010 PURPOSE AND INTENT OF CHAPTER

5.28.020 DEFINITIONS

5.28.030 LICENSE REQUIRED; FEE

5.28.040 LICENSE DISPLAY

5.28.050 BOND REQUIRED

5.28.060 DISCLOSURE PROVISIONS

5.28.070 PROPERTY TO BE KEPT THIRTY DAYS BEFORE DISPOSITION

5.28.080 OWNERSHIP OF PAWNED PROPERTY

5.28.090 LIABILITY OF PRINCIPAL

5.28.100 UNLAWFUL ACTS

5.28.110 ZONING RESTRICTIONS

5.28.010 PURPOSE AND INTENT OF CHAPTER

The purpose and intent of this chapter is to define and regulate the operation of pawnbrokers.

5.28.020 DEFINITIONS

The following terms used in this chapter shall have the respective meanings set forth in this section:

PAWNBROKERS: Any person engaged in the business of lending money on deposit or pledges of personal property or other valuable thing, other than securities or printed evidence of valuable things, and selling or agreeing to sell the same back to the seller at a price other than the original price of the purchase, or who sells unredeemed pledges with or without the contemporary sales of new merchandise.

PLEDGE: The party to whom the goods are pledged or delivered in pledge.

PLEDGOR: The party pledging or delivering goods in pledge.

5.28.030 LICENSE REQUIRED; FEE

- A. It is unlawful for any person to engage in the business of pawnbroker in the city without having previously obtained a license to operate as a pawnbroker in accordance with the provisions of this chapter. Such person shall make application for a license to the city in such form as the city shall require.
- B. Fee payments and prorations as well as renewal billings shall be as set out in chapter 5.08 of this title.

5.28.040 LICENSE DISPLAY

Licenses shall be displayed prominently in the pawnbroker's place of business in such manner that they can be easily seen and perused by all who do business with such pawnbroker.

5.28.050 BOND REQUIRED

Before any license is issued to a pawnbroker under the provisions of this chapter, the applicant therefor shall execute and deliver to the city a cash deposit in the amount of five hundred dollars (\$500.00) for a bond in the principal amount of one thousand dollars (\$1,000.00) executed by a corporate surety authorized to do business in the state and conditioned upon the faithful performance of the licensee of all requirements under this chapter.

5.28.060 DISCLOSURE PROVISIONS

- A. In addition to the business record (pawn slip) normally required by the pawnbroker, the pawnbroker shall make out a four (4) part ticket concerning any persons pawning property, in a form previously approved by the city's law enforcement agency, which shall contain the following information concerning the pledgor:
 1. The last, first and middle name;
 2. The signature of the pledgor(s);
 3. The street address, city, state and zip code;
 4. Phone number;
 5. Social security number;
 6. Drivers license number;
 7. Sex (male or female);
 8. Date of birth;
 9. Height;
 10. Weight;
 11. Race;
 12. Scars/marks;
 13. Identification used and pertinent numbers;
 14. Right thumbprint;
 15. The name of the person accepting the pledged property for the pawnbroker;
 16. A signed statement certifying that the described property has not been obtained by an illegal means and is the pledgor's property and is free and clear of any encumbrances and that the pledgor has a legal right to sell the pledged property;

17. The date of the transaction;
 18. An accurate description of the goods, articles or things pawned, including the serial number of the articles, if any, the name of the manufacturer, if available, and the dimensional description, if applicable;
 19. The amount of money loaned or advanced thereon or paid therefor;
 20. The date and time of day of the pledging, purchasing and receiving such goods, articles or things and the period of time within which the pledge must be honored.
- B. The disposition of each four (4) part ticket shall be made as follows: one copy shall be retained by the pawnbroker, two (2) delivered to the city recorder (who will retain 1 copy and forward the other to the city's law enforcement agency) and one copy to the pledgor.
 - C. All of the records required in SMC A and B of this section shall be open to the inspection of any law enforcement officer during the regular business hours.
 - D. It is a misdemeanor for a pawnbroker or his or her agent or employee to intentionally falsify any information on either the ledger or the four (4) part pawn ticket.

5.28.070 PROPERTY TO BE KEPT THIRTY DAYS BEFORE DISPOSITION

- A. The dealer shall produce pawned items at the business location within one hour of request to do so by a law enforcement officer. Where compliance is impossible because of the close of business hours, the items shall be produced within one hour of the opening of business on the next business day. If purchased or pawned items or goods have theretofore been sold or disposed of by the pawnbroker, the name, address, telephone number and social security number or driver's license number of purchaser or party with whom disposed, must be supplied to enforcement officers upon demand.
- B. The pledgor may reclaim pawned property within thirty (30) days from date of pawn by completing his or her obligation with pawnbroker.

5.28.080 OWNERSHIP OF PAWNED PROPERTY

It is unlawful for any pawnbroker to accept materials in pledge or pawn from other than the lawful owner thereof except with written permission of the owner. Any article pawned or pledged to a pawnbroker by other than the owner shall be surrendered to the real owner thereof upon presentation of proof of a complaint to the city law enforcement agency and proof of ownership of the pawned article by the real owner. Failure of the pawnbroker to surrender such materials forthwith upon demand by the true owner through the city law enforcement agency and after exhibition of proof of ownership is a misdemeanor.

5.28.090 LIABILITY OF PRINCIPAL

The holder of a pawnbroker's license is liable for any and all acts of his employees in violation of this chapter.

5.28.100 UNLAWFUL ACTS

- A. **Receiving Stolen Property:** A person commits theft if he receives, retains or disposes of the property of another having any monetary value, knowing that it has been stolen or believing that it has probably been stolen, or who conceals, sells, withholds or aids in concealing, selling or withholding any such property from the owner, knowing the property to be stolen, with purpose to deprive the owner of the possession thereof.
- B. **Separate Rooms:** It is unlawful for a pawnbroker to contain his or her pawnbroker business in the same room, or in the same building with interconnected rooms, with any business dealing in alcoholic beverages.
- C. **Minors:** It is unlawful to accept or purchase goods or pledges from persons under the age of eighteen (18), unless the minor is married.

5.28.110 ZONING RESTRICTIONS

Operation of pawnshops shall only be allowed in areas permitted by SMC 17 of this code and only through the issuance of a conditional use permit. Any time in which such business is expanded, added to or modified in any way, a new application for a conditional use permit shall be filed with and a new permit obtained from the planning commission with specified restrictions as deemed necessary before such expansion, addition or modification is made.

5.32 RESIDENTIAL SOLICITATION

5.32.010 PURPOSE

5.32.020 NO OTHER CITY LICENSE OR APPROVAL REQUIRED

5.32.030 DEFINITIONS

5.32.040 EXEMPTIONS

5.32.050 SOLICITATION PROHIBITED

5.32.060 REGISTRATION OF SOLICITORS

5.32.070 APPLICATION FORM

5.32.080 WRITTEN DISCLOSURES

5.32.090 WHEN REGISTRATION BEGINS

5.32.100 ISSUANCE OF CERTIFICATES

5.32.110 FORM OF CERTIFICATE AND IDENTIFICATION BADGE

5.32.120 MAINTENANCE OF REGISTRY

5.32.130 NONTRANSFERABILITY OF CERTIFICATES

5.32.140 DENIAL, SUSPENSION OR REVOCATION OF A CERTIFICATE OF REGISTRATION

5.32.150 APPEAL

5.32.160 DECEPTIVE SOLICITING PRACTICES PROHIBITED

5.32.170 NO SOLICITATION NOTICE

5.32.180 DUTIES OF SOLICITORS

5.32.190 TIME OF DAY RESTRICTIONS

5.32.200 BUYER'S RIGHT TO CANCEL

5.32.210 PENALTIES

5.32.010 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.

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 citizens' 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 nonmisleading door to door solicitation regarding lawful goods or services in intrastate or interstate commerce.

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.

5.32.020 NO OTHER CITY LICENSE OR APPROVAL REQUIRED

- A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the city to engage in door to door solicitation.
- B. 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, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.
- C. 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.
- D. Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

5.32.030 DEFINITIONS

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

ADVOCATING: Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

APPEALS OFFICER: The city council or designee of the city responsible for receiving the information from the city and appellant regarding the denial or suspension of a certificate and issuing a decision as required by this chapter.

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.

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.

APPLICATION FORM: A standardized form provided by the city to an applicant to be completed and submitted as part of registration.

BCI: An original or copy, dated no older than one hundred eighty (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.

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.

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.

CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.

CHARITABLE ORGANIZATION: Any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

- A. That is:
 - 1. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
 - 2. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or
 - 3. Established for any charitable purpose; and
- B. That is 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.
- C. Charitable organization includes 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 state of Utah.

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.

COMPLETED APPLICATION: A fully completed application form, a BCI, two (2) copies of the original identification relied on by the applicant to establish proof of

identity, and the tendering of fees.

CRIMINALLY CONVICTED: 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.

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: 1) felony homicide, 2) physically abusing, sexually abusing, or exploiting a minor, 3) the sale or distribution of controlled substances, or 4) sexual assault of any kind;
- B. Criminal charges currently pending against the applicant or registered solicitor for: 1) felony homicide, 2) physically abusing, sexually abusing, or exploiting a minor, 3) the sale or distribution of controlled substances, or 4) 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: 1) moral turpitude, or 2) violent or aggravated conduct involving persons or property;
- F. A final civil judgment has been entered against the applicant or registered solicitor within the last five (5) years indicating that: 1) the applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation, or 2) that a debt of the applicant or registered solicitor was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. The applicant or registered solicitor is 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; or
- 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.

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.

ENTITY: A corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

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.

FINAL CIVIL JUDGMENT: A civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

GOODS: One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

HOME SOLICITATION SALE: 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; or
- C. The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

LICENSING OFFICER: The city employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate.

NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

PEDDLER: As used in this chapter, means and includes any person, whether or not a resident of the municipality, traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The word "peddler" shall include the words "hawker" and "huckster".

POLITICAL POSITION: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

REGISTERED SOLICITOR: Any person who has been issued a current certificate by the city.

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.

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.

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.

RESPONSIBLE PERSON OR ENTITY: 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.

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 (3) days under any applicable federal, state, or local law.

SERVICES: Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

SOLICITING OR 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;
- F. Other activities falling within the commonly accepted definition of soliciting, such as canvasser, peddler, transient merchant, itinerant merchant, itinerant vendor, hawking, huckster or peddling.

SOLICITOR OR SOLICITORS: A person(s) engaged in door to door solicitation.

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.

SUBSTANTIATED REPORT: An oral, written, or electronic report:

- A. That is submitted to and documented by the city;
- B. By any of the following:
 - 1. 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;
 - 2. City law enforcement or licensing officer; or
 - 3. Any other regularly established law enforcement agency at any level of government;
- C. That provides any of the following information regarding a registered solicitor:
 - 1. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
 - 2. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
 - 3. Documented, eyewitness 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
 - 4. 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.

TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR: Any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the municipality, who engages in a temporary business of selling and delivering goods, wares and merchandise within the municipality, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in conjunction with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

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.

5.32.040 EXEMPTIONS

The following are exempt from registration under this chapter:

- A. Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;
- B. 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. 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. 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; and
- E. 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.

Those persons exempt from registration are not exempt from the duties and prohibitions outlined in sections 5.32.170, 5.32.180 and 5.32.190 of this chapter while advocating or soliciting.

5.32.050 SOLICITATION PROHIBITED

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, the practice of being in and 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.

5.32.060 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.

5.32.070 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 fee:

- A. Review Of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.
- B. Contact Information:
 - 1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 - 2. Applicant's telephone number, home address and mailing address, if different;
 - 3. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and
 - 4. The address by which all notices to the applicant required under this chapter are to be sent.
- C. 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:
 - 1. A valid driver's license issued by any state;
 - 2. A valid passport issued by the United States;
 - 3. A valid identification card issued by any state;
 - 4. A valid identification issued by a branch of the United States military.Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.
- D. 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.
- E. 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.
- F. Marketing Information:
 - 1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;
 - 2. 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.
- G. BCI Background Check: The applicant shall provide:
 - 1. An original or a copy of a "BCI" background check as defined in SMC 5.32.030 of this chapter; and
 - 2. 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.
- H. Responses To Questions Regarding "Disqualifying Status": The applicant shall be required to affirm or deny each of the following statements on the application form:
 - 1. Has the applicant been criminally convicted of: a) felony homicide, b) physically abusing, sexually abusing, or exploiting a minor, c) the sale or distribution of controlled substances, or d) sexual assault of any kind;
 - 2. Are any criminal charges currently pending against the applicant for: a) felony homicide, b) physically abusing, sexually abusing, or exploiting a minor, c) the sale or distribution of controlled substances, or d) sexual assault of any kind;
 - 3. Has the applicant been criminally convicted of a felony within the last ten (10) years;
 - 4. Has the applicant been incarcerated in a federal or state prison within the past five (5) years;
 - 5. Has the applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: a) moral turpitude, or b) violent or aggravated conduct involving persons or property;
 - 6. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that: a) the applicant had either engaged in fraud, or intentional misrepresentation, or b) that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19);
 - 7. 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;
 - 8. Does the applicant have an outstanding arrest warrant from any jurisdiction; or
 - 9. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
- I. Fee: The applicant shall pay such fees as stated in the city's most recently adopted prevailing fee schedule, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.
- J. 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.

5.32.080 WRITTEN DISCLOSURES

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 fee:

- A. Review Of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.

B. Contact Information:

C.

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

D. 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:

1. A valid driver's license issued by any state;
2. A valid passport issued by the United States;
3. A valid identification card issued by any state;
4. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

E. 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.

F. 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.

G. Marketing Information:

1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;
2. 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.

H. BCI Background Check: The applicant shall provide:

1. An original or a copy of a "BCI" background check as defined in SMC 5.32.030 of this chapter; and
2. 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.

I. Responses To Questions Regarding "Disqualifying Status": The applicant shall be required to affirm or deny each of the following statements on the application form:

1. Has the applicant been criminally convicted of: a) felony homicide, b) physically abusing, sexually abusing, or exploiting a minor, c) the sale or distribution of controlled substances, or d) sexual assault of any kind;
2. Are any criminal charges currently pending against the applicant for: a) felony homicide, b) physically abusing, sexually abusing, or exploiting a minor, c) the sale or distribution of controlled substances, or d) sexual assault of any kind;
3. Has the applicant been criminally convicted of a felony within the last ten (10) years;
4. Has the applicant been incarcerated in a federal or state prison within the past five (5) years;
5. Has the applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: a) moral turpitude, or b) violent or aggravated conduct involving persons or property;
6. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that: a) the applicant had either engaged in fraud, or intentional misrepresentation, or b) that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19);
7. 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;
8. Does the applicant have an outstanding arrest warrant from any jurisdiction; or
9. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

J. Fee: The applicant shall pay such fees as stated in the city's most recently adopted prevailing fee schedule, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.

K. J. 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.

5.32.090 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.

5.32.100 ISSUANCE OF CERTIFICATES

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

A. Temporary Certificate:

1. A temporary certificate shall be issued allowing the applicant to immediately begin door to door solicitation upon the following conditions:
 - a. Applicant's submission of a completed application;
 - b. Applicant's submission of the required fee;
 - c. Applicant establishes proof of identity;
 - d. The applicant's representations on the application form do not affirmatively show a disqualifying status;
 - e. The BCI does not affirmatively show a disqualifying status; and
 - f. The 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.
2. 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.

B. Annual Certificate: Within twenty five (25) calendar days of the issuance of a temporary certificate the city shall:

1. 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.
2. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
 - a. Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
 - b. Will not be issued an annual certificate for reasons cited in SMC 5.32.140 of this chapter.

C. Renewal Certificate: An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at twelve o'clock (12:00) 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 SMC 5.32.140 of this chapter, or a disqualifying status is present.

5.32.110 FORM OF CERTIFICATE AND IDENTIFICATION BADGE

- A. 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.
- B. Identification Badge: With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that 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 and business name; b) a recent photograph of the Registered Solicitor; and c) the date on which the Certificate expires.

5.32.120 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.

5.32.130 NONTRANSFERABILITY 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 nontransferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitationsales with different: a) goods or services; or b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the city, after payment of the fee for the identification badge.

5.32.140 DENIAL, SUSPENSION OR REVOCATION OF A CERTIFICATE OF REGISTRATION

A. **Denial:** Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

1. Denial Of Temporary Certificate:
 - a. The application form is not complete;
 - b. The applicant fails to: 1) establish proof of identity, 2) provide a BCI or 3) pay the fees;
 - c. The completed application or BCI indicates that the applicant has a disqualifying status; or
 - d. 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.
2. Denial Of Annual Certificate:
 - a. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect;
 - b. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
 - c. Failure to complete payment of the fees;
 - d. Since the submission of the application, the city has received a substantiated report regarding the past or present conduct of the applicant;
 - e. 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 this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
 - f. 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 nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19).
3. Denial Of Annual Certificate Renewal:
 - a. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;
 - b. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
 - c. Failure to complete payment of the fees;
 - d. 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;
 - e. The city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
 - f. 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 nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19).

B. **Suspension Or Revocation:** The city shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

- C. **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 business day's 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 SMC C4 of the definition of "substantiated report" in SMC 5.32.030 of this chapter, 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.

5.32.150 APPEAL

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the city council or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: a) documents the relationship with the applicant or responsible person or entity; or b) is licensed or authorized by the state of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

- A. Any appeal must be submitted in writing to the city recorder with a copy to the license officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.
- B. 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.
- C. 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 appeals officer shall be simultaneously submitted to the opposing party. If desired, 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.
- D. 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 SMC C of this section, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
 1. 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's certificate.
 2. 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.
 3. 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 upon when the appeal was filed.
- E. After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city.
- F. 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.

5.32.160 DECEPTIVE SOLICITING PRACTICES PROHIBITED

- A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.
- B. A solicitor shall immediately disclose to the consumer during face to face solicitation:
 1. The name of the solicitor;
 2. The name and address of the entity with whom the solicitor is associated; and
 3. The purpose of the solicitor's contact with the person and/or competent individual.This requirement may be satisfied through the use of the badge and an informational flyer.
- C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.
- D. 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.

5.32.170 NO SOLICITATION NOTICE

- A. Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" 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.
- B. 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.
- C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.
- D. The provisions of this section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this chapter.

5.32.180 DUTIES OF SOLICITORS

- A. Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. 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. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.
- B. It is a violation of this chapter for any person soliciting or advocating to 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 similar 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.
- C. It is a violation of this chapter for any solicitor 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.
- D. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.
- E. The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent.

- F. The solicitor shall not follow a person into a residence without their explicit consent.
- G. The solicitor shall not continue repeated 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.
- H. The solicitor shall not use obscene language or gestures.

5.32.190 TIME OF DAY RESTRICTIONS

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before nine o'clock (9:00) A.M. or after nine o'clock (9:00) P.M. Mountain Time, unless the solicitor has express prior permission from the resident to do so.

5.32.200 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 the third business day after signing an agreement to purchase. Such notice of "buyer's right to cancel" shall be in the form required by 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any state or federal law modifying or amending such provision.

5.32.210 PENALTIES

The fee for a peddler or transient merchant, itinerant merchant or itinerant vendor business license, or all others not named, shall be as presented in the most recent prevailing fee schedule adopted by resolution of the city council.

5.36 PUBLIC DANCES, CLUB DANCES AND CABARETS

5.36.010 DEFINITIONS

5.36.020 LICENSE FEES

5.36.030 LICENSING CONDITIONS

5.36.040 DISPLAYING LICENSE

5.36.050 LICENSE ISSUANCE; POLICE TO INVESTIGATE

5.36.060 DANCE REGULATIONS

5.36.070 UNLAWFUL TO CONDUCT UNLICENSED DANCE

5.36.010 DEFINITIONS

CABARET: Duly licensed restaurants which permit their patrons to dance and restaurants or premises which entertain their patrons with live performers who sing or dance or which permit their patrons to dance, shall be deemed to be a cabaret and such places shall be subject to licensing provisions and regulations as provided in this chapter.

CLUB: Dances conducted and sponsored by private nonprofit clubs organized pursuant to chapter 6 of title 6 of title 16, Utah Code Annotated, 1953, for members and their guests only, shall be subject to the licensing provisions as provided in this chapter, but such dances shall not be deemed to be public dances.

NONPUBLIC DANCES: Dances conducted and sponsored by public or private schools and churches for the students or members thereof, even though an admission fee is charged, and dances conducted in private homes on a private basis shall not be deemed to be public dances and shall be exempt from the licensing provisions of this chapter.

PUBLIC DANCE: Any dance to which the public generally may gain admission with or without payment of a fee, but shall not include any dance conducted on or in any public park, street or public grounds by permission of the governing body.

PUBLIC DANCE HALL: Any room, place or space in which a public dance is held or in which classes in dancing are held and instruction in dancing is given for hire.

5.36.020 LICENSE FEES

A. Public Dance Hall License Fees: The license fee required for a public dance hall license shall be:

1. On a daily basis, regardless of size or capacity, twenty five dollars (\$25.00) per day;
2. On an annual basis, one hundred dollars (\$100.00) for public dance halls which have facilities to accommodate up to and including two hundred (200) people; provided, however, that dance schools or studios with facilities limited in size to permit instruction of no more than fifty (50) students at the same time may receive an annual license upon the payment of a fee of fifteen dollars (\$15.00); provided, further, that this reduced fee shall be applicable only if the school or studio is solely used for dance instructional purposes at all times and never for other public dancing.

B. Cabarets Prohibited: Cabarets are prohibited.

5.36.030 LICENSING CONDITIONS

No license shall be issued pursuant to this chapter unless that place for which it is issued complies with and conforms to all laws, ordinances, health and fire regulations applicable thereto, is properly ventilated, has available separate and sufficient toilet conveniences for each sex, and is a safe and proper place for the purposes for which it is to be used.

5.36.040 DISPLAYING LICENSE

Every person to whom a license is issued under this chapter shall post the same in a conspicuous place on the premises covered by such license.

5.36.050 LICENSE ISSUANCE; POLICE TO INVESTIGATE

The police chief shall examine and investigate all applicants for licenses and the premises to be licensed under this chapter. Following such examination the recommendations of the police chief shall be made in writing to the governing body. The police chief shall be permitted to have access to all premises licensed or applying for licenses under this

chapter and shall make periodic inspections of the premises and report its findings to the governing body.

5.36.060 DANCE REGULATIONS

A. Persons Under Fourteen Years Of Age Prohibited At Public Dances:

1. It is unlawful to permit persons who have not attained the age of fourteen (14) years to attend a public dance without being accompanied by their parents except where such public dance is held under all of the following conditions:
 - a. The dance is sponsored or held primarily for groups of persons between fourteen (14) and eighteen (18) years of age;
 - b. No cigarettes, beer or liquor is sold, consumed or used upon the dance hall premises;
 - c. The dance closes not later than twelve o'clock (12:00) midnight;
 - d. The dance is under police supervision to be furnished at the expense of the management of the dance;
 - e. The dance is conducted in an atmosphere and environment and under controls conducive to the proper behavior and conduct of all persons in attendance;
 - f. A permit to conduct the dance has first been obtained from the governing body or their appointed representative unless it is sponsored by a local public school or church;
 - g. When, in the opinion of the governing body, the circumstances justify it, the governing body may permit dances at a definite location to continue for an extended period of time without requiring a permit for each separate dance, subject to the right to revoke such permit at any time in the discretion of the governing body.

- B. Misrepresentation Of Age Or Family Status Prohibited: It is unlawful for any person to misrepresent his or her age for the purpose of gaining admission to a public dance or falsely represent himself or herself to be a parent or legal guardian of any person in order that such person may attend or remain at any public dance.
- C. Proscribed Hours: It is unlawful for any person to conduct or maintain a dance within a dance hall licensed pursuant to this chapter or for any person in charge or control of such dance hall to allow or permit any such dance or dancing between the hours of one minute after twelve o'clock (12:01) A.M., and six o'clock (6:00) P.M., during daylight standard time, and one minute after twelve o'clock (12:01) A.M., and six o'clock (6:00) P.M., during daylight savings time; provided, however, dancing is permitted until one o'clock (1:00) A.M. on New Year's Day.
- D. Pass-Out And Return Checks Prohibited: No pass-out or return checks shall be issued for use by persons who leave licensed dance premises, anterooms thereof and such portions of the grounds immediately adjacent to such premises as are well lighted and under the immediate control of the dance hall management, and all persons leaving the licensed dance premises, anterooms thereof and well lighted grounds immediately adjacent thereto shall be required to pay the regular admission fee in case of return to such dance.
- E. Light Required: Premises licensed pursuant to this chapter shall be illuminated throughout the licensed premises and during business hours at a minimum of one candle power light measured at a level five feet (5') above the floor.
- F. Smoking And Drinking While Dancing Prohibited: It is unlawful to smoke or drink any liquid while dancing on any licensed dance premises or to permit the same.
- G. Allowance Of Disorderly Conduct Prohibited: It is unlawful for any person to whom a license under this chapter has been issued to allow or permit on the licensed premises any indecent act to be committed or any disorder or conduct of a gross, violent or vulgar character, or to permit prostitutes, pimps or procurers to enter and remain on the premises.
- H. Minimum Space Required: No dancing shall be permitted in any premises licensed unless there are at least six hundred (600) square feet of suitable dancing area in addition to the walkways and aisles required by this chapter.

5.36.070 UNLAWFUL TO CONDUCT UNLICENSED DANCE

- A. It is unlawful to conduct or operate any dance until the place in which the dance may be held shall first have been duly licensed except as otherwise provided in this chapter.
- B. If at any time a license under the provisions of this chapter is denied or revoked, it shall thereafter be unlawful for any person to operate, open, maintain, manage or conduct a dance at the same premises until a new license shall be granted by the governing body.

5.40 SECONDHAND AND JUNK DEALERS

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- [5.40.020 DEFINITIONS](#)
- [5.40.030 LICENSE REQUIRED](#)
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5.40.010 PURPOSE AND INTENT OF CHAPTER

The purpose and intent of this chapter is to define and regulate the operation of secondhand stores and junk dealers.

5.40.020 DEFINITIONS

The meanings and terms used in this chapter shall have the respective meanings set forth in this section:

ANTIQUE DEALER: Any person engaged in the business of selling old or archaic items.

DEALER: Any "secondhand dealer", "secondhand precious metal dealer", "junk dealer", "antique dealer" or "garage/yard sale dealer" as defined in this section.

GARAGE/YARD SALE DEALER: Any individual who holds or participates in more than four (4) (maximum 3 days in length) garage sales in one calendar year.

JUNK DEALER: Any person who engages in buying or selling old metals, glass, rags, rubber, paper or other junk from a fixed place of business.

SECONDHAND DEALER: Any person who keeps a store, office or place of business for the purchase, barter or exchange or sale of any secondhand merchandise of value, or who engages in the business of dealing in secondhand goods.

SECONDHAND PRECIOUS METAL DEALER: Any person who engages in buying and selling old gold, silver, platinum or other precious metal or secondhand articles containing any of such metals.

5.40.030 LICENSE REQUIRED

It is unlawful for any person to operate as a dealer without first obtaining a business license and paying the fees required by SMC 5.08 of this title.

5.40.040 TRANSACTION RECORDS REQUIRED; CONTENTS

- A. Dealers will record all purchases or receipts of pistols, rifles, firearms, weapons, if engaged in business relating to such items, electronic items, jewelry (other than costume jewelry), and coins brought to their place of business and purchased by them for resale. The record shall be made on a four (4) part form, previously approved by the city's law enforcement agency and shall contain the following information:
1. The date of the transaction;
 2. Name and address of the seller (if the property is jointly owned, each joint owner must be designated);
 3. An accurate description of the goods, articles or things purchased or otherwise obtained, including the serial number of the article, if any, the name of the manufacturer, if available, and the dimensional description, if applicable;
 4. The amount of money paid therefor;
 5. The date and time of day of the purchase or receipt of such goods, articles or things.
- B. The following information shall be provided concerning the seller(s):
1.
 - a. The last, first and middle name,
 - b. The signature of the seller(s),
 - c. The street address, city, state and zip code,
 - d. Phone number,
 - e. Social security number,
 - f. Drivers license number,
 - g. Sex (male or female),
 - h. Date of birth,
 - i. Height,
 - j. Weight,
 - k. Race,
 - l. Scars/marks,
 - m. Identification used and pertinent numbers;
 2. The name of the person accepting the property for the dealer;
 3. A signed statement certifying that the described property has not been obtained by any illegal means and is the seller's property and is free and clear of any encumbrances and that the seller has a legal right to sell the property.
- C. The disposition of each four (4) part ticket shall be as follows: one copy shall be delivered to a representative of the city law enforcement agency, one copy shall be delivered to the city offices, one copy shall be retained by the dealer and one copy given to the seller.
- D. All of the records and information required in this section shall be open to the inspection of any law enforcement officer during regular business hours.

5.40.050 JUNK DEALER'S RECORD OF SALES AND PURCHASES

Every junk dealer shall keep a book in which shall be written, in ink in the English language, at the time of each and every purchase and sale, a listing of the weight and metallic description of the sale or purchase, together with the full name and residence of the person or persons selling the junk, together with the date and place of the purchase and sale. No entry in the book shall be erased, mutilated or changed. The book and entries shall at all times be open to inspection by the sheriff of the county or any of his deputies and by any member of the police force of this municipality, and any constable or other state, municipal or county officials in this county, provided this section shall not apply to any sale of less than twenty (20) pounds.

5.40.060 JUNK DEALER TO OBTAIN STATEMENT FROM SELLERS

At the time of purchase by any junk dealer of any copper wire, pig, or pigs of metal or of any junk, as defined in this chapter, he shall obtain a signed and dated statement from the person or persons selling it as to when, where and from whom the property was obtained and also the residence, address and place of employment of the seller or sellers. The statement shall be retained for five (5) years by the junk dealer and shall be subject to the provisions of SMC 5.40.050 of this chapter relating to erasure, mutilation or change and also to inspection.

5.40.070 COPIES TO LAW ENFORCEMENT AGENCY

It is unlawful for any person licensed by this code to fail to submit a copy of all entries or required records to the city law enforcement agency upon demand.

5.40.080 MINORS

It is unlawful to accept goods or pledges from persons under the age of eighteen (18) unless such person is married.

5.40.090 ZONING RESTRICTIONS

Operation of secondhand and junk stores shall only be allowed in areas permitted by SMC 17 of this code and only through the issuance of a conditional use permit. Any time in which such business is expanded, added to or modified in any way, a new application for a conditional use permit shall be filed with and a new permit obtained from the planning commission, with specified restriction(s) as deemed necessary, before such expansion, addition or modification is made.

5.40.100 FALSIFICATION OF SELLER'S STATEMENT TO JUNK DEALER

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

5.40.110 VIOLATION BY JUNK DEALER; CLASSIFICATION OF OFFENSE

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

5.44 SEXUALLY ORIENTED BUSINESS AND EMPLOYEE LICENSING

5.44.010 TITLE FOR CITATION

5.44.020 PURPOSE OF PROVISIONS

5.44.030 APPLICATION OF PROVISIONS

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5.44.042 LOCATION OF SEXUALLY ORIENTED BUSINESSES; RESTRICTIONS

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5.44.150 LICENSE; PREMISES LOCATION AND NAME

5.44.160 LICENSE; ISSUANCE CONDITIONS

5.44.170 LICENSE; TERM

5.44.180 LICENSE; NOTICE OF CHANGE OF INFORMATION

5.44.190 LICENSE; TRANSFER LIMITATIONS

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5.44.260 SEMINUDE ENTERTAINMENT BUSINESS; LOCATION RESTRICTION

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5.44.330 VIOLATION; INJUNCTION WHEN

5.44.340 VIOLATION; LICENSE SUSPENSION OR REVOCATION

5.44.350 EFFECT OF LICENSE REVOCATION

5.44.360 VIOLATION; PENALTY; RESPONSIBILITY

5.44.010 TITLE FOR CITATION

The provisions codified in this chapter shall be known and may be referred to as the *SEXUALLY ORIENTED BUSINESS AND EMPLOYEE LICENSING ORDINANCE*.

5.44.020 PURPOSE OF PROVISIONS

It is the purpose and object of this chapter that the city establish 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.

5.44.030 APPLICATION OF PROVISIONS

This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually oriented businesses, and certain 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 SMC 9, public peace and welfare, of this code.

5.44.040 DEFINITIONS

ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE: A commercial establishment:

- A. Which excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or
- B. Which, as one of its principal purposes, offers for sale, reviewing or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals or other printed matter; or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations, the central theme of which depicts or describes "specified sexual activities" or "specified anatomical areas"; or instruments, devices, or paraphernalia which are designated for use in connection with "specified sexual activities", except for legitimate medically recognized contraceptives.

ADULT BUSINESS OR SEXUALLY ORIENTED BUSINESS: An adult motion picture theater, adult bookstore, adult video store, adult novelty store, or any business providing sexually oriented products or services which are illegal to minors and which constitute at least fifteen percent (15%) of the floor space for retail sale of items, unless exempt under the provisions of SMC 5.44.080 of this chapter.

ADULT MOTION PICTURE THEATER: 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); or
- B. As its principal business, shows, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT THEATER: A theater, concert hall, auditorium or similar commercial establishment which:

- A. Holds itself out as such a business; or
- B. Excludes minors from the showing of two (2) consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or
- C. As its principal business, features persons who appear in live performances in a state of seminudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

EMPLOY: 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.

ESCORT: Any person who, for pecuniary compensation, dates, socializes, visits, consorts with, or accompanies or offers to date, consort, 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 activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

ESCORT SERVICE: An individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

ESCORT SERVICE RUNNER: 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.

NUDITY: A state of dress in which the nipple and 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".

OPERATOR: The manager or other natural person principally in charge of a sexually oriented business.

OUTCALL SERVICES: Services of a type performed by a sexually oriented business employee outside of the premises of the licensed sexually oriented business, including, but not limited to, escorts, models, dancers and other similar employees.

PATRON: Any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this chapter.

PECUNIARY COMPENSATION: Any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.

PERSON: Any person, unincorporated association, corporation, partnership or other legal entity.

SEMINUDE: A state of dress in which every portion of the female breast below a horizontal line across the top of the areola at its highest point or a simulation thereof shall be covered by opaque clothing or other covering; and the male or female genitals, pubic region, and anus or simulation thereof shall be fully covered by opaque clothing or other covering no narrower than four inches (4") wide in the front and five inches (5") wide in the back, which shall not taper to less than one inch (1") wide at the narrowest point, provided, however, that the covering is sufficient to completely cover the genitals and anus and that no pubic hair is showing.

SEMINUDE DANCING AGENCY: 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 and at or for any other sexually oriented business.

SEMINUDE ENTERTAINMENT BUSINESS: A business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of seminudity. A business shall also be presumed to be a seminude entertainment business if the business holds itself out as such a business.

SEXUALLY ORIENTED BUSINESS: Also means seminude entertainment businesses, sexually oriented outcall services, adult businesses, and seminude dancing agencies, as defined by this chapter.

SEXUALLY ORIENTED BUSINESS EMPLOYEES: 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 outcall meetings under this chapter, including escorts, models, guards, escort runners, drivers, chauffeurs and other similar employees, shall be considered sexually oriented business employees.

SPECIFIED ANATOMICAL AREAS: The human male or female pubic area, genitalia, or anus or a simulation thereof with less than a full opaque covering, or the human female breast or simulation thereof below a horizontal line across the top of the areola at its highest point, with less than full opaque covering, or the human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- A.
 - 1. Acts, whether real or simulated, of:
 - 2. Masturbation,
 - 3. Human sexual intercourse,
 - 4. Sexual copulation between a person and a beast,
 - 5. Fellatio,
 - 6. Cunnilingus,
 - 7. Bestiality,
 - 8. Pederasty,
 - 9. Buggery,
 - 10. Any anal copulation between a human male and another human male, human female, or beast,
 - 11. Sodomy;
- B. Manipulating, caressing or fondling or simulating such actions, by any person of:
 - 1. The genitals of a human or animal,
 - 2. The pubic area of a human or animal,
 - 3. The breast or breasts of a human female, or
 - 4. Any part of the human buttocks or anus;
- C. Actual or simulated acts of sadomasochism, 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 clothed.
- D. The actual or simulated display of human male genitalia in a discernibly turgid state, even if completely and opaquely covered, or
- E. The public display of any specified anatomical areas.

5.44.042 LOCATION OF SEXUALLY ORIENTED BUSINESSES; RESTRICTIONS

- A. An adult business or sexually oriented business shall be only permitted in accordance with the city's zoning ordinance, SMC 17 of this code, subject to the provisions of this chapter.
- B. No sexually oriented business shall be located:
 - 1. Within one thousand feet (1,000') of any school, public park, library, or religious institution;
 - 2. Within one thousand feet (1,000') of any residential use (no matter which zoning district) or a residential zoning boundary;
 - 3. Within six hundred feet (600') of any other sexually oriented business;
 - 4. Within six hundred feet (600') of any gateway or gateway corridor as identified in this title or as identified in the general plan (sometimes also referred to as the master plan). The distance shall be measured from the edge of the right of way. For purposes of this chapter, "gateway" or "gateway corridor" shall mean the state highways, and other primary access roads by which vehicular access to and through Smithfield City is obtained.
- C. 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 perimeter property boundaries of schools, public parks, libraries, religious institutions, residential use or other sexually oriented business, or from the edge of the right of way of a gateway or gateway corridor, or the nearest point on the structure of the sexually oriented business.
- D. Distance requirements from zoning districts for this section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the closest boundary of a residential district to the nearest point on the sexually oriented business structure.

5.44.044 SIGNS

Signs for sexually oriented business shall be subject to the limitations of this section in addition to any standards within chapter 17.36 of this code.

- A. No more than one exterior building mounted sign shall be permitted.
- B. No sign shall exceed eighteen (18) square feet in total sign area.
- C. No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.
- D. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be permitted on any sign. Signs shall contain alphanumeric copy only.
- E. Only flat wall signs shall be permitted; awnings shall be permitted only to display the street number in letters or numbers no greater than eight inches (8") in height.
- F. Painted wall advertising shall not be allowed.
- G. 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.

5.44.050 OBSCENITY AND LEWDNESS; STATUTORY PROVISIONS

- A. 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.
- B. 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 state or local law. 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.

5.44.060 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 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 pursuant to SMC 17 of this code.

5.44.070 BUSINESS 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.

5.44.080 EXCEPTIONS FROM LICENSE REQUIREMENTS

The provisions of this chapter shall not apply to the following individuals or materials:

- A. Any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling.
- B. Licensed medical practitioner, licensed nurse, psychiatrist, psychologist or other licensed healthcare professionals engaged in providing bona fide healthcare services,
- C. Educators licensed by the state or teaching in an institution of higher education, who are engaged in teaching bona fide sex education classes, and
- D. Educational materials sanctioned by the state or prescribed by licensed healthcare professionals.

5.44.090 LEGITIMATE ARTISTIC MODELING

- A. 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 prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of SMC 5.44.220K of this chapter, a licensed outcall 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 signed at least forty eight (48) hours before the nude appearance. All of the other applicable provisions of this chapter shall still apply to such nude appearance.
- B. In the event of a contract for nude modeling or appearance signed more 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 appearance, it is unlawful to:
 - 1. Appear nude or seminude in the presence of persons under the age of eighteen (18);
 - 2. Allow, offer, or agree to any touching of the contracting party or other person by the individual appearing nude;
 - 3. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
 - 4. Allow, offer, commit or agree to any sex act as validly defined by city ordinances or state statute;
 - 5. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
 - 6. Allow, offer, or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or seminude.

5.44.100 BUSINESS CATEGORIES; NUMBER OF LICENSES

- A. 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 outcall services and a seminude dancing agency on the same premises.
- B. The categories of sexually oriented businesses are:
 - 1. Outcall services;
 - 2. Adult businesses;
 - 3. Seminude entertainment businesses;
 - 4. Seminude dancing agency.

5.44.110 EMPLOYEE LICENSES

It is unlawful for any sexually oriented business to employ or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license.

5.44.120 LICENSE; APPLICATION; DISCLOSURES 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:

- A. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name;
- B. If the applicant is a corporation, partnership, limited liability company or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner, member, manager and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten percent (10%) of the stock of any applicant. Any holding company, or any entity holding more than ten percent (10%) of an applicant, shall be considered an applicant for purposes of disclosure under this chapter. The shareholder disclosure requirements above shall only be applicable for outcall service licenses;
- C. All corporations, limited liability companies, partnerships or noncorporate entities included on the application shall also identify each individual authorized by the corporation, limited liability companies, partnership, or noncorporate entity to sign the checks for such corporation, limited liability companies, partnership, or noncorporate entity;
- D. For all applicants or individuals, the application must also state:

1. Any other names or aliases used by the individual,
 2. The age, date and place of birth,
 3. Height,
 4. Weight,
 5. Color of hair,
 6. Color of eyes,
 7. Present business address and telephone number,
 8. Present residence and telephone number,
 9. Utah driver license or identification number, and
 10. Social security number;
- E. Acceptable written proof that any individual is at least eighteen (18) years of age;
- F. 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 as part of the business license application fee;
- G. For any individual applicant required to obtain a sexually oriented business employee license as an escort or a seminude entertainer, a certificate from the Bear River health department, 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;
- H. A statement of the business, occupation or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application;
- I. 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;
- J. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this chapter, for five (5) years prior to the date of the application, shall also be disclosed. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense involving alcohol or drugs or any 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;
- K. 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;
- L. 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:
1. 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 patrons and preventing them from engaging in illegal activity,
 2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,
 3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this chapter or other statutes or ordinances,
 4. 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.

It is 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 for the purpose of obtaining a sexually oriented business or employee license.

5.44.140 LICENSE; BOND

Each application for a sexually oriented business license shall post, with the city recorder, a cash or corporate surety bond payable to Smithfield City in the amount of two thousand dollars (\$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 two thousand dollars (\$2,000.00) within fifteen (15) days of the date of notice of any draw against it.

5.44.150 LICENSE; PREMISES LOCATION AND NAME

- A. 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.
- B. It is unlawful for any sexually oriented business to do business in the city under any name other than the business name specified in the application.

5.44.160 LICENSE; ISSUANCE CONDITIONS

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

- A. The applicant is under eighteen (18) years of age;
- B. The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant;
- C. The applicant has falsely answered a material question or request for information as authorized by this chapter;
- D. 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;

E. The premises to be used for the business have been disapproved by the Bear River health department, the fire department, the police department, the building officials, or the zoning officials 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 city recorder 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 corporate 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:

1. 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 which are incomplete;
2. The time for processing applications specified in this section shall begin to run from the receipt of a complete application;
3. In the event that a license for seminude entertainment, seminude dancing agencies, adult businesses, or seminude entertainment businesses has not been disapproved within thirty (30) days or the forty five (45) days allowed after an extension, the city shall issue the license pending completion of the city's review;
4. Any license issued pursuant to SMC E3 of this section may be revoked by the city, pursuant to the revocation procedures provided for herein, if the completed review determines that the license should have been denied;

F. The required license fees have not been paid;

G. All applicable sales and use taxes have not been paid;

H. 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;

I. An applicant has been convicted or pled nolo contendere to a crime:

1. 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:
 - a. Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five (5) years have elapsed from the date of the last conviction, if the convictions are of two (2) or more misdemeanors within the five (5) years, or
 - b. Less than five (5) years have elapsed from the date of conviction, if the offense is of a felony,
2. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

5.44.170 LICENSE; TERM

Sexually oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through the last day of February of each year. The license fees required for the applicable classification 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.

5.44.180 LICENSE; 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 city recorder and the police department within fourteen (14) days after such change.

5.44.190 LICENSE; 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 in the case of a license held by a corporation, limited liability company, partnership, or other noncorporate entity, for any owner or other interest holder in such license to transfer any interest in excess of ten percent (10%) in such license, 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.

5.44.200 LICENSE; 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, such license shall be visibly displayed within the same room the employee is performing. When requested by police, 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.

5.44.210 LICENSE; STATEMENT IN ADVERTISEMENT

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.

5.44.220 REGULATIONS AND UNLAWFUL ACTIVITIES

It is unlawful for any sexually oriented business or sexually oriented business employee to:

- A. Allow persons under the age of eighteen (18) years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;
- B. Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen (18) years;

- C. To allow, offer, or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises;
- D. Allow the outside door to the premises to be locked while any customer is in the premises;
- E. Allow, offer, or agree to gambling on the licensed premises;
- F. Allow, offer, or agree to any sexually oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;
- G. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;
- H. Allow sexually oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business;
- I. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;
- J. 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;
- K. Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of nudity except as may be specifically allowed by law;
- L. 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;
- M. Allow, offer or agree to commit an act of lewdness as defined in city, state or federal law.

5.44.230 OUTCALL SERVICES; OPERATION REQUIREMENTS

It is unlawful for any business or employee providing outcall services contracted for in the city to fail to comply with the following requirements:

- A. All businesses licensed to provide outcall 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 thereunder. 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;
- B. All outcall 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 outcall 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 outcall businesses which premises are licensed within the corporate limits of the city, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises;
- C. Outcall services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee;
- D. All employees of outcall services who provide outcall services within the city shall be licensed in accordance with this chapter, regardless of the primary location of the business.

5.44.240 ADULT BUSINESS; DESIGN OF PREMISES

- A. 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 license. The design and construction, prior to granting a license or opening for business, shall conform to the following:
 - 1. 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;
 - 2. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas;
 - 3. 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 which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;
 - 4. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.
- B. It shall be the duty of the licensee and the licensee's employees to ensure that the views from the manager's station in SMC A1 of this section remain unobstructed by any doors, walls, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- C. The premises shall at all times be equipped and operated 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 foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

5.44.250 SEMINUDE ENTERTAINMENT BUSINESS; DESIGN OF PREMISES

- A. It is unlawful for business premises licensed for seminude entertainment to:
 - 1. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be placed 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 such items may be on the stage as part of a performance;
 - 2. Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors to be lockable from the inside;
 - 3. 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 feet (3') high and six inches (6") wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.
- B. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of six feet (6'), which separation shall be delineated by a physical barrier at least three feet (3') high.

5.44.260 SEMINUDE ENTERTAINMENT BUSINESS; LOCATION RESTRICTION

It is unlawful for any business licensed for seminude entertainment to be located within six hundred feet (600') of a business licensed for the sale or consumption of alcohol.

5.44.270 ALCOHOL PROHIBITED

- A. 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.
- B. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually oriented business.

5.44.280 SEMINUDE DANCING AGENCIES

- A. 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 seminudity for pecuniary compensation in or for any seminude entertainment business or adult theater licensed pursuant to this chapter, unless such agency is licensed pursuant to this chapter.
- B. 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 seminudity 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.

5.44.290 PERFORMERS; PROHIBITED ACTIVITIES

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

- A. Touch in any manner any other person;
- B. Throw any object or clothing off the stage area;
- C. Accept any money, drink, or any other object directly from any person; or
- D. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or
- E. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

5.44.300 PATRONS; PROHIBITED ACTIVITIES

It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give 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.

5.44.310 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:

- A. By a proprietary school licensed by the state, or a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

5.44.320 EXISTING BUSINESSES; COMPLIANCE TIME LIMITS

- A. The provisions of this chapter shall be applicable to all persons and businesses described herein, whether the herein described activities were established before or after the effective date of the provisions codified in this chapter and regardless of whether such persons and businesses are currently licensed to do business in the city.
 - 1. All such persons and businesses requiring outcall service licenses shall have forty five (45) days from the effective date of the ordinance codified in this chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this chapter.
 - 2. All seminude dancing agency licenses shall have forty five (45) days from the effective date of the ordinance codified in this chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this chapter.
 - 3. All adult businesses and seminude entertainment businesses shall have forty five (45) days from the effective date of the ordinance codified in this chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this chapter.
- B. For the year 1998 all businesses required by this chapter to be licensed as sexually oriented businesses shall receive credit for any 1998 license fee(s) paid and shall be required to remit the difference, if any, for fees assigned to the sexually oriented business classifications established, as applicable.

5.44.330 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.

5.44.340 VIOLATION; LICENSE SUSPENSION OR REVOCATION

- A. The city may issue a notice of intent to suspend, revoke, or not renew a sexually oriented business or employee license granted under this chapter if a licensee or an employee of the licensee has:
 - 1. Violated or is not in compliance with this chapter;
 - 2. 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;
 - 3. Failed to replenish the cost bond as provided in this chapter (such a suspension shall extend until the bond has been replenished);
 - 4. Given materially false or misleading information in obtaining the license;
 - 5. Knowingly operated the sexually oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
 - 6. A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;
 - 7. On two (2) or more occasions within a twelve (12) month period, a person or persons committed in or on the licensed premises, or solicited for on the licensed

premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for 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;

8. A licensee is delinquent in payment to the city for taxes or fees related to the sexually oriented business.

- B. Notice of intent to suspend, revoke, or not renew a license granted under this chapter shall be given and a hearing held as set forth in SMC 5.04.100B of this title.
- C. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- D. The preceding subsections shall not apply to denied applications for sexually oriented businesses and employees which have not previously been licensed by the municipality, and such applicants need only be informed that their application has been denied and the reasons for denial.

5.44.350 EFFECT OF LICENSE REVOCATION

When a license issued pursuant to this chapter is revoked, suspended or not renewed, the action shall remain in effect for one year from its effective date, and the licensee shall not be issued a sexually oriented business or employee license for no less than one year from the date of such action.

5.44.360 VIOLATION; PENALTY; RESPONSIBILITY

- A. In addition to revocation or suspension of, or refusal to renew a license, as provided in this chapter, each violation of this chapter shall, upon citation by the city recorder, require the licensee to pay a civil penalty in the amount of five hundred dollars (\$500.00). Such civil penalties shall be deducted from the cost bond posted pursuant to this chapter, unless paid within ten (10) days of notice of the civil penalty or the final determination by the city council as set forth in SMC 5.44.340B of this chapter. In addition to the civil penalties provided in this chapter, the violation of any provision of this chapter shall be a class B misdemeanor. Each day of a violation shall be considered a separate offense for purpose of both civil penalties and criminal prosecution.
- B. 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 and/or operator, or as a result 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.
- C. 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.

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As used in this title, unless the context otherwise indicates, the following terms mean:

ANIMAL CONTROL OFFICER: The person or persons designated to enforce this title.

ANIMAL ESTABLISHMENT: Any pet shop, grooming shop, animal auction, performing animal exhibition, kennel/cattery or animal shelter, except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers.

ANIMAL SHELTER: A facility designated or recognized by Smithfield City for the purpose of impounding and caring for domestic animals.

AT LARGE: A domestic animal shall be deemed to be at large when off the property of the owner and not under restraint.

DANGEROUS ANIMAL: An animal that without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals.

DOMESTIC ANIMAL: Any animal commonly kept as a pet in family households in the United States, including, but not limited to, dogs, cats, guinea pigs, rabbits, pigmy pigs, and hamsters; and any animals commonly kept for companion or commercial purposes.

ESTRAY: Any valuable animal, except dogs and cats, not wild, found running at large.

FERAL CAT: Any unowned cat.

FIELD CAT: A cat kept primarily out of doors, not as a pet, but instead kept for the control of rodents. Field cats may be exempt from licensing but in doing so are not provided the protection that licensing provides. Owners of field cats are still required to vaccinate and spay/neuter this class of cats to help control the spread of disease and more unwanted cats.

FIXED DOG RUN: A fenced in and/or covered structure used to house or contain a dog(s) in a relatively limited area. Not meant to include merely keeping a dog attached to a line or keeping a dog in a fenced yard. A fixed dog run must be closer to the owner's residence than the adjoining neighbors' residence. Locations of fixed runs shall be located according to the following setbacks: a) front setback: thirty feet (30'); b) side setback: ten feet (10'); c) side setback adjoining street: twenty feet (20'); d) rear setback: ten feet (10'); e) setback from neighbors' residences (any residence on adjacent property): thirty feet (30').

FOSTER CARE PROVIDER: A person or persons designated by a "rescue agency" and approved by Smithfield City and the animal control officer to provide care for a maximum of two (2) impounded animals.

HUMANE MANNER: Care of a domestic animal including, but not limited to, adequate heat, ventilation, sanitary shelter, and wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

KENNEL/CATTERY: An establishment of three (3) or more dogs or five (5) or more cats and regulated by a "conditional use permit".

LICENSING AUTHORITY: The agency or department of Smithfield City or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this title.

LIVESTOCK GUARDING DOGS: Dogs kept for the primary purpose of protecting livestock from predatory attacks.

NEUTERED OR SPAYED: To be rendered permanently incapable of reproduction.

NUISANCE: A domestic animal which damages, soils, defiles, or defecates on property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

OWNER: A person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.

PERSON: Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

PET SHOP: An establishment engaged in the business of buying or selling, at retail, animals for profit making purposes.

RESCUE AGENCY: A nonprofit organization (such as Cache Humane Society) whose purpose is the rescue of homeless animals and require humane treatment and medical care including immunizations and prevention of reproduction. Rescue agencies select and approve "foster care providers" who care for homeless animals under their direction and supervision.

RESTRAINT: An animal which is within the real property limits of its owner or secured by a leash or lead.

WILD ANIMAL: Any animal of a species that in natural life is wild.

Adopted by Ord. 2013-02 on 9/21/2013

6.04.020 DUTIES OF ANIMAL CONTROL OFFICER

The animal control officer shall perform the following duties:

- A. Carry out and enforce the provisions of this title.
- B. Enforce the licensing and control of all animals within the municipality as hereafter provided.
- C. Issue citations and file complaints in the courts against any person, firm, or corporation failing to comply with the provisions of this title and obtain licenses when required thereunder.
- D. Capture and secure all animals found running at large contrary to the provisions of this title and impound such animals in a humane manner.
- E. Provide for a good and sufficient pound in which an animal duly committed to his charge or otherwise impounded by him shall be maintained.
- F. Enter on the impound record a description sufficient to provide identification thereof in records kept for that purpose stating the kind of animal and the circumstances under which received or impounded, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animal.

6.04.030 INTERFERENCE WITH OFFICER PROHIBITED

It shall be unlawful for any person to interfere, molest, hinder or obstruct the animal control officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

6.04.040 LAWFUL FOR OFFICERS TO GO ON PROPERTY

In the enforcement of any provision of this title any police officer or animal control officer is authorized to enter on to the property of any person or entity to take possession of any dangerous or vicious dog or animal, or dog or animal which has committed an act prohibited by city ordinance, when in fresh pursuit of such dog or animal at the time the dog or animal goes onto private property.

6.04.050 ESTABLISHMENT INSPECTIONS

All establishments required to be permitted under this chapter shall be subject to periodic inspections by the animal control officer. The animal control officer shall make a report of such inspections with a copy to be filed with the city.

6.04.060 BITING ANIMALS QUARANTINED FOR OBSERVATION

- A. Any animal of a species subject to rabies which is known to have bitten or has been bitten, or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the municipal pound and shall not be killed or released until at least ten (10) days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, it shall be immediately taken to the state health or other appropriate laboratory to be examined for rabies.
- B. The owner of such quarantined animal, or if the owner cannot be found then the person having custody and control of the animal, shall be responsible for and reimburse the city for any and all costs incurred for such quarantine regardless of whether or not the animal in fact has rabies.
- C. The owner of such animal may choose to euthanize the animal prior to the ten (10) day quarantine period and take the animal to the proper agency for the required tests.

6.04.070 HOME QUARANTINE

When an animal bite has occurred that requires quarantining as defined in SMC 6.04.060 of this chapter, home quarantining may be an alternative. This decision is to be made at the discretion of the animal control officer. The following criteria needs to be considered in making the decision. The animal will be considered for home quarantine only if:

- A. This is the animal's first offense;
- B. The animal is not exhibiting aggressive behavior;
- C. The bite or attack was minor and not repetitive;
- D. In the opinion of the animal control officer, there is relatively little safety risk to the owner or the public if the home quarantine is allowed;
- E. The owner/caregiver is capable of confining the animal at home in such a way that it will not be able to stray; and
- F. The animal is current in its vaccinations for rabies.
- G. If home quarantine is determined by the officer to be an acceptable option, the officer will review the requirements for home quarantine with the owner/caregiver. The owner/caregiver will be required to sign a document agreeing to abide by such requirements.

6.04.080 RETRIEVAL OF SUFFERING ANIMALS

In the event that Smithfield City finds dogs, cats or other animals to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner/caregiver may be withheld until the owner/caregiver shall have made full payment for all expenses so incurred.

6.08 UNLAWFUL ACTS

[6.08.010 TRESPASSING ANIMALS](#)
[6.08.020 KILLING OR POISONING ANIMALS PROHIBITED](#)
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6.08.010 TRESPASSING ANIMALS

It is unlawful for any owner or caregiver of any dog or other animal to permit or negligently allow such dog or other animal to run at large or to trespass upon the property of another person.

6.08.020 KILLING OR POISONING ANIMALS PROHIBITED

It is unlawful for any person to wilfully kill any domestic animal belonging to another, or to administer poison to any domestic animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.

6.08.030 KEEPING ANIMALS FOR FIGHTING

- A. It is unlawful for any person, firm or corporation to raise, keep or use any animal, for the purpose of fighting or baiting; and for any person to be party to or be present as spectator at any such fighting or baiting of any animal, and for any person, firm, corporation to knowingly permit the use of his building, sheds, rooms, grounds, or premises for these purposes.
- B. Law enforcement officers or animal control officers may enter any building or place where there is an exhibition of the fighting or baiting of live animals, or where preparations are being made for such exhibitions, and law enforcement officers may arrest persons there present and take possession of all animals being prepared to fight, engaged in fighting or found for the purpose of fighting, along with all implements and other paraphernalia used in such exhibition. This provision shall not be interpreted to authorize a search or arrest without a warrant when the law requires such.

6.08.040 MALICIOUS IMPOUNDING

It is unlawful for any person to maliciously hide or impound the animal of another.

6.08.050 REMOVAL OF DEAD ANIMALS

The owner of any animal that has died or been killed shall remove or bury the carcass of such animal. No horse, cow, ox, or other such large animal shall be buried on the owner's real property which is less than two (2) acres.

6.08.060 TRAPPING OF DOMESTIC ANIMALS

- A. It is unlawful for any person to trap, set a trap or engage in trapping in Smithfield City except under the supervision of the animal control officer. The mayor may authorize any employees of the city to engage in trapping where it is deemed by the mayor to be in the best interest of Smithfield City.
- B. The animal control officer may make available humane "live" traps to the public to trap nuisance animals running at large and trespassing on their property.
- C. It shall be the responsibility of the citizen trapping an animal to notify the animal control officer who will retrieve the contents of the trap and deal with the animal in accordance with approved policies.

6.08.070: TRAPPING OF WILD AND/OR NUISANCE ANIMALS

The trapping of wild and nuisance animals is regulated by state law.

6.08.080 WILD ANIMAL RESTRICTIONS

It is unlawful for any person to sell, possess, offer for sale, barter, give away, keep or purchase any vicious wild animal which is fierce, dangerous, noxious or naturally inclined to do harm. An animal shelter, a zoological park, veterinary hospital, humane society shelter, public laboratory, circus, sideshow, amusement park or facility for education of scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided.

6.08.090 NUISANCE ANIMALS

Any owner or person having charge, care, custody or control of an animal(s) causing a nuisance as defined in this title shall be subject to the penalties provided herein.

6.12 ANIMAL CONTROL REGULATIONS GENERALLY

[6.12.010 LICENSING AND RABIES VACCINATIONS](#)
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6.12.010 LICENSING AND RABIES VACCINATIONS

- A. Except as provided in this section, no person shall own, keep, or harbor any dog or cat over four (4) months of age within Smithfield City unless such dog or cat is vaccinated and licensed. All dogs and cats shall be vaccinated against rabies. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or a licensed government operated animal shelter, a rescue agency or authorized foster care provider.
- B. Application for a license must be made within thirty (30) days after obtaining a dog or cat over four (4) months of age, except that this requirement will not apply to a nonresident keeping a dog or cat within Smithfield City for no longer than sixty (60) days. The city shall provide applications for a dog or cat license and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog or cat. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination.
- C. The licensing period shall begin the first day of the calendar year and shall run for one year. License renewal may be applied for within sixty (60) days prior to the expiration date. New residents must apply for a license within thirty (30) days of establishing residency.
- D. A license shall be issued after payment of a fee according to the prevailing fee schedule for each dog or cat. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a late fee as set forth in the prevailing fee schedule.
- E. License fees shall be waived for dogs serving the disabled or government owned dogs used for law enforcement. All other licensing provisions shall apply.
- F. Upon acceptance of the license application and fee, Smithfield City shall issue a durable license tag including an identifying number, year of issuance, city, county, and state, which must be attached to the collar of the dog or cat. Tags must be worn at all times and are not transferable. Smithfield City shall maintain a record of all licenses issued, and such records shall be available to the animal control officer.

6.12.020 FOR ANIMAL ESTABLISHMENTS

- A. No person shall operate an animal establishment without first obtaining a permit in compliance with this section.
- B. The permit period shall begin with the first day of the calendar year and shall run for one year, except for kennel/cattery permits which shall be for three (3) years. Renewal applications for permits may be made within sixty (60) days prior of the expiration date. However applications for a permit to establish a new animal establishment under the provisions of this title may be made at any time.
- C. Annual permits shall be issued upon payment of the applicable fees as found in the prevailing fee schedule.
- D. A person who maintains a kennel/cattery of three (3) or more dogs or five (5) or more cats must pay the kennel/cattery permit renewal fee listed in the prevailing fee schedule and must license each dog or cat individually.
- E. Under the provisions of this title, a conditional use permit shall be required of any animal shelter, rescue agency, and foster care provider operating within the city limits. All fees normally required in the prevailing fee schedule will be waived for these three (3) entities.
- F. No person or persons at any one residence within Smithfield City shall at any time own or license more than two (2) dogs or four (4) cats, with no combination exceeding five (5), except otherwise provided in this title.
- G. Research facilities where beneficial medical or related research is being conducted, humane shelters and other animal establishments operated by state or local government or which are licensed by federal law are excluded from the permit requirements of this chapter.

6.12.030 ISSUANCE AND REVOCATION OF PERMITS AND LICENSES

- A. Smithfield City may revoke any permit or license for any dog or cat if the person holding the permit or license refuses or fails to comply with this title, the regulations promulgated by Smithfield City or any other law governing the protection and keeping of animals. In such cases, the animal control officer may pick up and impound any animal kept by the person under such order. Any dog or cat impounded pursuant to such an order shall be dealt with in accordance with the provisions of this title for impounded animals.
- B. If an applicant is shown to have withheld or falsified any material information on the application, Smithfield City may refuse to issue or may revoke a permit or license.
- C. It shall be a condition of issuance of any permit for an animal establishment that Smithfield City shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause, or pending appeal of any such action, Smithfield City shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not reapply for a period of at least thirty (30) days. Each reapplication shall disclose any previous denial or revocation and shall be accompanied by the fee as set forth in the prevailing fee schedule.

6.12.040 OWNER RESPONSIBILITY

- A. All dogs shall be kept under restraint.
- B. No dog or cat shall be abandoned, neglected, or allowed to cause a nuisance. The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this title.
- C. Livestock guarding dogs shall be exempt from nuisance regulations when performing duties protecting livestock on premises owned or controlled by the owner.
- D. Dog and cat owners shall ensure that their dog or cat carries identification at all times in the form of a tag, or other means to allow easy determination of the owners.

6.12.050 IMPOUNDMENT

- A. Any dog found running at large or any cat suspected of causing a "nuisance" as defined in this title shall be impounded by the animal control officer and confined in a humane manner. Immediately upon impounding a dog or cat the animal control officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats not claimed by their owners within a period of five (5) working days in which the shelter is open to the public shall become the property of Smithfield City and will fall under the jurisdiction of the animal control officer. A feral cat becomes the property of Smithfield City immediately upon impoundment and therefore may be euthanized, at the discretion of the animal control officer, prior to the normal five (5) day requirement.
- B. When any animal is found running at large or causing a nuisance, and its ownership is verified by the animal control officer, the officer may exercise the option of serving the owner with a citation in lieu of impounding the animal if it is the animal's first offense. The owner of the animal, which has been impounded three (3) times, in a two (2) year period, will be required to appear before a judge for review.
- C. Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

6.12.060 REDEMPTION

- A. Any dog or cat impounded may be redeemed by the owner/caregiver thereof within five (5) working days upon payment of a mandatory impound fee as listed in the prevailing fee schedule plus any additional costs incurred in caring for the impounded animal. If any such dog or cat has been previously impounded within the past twenty four (24) months the impoundment fee shall be increased as listed in the prevailing fee schedule. Payment of impoundment fees is not considered to be in lieu of

any fine, penalty, or license fees.

B. The owner/caregiver of an impounded dog or cat may redeem their animal by the following procedure:

1. Owner/caregiver will report to the Smithfield City office to request the redemption of the animal.
2. An authorized city employee will locate the proper impound record and calculate the daily board charges incurred as per the prevailing fee schedule. (The city employee may also call the impound facility to obtain the current daily boarding charges.)
3. The owner/caregiver will pay Smithfield City for all impound fees, fines, and daily board charges. The city will then issue the owner/caregiver an itemized paid receipt listing all charges paid for.
4. Owner/caregiver will then present the paid receipt at the impound facility and request the redemption of the dog or cat. Owner will pay the impound facility for all expenses incurred for any veterinarian care, vaccinations, spaying, neutering, or other charges.
5. The impound facility will then release the animal to the owner/caregiver and bill Smithfield City for the daily board charges incurred for the dog or cat.

C. Any dog or cat confined for rabies, quarantine, evidence or other purposes may be redeemed by the owner, following the confinement period, and upon payment of all costs incurred in caring for the animal as specified in SMC B of this section.

D. No dog or cat required to be licensed or vaccinated under this title may be redeemed until provisions for such licensing and vaccinations have been fulfilled.

6.12.070 ADOPTION

No dog or cat over four (4) months shall be released for adoption without being spayed or neutered except to an authorized rescue agency. Vaccination fees, licensing fees, boarding charges, and veterinary costs may be assessed above and beyond, or as part of, the adoption fees.

6.12.080 RESCUE

In the event an animal is neither redeemed or adopted, it may be rescued by an authorized rescue agency (such as Cache Humane Society). No rescue agency will be assessed any fees for the rescue of any animal from impound. The rescue agency immediately assumes responsibility and legal ownership for the animal.

6.12.090 EUTHANIZATION

Any animal not redeemed, adopted or rescued within five (5) working days may be euthanized. Any animal deemed by the animal control officer to be feral, dangerous, sick, injured or suffering may be euthanized immediately.

6.20 DANGEROUS DOGS

6.20.010 DEFINITIONS

6.20.020 OWNER RESPONSIBILITY

6.20.030 ACTIONS PERMITTED AGAINST DANGEROUS DOGS

6.20.040 JUDICIAL HEARING PROCEDURE

6.20.010 DEFINITIONS

As used in this chapter the following terms mean:

ATTACK: Aggressive physical contact initiated by the dog.

DANGEROUS DOG: Any dog which without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals. A dog's breed shall not be considered in determining whether or not it is "dangerous".

A. No dog may be declared "dangerous":

1. If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
2. If at the time the person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
3. If the person was teasing, tormenting, abusing or assaulting the dog, or in the past had teased, tormented, abused or assaulted the dog;
4. If the dog was attacked or menaced by a domestic animal, or the domestic animal was on the property of the owner, or custodian, of the dog;
5. If the dog was responding to pain or injury, or protecting itself, its kennel or its offspring;
6. If the person or domestic animal was disturbing the dog's natural functions such as sleeping or eating.

Neither growling nor barking, nor both, shall alone constitute grounds upon which to find a dog to be "dangerous".

DOMESTIC ANIMAL: Any animal commonly kept as a pet in family households in the United States, including, but not limited to, dogs, cats, guinea pigs, rabbits, pigmy pigs, and hamsters; and any animals commonly kept for companion or commercial purposes.

SERIOUS INJURY: Any physical injury consisting of broken bones or a permanently disfiguring laceration requiring either multiple stitches or cosmetic surgery.

6.20.020 OWNER RESPONSIBILITY

Every "dangerous" dog or cat, as determined by the animal control officer, shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

6.20.030 ACTIONS PERMITTED AGAINST DANGEROUS DOGS

- A. If any dog shall attack a person or domestic animal who was peaceably conducting himself in any place where he may lawfully be, any person, for the purpose preventing imminent injury or further injury, may use such force as is required to stop the attack.
- B. A police officer or animal control officer acting pursuant to his statutory duties may, where the threat of serious injury to a person or domestic animal is imminent and unjustified, use such force as is required to prevent such injury.

6.20.040 JUDICIAL HEARING PROCEDURE

- A. Any person may make a complainant of an alleged "dangerous dog" as that term is defined herein to the animal control officer or a police officer of Smithfield City. Such officer(s) shall immediately inform the complainant of his right to commence a judicial hearing as provided for in SMC B of this section, and if there is reason to believe the dog is a "dangerous" dog, the officer shall forthwith commence such judicial hearing himself.
- B. Any person may, and any police officer, or animal control officer acting within the scope of his statutory duties, shall make a complaint under oath or affirmation of an alleged "dangerous" dog as that term is defined herein to any municipal judge or justice. Thereupon, the judge or justice, shall immediately determine if there is probable cause to believe the dog is a "dangerous" dog and, if so, shall issue an order to any police officer pursuant to his statutory duties or animal control officer directing such officer to immediately seize such dog and hold same pending judicial determination as herein provided. Whether or not the judge or justice, finds there is probable cause for such seizure, he shall, within five (5) working days and upon written notice of not less than three (3) days to the owner of the dog, hold a judicial hearing on the complaint.
- C. Where a dog is determined pursuant to clear and convincing evidence at a duly constituted hearing to be "dangerous", the judge or justice, shall require the owner of said animal to register such animal with Smithfield City, and to provide prompt notification to Smithfield City of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instance of attack; any claims made or lawsuits brought as a result of further instances of attack, or the death of the animal. The owner must, at the time of licensing, provide proof of a fully paid homeowners or rental insurance policy containing a personal liability clause in the minimum amount of one hundred thousand dollars (\$100,000.00). Smithfield City must be listed on the policy as an additional insured. In addition, the judge or justice, may require any or all of the following, but SMC C5 and C6 of this section may only be imposed where there has been serious injury to a person.
1. Indoors, when not alone, the dog must be under the control of a person eighteen (18) years or older. Provisions for the dog to be outdoors must also be made.
 2. Outdoors and unattended, the dog must be kept within a locked fenced area from which it cannot escape.
 3. When outdoors the dog must be attended and kept within a fenced area from which it cannot escape.
 4. When outdoors the dog must be attended and kept on a leash no longer than six feet (6') and under the control of a person eighteen (18) years of age or older.
 5. When outdoors the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with it's vision or respiration but shall prevent it from biting any person or animal.
 6. Outdoors and unattended the dog must be confined to an escape proof fixed dog run of the following description:
 - a. Such fixed dog run shall allow the dog to stand normally and without restriction and shall be at least two and one-half (2¹/₂) times the length of the dog, and shall protect the dog from the elements.
 - b. Fencing materials shall not have openings with a diameter of more than two inches (2"), and in the case of wooden fences, the gaps shall not be more than two inches (2").
 - c. Any gates within such fixed dog run or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the dog is confined to such kennel and unattended such locks shall be kept locked.
 - d. The fixed dog run may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
 7. Placement of a sign or signs of a description and in places directed by the judge or justice, advising the public of the presence and tendencies of said animal.
 8. Attendance by the dog and its owner/caregiver at training sessions conducted by a certified applied animal behaviorist, board certified veterinarian behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all costs associated with the evaluation and training ordered under this section.
 9. Neutering or spaying of the dog at the owner's expense, unless medically contraindicated.
 10. That the dog be permanently identified by tattooing or by injecting an identification microchip, using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with Smithfield City.
- D. If a dog has been determined to be a "dangerous dog" by a judge or justice following a hearing as described above, and is involved in another attack as defined herein, the judge or justice may impose or reimpose any applicable directives listed above. Humane destruction of the dog may be ordered by the judge or justice following repeat attacks, but only where further incident involves serious injury to a person.

6.28 ESTRAYS AND TRESPASSING ANIMALS

6.28.010 IMPOUNDING AND DISPOSAL OF ESTRAYS GENERALLY

6.28.040 RECORD OF ESTRAYS

6.28.060 TRESPASSING ANIMALS; APPRAISEMENT OF DAMAGES; DETAINING

6.28.080 FAILURE TO NOTIFY; WAIVER OF DAMAGES

6.28.090 DUTY OF ANIMAL CONTROL OFFICER

6.28.100 NOTICE OF SALE OF DETAINED ANIMALS

6.28.110 OWNER MAY PAY AND TAKE ANIMALS; DISPUTED APPRAISAL

6.28.120 BILL OF SALE

6.28.130 REDEMPTION BY OWNER WITHIN NINETY DAYS

6.28.140 OWNER ENTITLED TO RESIDUE OF PROCEEDS

6.28.160 RETAKING ANIMAL UNLAWFULLY

6.28.010 IMPOUNDING AND DISPOSAL OF ESTRAYS GENERALLY

It is made the duty of the animal control officer(s) to take into his possession and impound all estrays running at large within the boundaries of the city and attempt to determine the name and location of the animal's owner. The local state brand inspector may assist with any or all responsibilities assigned to the animal control officer regarding estrays.

6.28.040 RECORD OF ESTRAYS

The animal control officer shall keep an accurate record of all estrays received by him, their age, color, sex, marks, and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount paid, all monies paid to owners after sale, all monies

paid into the treasury, and all other matters necessary for compliance with the provisions of this chapter. The city shall provide the animal control officer with a suitable book in which shall be entered the records required by law to be kept by the animal control officer. Such records shall be open to the inspection of the public at all reasonable hours, and shall be deposited by the animal control officer with his successor in office.

6.28.060 TRESPASSING ANIMALS; APPRAISEMENT OF DAMAGES; DETAINING

If any cattle, horses, asses, mules, sheep, goats, swine or other animals shall trespass or do damage upon the premises of any person, the party aggrieved, whether he be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals or by detaining and impounding any or all of said animals trespassing or doing damage thereon. He shall, within forty eight (48) hours thereafter, deliver said animals to the animal control officer together with a certificate of the appraisal of damage done by such animals. Such appraisal must be made by some disinterested person. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known, it must state that fact together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisal and a separate certificate thereof shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners. In such cases, the owners shall be notified separately, and each lot or group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times. If deemed appropriate the animal control officer or state brand inspector may authorize the person in possession of the estray to maintain and care for it pending determination and location or its owner. A person authorized to care for any estray(s) is entitled to be reimbursed for expenses incurred according to the prevailing fee schedule.

6.28.080 FAILURE TO NOTIFY; WAIVER OF DAMAGES

No person who finds an estray is entitled to reimbursement for feed and maintenance or for any other cost incurred on behalf of the estray before such time as notice of the estray is given to the animal control officer or state brand inspector. If the party detaining any animals shall fail to deliver them or the certification of appraisal to the animal control officer or the state brand inspector within forty eight (48) hours after he receives the same or to deposit the same in a post office as provided in this chapter, he shall not be entitled to recover damages under the provisions of this chapter.

6.28.090 DUTY OF ANIMAL CONTROL OFFICER

Whenever any animals are delivered to the animal control officer and the certificate of appraisal is filed with him as provided in this chapter and such certificate states that the owner is unknown, the animal control officer shall immediately examine all brand books or brand sheets in his possession. If the owner be ascertained hereby or if the owner be already known to the animal control officer, he shall, if the owner lives within ten (10) miles, immediately deliver a copy of such certificate of appraisal to such owner, or leave the same at his residence if he cannot be found. If the owner lives more than ten (10) miles away, the animal control officer may at his option deliver such copy personally to the owner, or deposit the same in the nearest post office in a registered letter addressed to such owner. He shall, however, serve a copy in one of the ways provided in the section: provided, that whenever personal service of a copy of any paper is required by this chapter, service by an authorized agent shall be deemed sufficient.

6.28.100 NOTICE OF SALE OF DETAINED ANIMALS

As soon as any such animal(s) are delivered to the animal control officer, he shall immediately proceed to advertise the same as provided in this section except when the owner is known and has been notified, in which case he shall hold said animal forty eight (48) hours before advertising the same. He shall advertise in a newspaper published in and having general circulation in the county, by publishing a notice in at least one issue of said paper, by posting notices in three (3) public places within the city, one of which shall be at or near the post office, and he shall deliver a copy of the same to the county clerk or send the same by deputy or registered mail. The clerk should preserve such notice and post a copy thereof. The notice provided for in this section shall state the time when the damage was done and the amount thereof, the name of the party damaged, a description of the animals, including all visible marks and brands, and the day, hour and place at which such animals will be sold, which shall not be less than ten (10) or more than twenty (20) days from the time of posting such notice. The proper notice form shall be provided by the city.

6.28.110 OWNER MAY PAY AND TAKE ANIMALS; DISPUTED APPRAISAL

The owner of any trespassing animals taken under the provisions of this chapter may at any time before the sale thereof claim and take such animals away upon paying the amount of damages set forth in the certificate of appraisal and the accrued costs, and if such animals are included in a lot or group of animals belonging to other parties against which the damages and costs are assessed as a whole, he shall pay his proportion of the total amount of damages and costs assessed such animals, according to the number of animals he owns when compared with the number of the entire lot or group. If he deems the appraisal too high, he may choose another appraiser having the qualifications provided in this section who with the first appraiser shall make a new appraisal, and if they cannot agree, they shall choose a third appraiser, and the three (3) shall proceed to make another appraisal, and the decision of the majority shall be final.

6.28.120 BILL OF SALE

If such animals are not claimed and taken away by the owner, the animal control officer shall, at the time and place set forth in the notice of sale, proceed to sell such animals, one at a time, to the highest cash bidder. If the owner of any lot of animals to be sold is known, the animal control officer shall sell only enough of the animals to pay the damages and cost, the remainder may be turned over to the owner at any time thereafter; but if the owner be unknown, the animal control officer shall proceed to sell all of said animals so advertised for sale. He shall execute and deliver a bill of sale therefor, and file a copy with the county clerk as provided in this chapter. Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus sold, free and clear of all claims of the owner or any person claiming through the owner. Smithfield City, provided it complies with this chapter, is immune from liability on account of any estray sold at a livestock or other appropriate market.

6.28.130 REDEMPTION BY OWNER WITHIN NINETY DAYS

The owner of any trespassing animals sold under the provisions of this chapter may, at any time within ninety (90) days of the date of such sale, redeem such animals from the purchaser or assignee having the same in his possession, upon paying to such purchaser or assignee the sum for which such animals were originally sold, together with an additional ten percent (10%) and reasonable compensation for the care and keeping of the same. If such purchaser or assignee refuses to give up such animals on the owner proving his title to the same and on his tendering the amount due as provided in this chapter, such owner may maintain an action at law to recover the same, provided that redemption of such animals is not made within ninety (90) days after the date of such sale, such sale shall be absolute and shall vest the title to such animals in the purchaser or assignee. Any person selling or disposing of any such animal within ninety (90) days of its sale under the provisions of this chapter shall notify the purchaser of the same of the date of the original sale and the amount paid for such animal at that time, and if he fails to do so, he shall be liable for any loss that may accrue to such purchaser by reason of such animal being redeemed for an amount less than he paid therefor.

6.28.140 OWNER ENTITLED TO RESIDUE OF PROCEEDS

If any strays or trespassing animals sold under the provisions of this chapter shall, within a period of six (6) months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the amount of damages and the expense of taking, keeping and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the municipality, provided that in case there is a contest between two (2) or more persons claiming to be the owners of any such animals, the treasurer shall pay the residue to the party who shall establish by action his right to the same.

6.28.160 RETAKING ANIMAL UNLAWFULLY

It is unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provisions of this chapter, either by stealth, force, fraud, or to intercept or hinder any person lawfully taking up or attempting to take up such animals.

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8.04.090 PENALTIES AND LIABILITIES

8.04.010 GENERAL PROHIBITION

No person shall burn trash, garbage or other waste nor conduct any salvage operations in or at any open fire site except as provided by this chapter.

8.04.020 BURNING AT COMMUNITY WASTE SITES RESTRICTED

No burning shall be done at sites used for the disposal of community trash, garbage or other waste except when authorized for a specific period of time and subject to specific conditions as approved by the Utah air conservation committee in accordance with the Utah air conservation act¹ and by the Smithfield city council after public hearing.

8.04.030 PERMISSIBLE BURNING WITHOUT A PERMIT

- A. Unless prohibited by state statutes or regulations, other city ordinances, applicable declarations of closed fire seasons or the order of a law enforcement officer, the Smithfield City fire chief or his duly authorized agent, the following types of burning are permitted without a permit:
1. Fires in outdoor grills, fireplaces or similar devices for the primary purpose of preparing food, provided the devices are not used for the burning of refuse, trash, garbage or other waste in areas where there is a public or duly licensed disposal service available;
 2. Campfires and other recreational fires provided that such fires are attended and under the control of a responsible person and further provided that no such fire shall be permitted during any closed fire season as declared by the Smithfield City firechief, notice of which has been published once in a newspaper of general circulation in the city;
 3. Fires in indoor fireplaces;
 4. Burning on the premises of combustible household wastes generated by occupants of dwellings of four (4) family units or less in those areas only where no public or duly licensed disposal service is available.
- B. A burning permit is not required for the burning of fence lines on cultivated lands, canals or irrigation ditches where the 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 nearest fire department approximate time the burning will occur.

8.04.040 PERMISSIBLE BURNING PERMIT REQUIRED

Unless prohibited by state statutes or regulations, other city ordinances, applicable declarations of closed fire seasons, or the order of a law enforcement officer, the Smithfield City fire chief or his duly authorized agent, the following types of burning are permitted, providing that a city permit has first been obtained:

- A. The burning of pruning from trees, bushes and plants, or of dead or diseased trees, bushes and plants, including stubble, incidental to horticultural or agricultural operations;
- B. The controlled heating of orchards or other crops to minimize damage from freezing temperatures, provided that the emissions from such heating shall not violate any minimum standards established by the state department of health;
- C. Open burning of materials or structures when conducted under the control and supervision of the Smithfield City fire chief;
- D. Fires for firemen training purposes when conducted under the direct control and supervision of the Smithfield City fire chief;
- E. Open burning at an approved site of hazardous materials for which there is no reasonable alternate practical method of disposal; provided that such burning shall be under the supervision of the Smithfield City fire chief and in accordance with state law;
- F. Other open burning for special purposes or under unique circumstances when approved by the Smithfield City fire chief and the county health department following a formal request therefore;
- G. Fires on any city property including roads, rights of way, ditch banks, river bottomlands, wildlands or other areas of city domain.

8.04.050 CONSENT OF UTAH DIVISION OF WILDLIFE RESOURCES

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.

8.04.060 UNATTENDED AND UNCONTROLLED FIRES PROHIBITED

- A. It is unlawful for any person to leave any fire unattended whether on private or public property.
- B. A fire shall be deemed unattended when any flame, live coals or embers remain and the person or persons responsible for the fire have left the proximity of the fire either in distance or time that would preclude prompt suppression action by said person or persons.
- C. Any fire on private or public property burning uncontrolled and without proper and adequate action being taken to prevent its spread is declared a public nuisance.
- D. It is unlawful for any person to maintain or commit any public nuisance.

8.04.070 PERMITS

- A. City permits shall be issued by the Smithfield City fire chief who shall be authorized to determine the appropriate application process and forms for the issuance of such permits.
- B. The city fire chief is authorized to grant a permit orally to an applicant provided that the fire chief make and maintain a written record of the permit including the name of the applicants; the burning site; the nature, anticipated time and date of the proposed burning; and the time and date of the granting of the permit.
- C. The Smithfield city council may, at its discretion, establish fees by resolution for burning permits. Until such resolution is adopted, no fees shall be assessed.
- D. Whenever there is probable cause to believe that there has been a violation of the provisions of this chapter or state law as to any fire or if circumstances give reasonable concern for the safety of persons or property, the Smithfield City fire chief may, upon notice to any person having a permit, temporarily suspend such permit pending a hearing before the Smithfield city council; provided that:
 - 1. The Smithfield city council shall hold a review hearing, duenotice of which has been given to the permittee and the owners of any property affected or likely to be affected by the affirmation, modification, revocation or cancellation of any permit.
 - 2. At that hearing, the Smithfield city council, upon formal findings of fact, order that the permit be modified, revoked or suspended and specify the reasons therefor in writing to the permittee and to the Smithfield City fire chief.

8.04.080 CITY AUTHORITIES; ENFORCEMENT OF CHAPTER

- A. The responsibility for the enforcement of this chapter shall be primarily in the Smithfield City fire chief or his duly authorized agents or deputies and also in the Cache County sheriff or his duly authorized deputies in conjunction with the Smithfield City fire chief.
- B. If there is reason to believe that any fire presents or is likely to present a danger to persons or property, the above designated officers or deputies shall have the authority to require the immediate suppression or prohibition of such burning pending further action by the Smithfield City fire chief or city council as the case may require.

8.04.090 PENALTIES AND LIABILITIES

- A. 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 (6) months, or by both such fine and imprisonment, for each offense.
- B. Any person responsible for the existence or spread 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 therefor.

8.08 FIRE CODE

8.08.010 ADOPTED

8.08.020 DEFINITIONS

8.08.030 ESTABLISHMENT AND DUTIES OF BUREAU OF FIRE PREVENTION

8.08.040 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS

8.08.050 APPEALS

8.08.060 VIOLATION; PENALTY

8.08.010 ADOPTED

The most current version of the international fire code published by the International Code Council, Inc., and adopted by the state of Utah and printed as a code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the fire code of this municipality.

8.08.020 DEFINITIONS

For the purposes of this chapter:

CORPORATION COUNSEL: As used in the uniform fire code, shall mean the attorney for this municipality.

JURISDICTION: As used in the uniform fire code, shall mean the boundaries of this municipality.

8.08.030 ESTABLISHMENT AND DUTIES OF BUREAU OF FIRE PREVENTION

- A. The international fire code shall be enforced by the bureau of fire prevention in the fire department of the municipality which is established and which shall be operated under the supervision of the chief of the fire department.
- B. The chief of the fire department may detail such member of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the mayor the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

8.08.040 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS

The building inspector and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be

heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in the fire code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

8.08.050 APPEALS

Whenever the chief shall disapprove an application, refuse to grant a permit for which application has been received, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the fire code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the chief to the governing body within thirty (30) days from the date of such decision.

8.08.060 VIOLATION; PENALTY

- A. Any person who shall violate any of the provisions of the international fire code or fail to comply therewith, or who shall violate or fail to comply with any order thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction within the time fixed herein shall, severally for each and every such violation and noncompliance respectively, be guilty of a class B misdemeanor. Imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the penalty set out in this section shall not be held to prevent the enforced removal of the prohibited condition.

8.12 FIRE DISTRICTS ESTABLISHED

8.12.010 ESTABLISHMENT OF FIRE DISTRICTS OR ZONES

8.12.020 APPENDIX DESCRIBING FIRE DISTRICTS OR ZONES

8.12.010 ESTABLISHMENT OF FIRE DISTRICTS OR ZONES

The areas described in the appendix codified in SMC 8.12.020 of this chapter are established as fire districts or zones.

8.12.020 APPENDIX DESCRIBING FIRE DISTRICTS OR ZONES

- A. Section 1. Fire Districts Or Zones Referenced. This is the appendix referenced in SMC 8.12.101 of this chapter in which the fire districts or zones are described.
- B. Section 2. Entire Municipality Designated Fire District. The entire municipality is declared to be and is designated a fire zone for the purposes of the uniform building code and any ordinances of the municipality relating to building and fire prevention.
- C. Section 3. Fire District Number One. Fire district number one shall include the following described areas:
Fire district number one shall be those areas of the city located in the commercial one and three zones identified on the official zoning map. Any structure constructed in the commercial one or three zone which has a twenty-foot or more setback on all sides may comply with the provisions of fire district number two instead of the provisions of fire district number one.
- D. Section 4. Fire District Number Two. Fire district number two shall include all of those areas of the municipality located in areas zoned commercial or industrial by the zoning ordinances of the municipality, except the areas described in SMC C of this section.
- E. Section 5. Fire District Number Three. Fire district number three shall include all areas of the municipality not included in fire districts one or two.

8.16 FIREWORKS AND EXPLOSIVES

8.16.010 UNLAWFUL HANDLING OF EXPLOSIVES

8.16.020 MARKING OF CONTAINERS OF EXPLOSIVES BEFORE TRANSPORTATION OR STORAGE

8.16.030 DIFFERENT DATES ON CONTAINERS OF EXPLOSIVE PROHIBITED; REUSE OF CONTAINERS PROHIBITED

8.16.040 POWDER HOUSES

8.16.010 UNLAWFUL HANDLING OF EXPLOSIVES

- A. Every person who makes or keeps nitroglycerin or other high explosive substances of five (5) or more pounds of gunpowder within this municipality, or who carries it through the streets hereof, without first obtaining a permit therefor from the recorder/clerk, shall be guilty of a class B misdemeanor.
- B. The recorder/clerk may impose as a condition of receiving and keeping a permit under this section, that the person comply with reasonable safety standards as the chief of police may require.

8.16.020 MARKING OF CONTAINERS OF EXPLOSIVES BEFORE TRANSPORTATION OR STORAGE

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

8.16.030 DIFFERENT DATES ON CONTAINERS OF EXPLOSIVE PROHIBITED; REUSE OF CONTAINERS PROHIBITED

It shall be a class B misdemeanor for any person or persons, partnership or corporation to have two (2) or more different dates on any box or package containing giant, hercules, atlas or venture, or any other high explosive containing nitroglycerin. It is further unlawful to use any box, package or wrapper formerly used by any other person or persons, partnership or corporation in the packing of such giant, hercules, atlas, venture or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, hercules, atlas, venture or other explosive containing nitroglycerin.

8.16.040 POWDER HOUSES

Every person who builds, constructs or uses within three hundred feet (300') of any residence or traveled county road any powder house, magazine or building in which more than five (5) pounds of gunpowder, dynamite or other explosive is kept in quantities exceeding five hundred (500) pounds is guilty of a class B misdemeanor.

8.20 GARBAGE COLLECTION AND DISPOSAL

8.20.010 DEFINITIONS

8.20.020 COLLECTION OF GARBAGE

8.20.030 TIME AND PLACE OF PICK UP

8.20.040 PERMITS

8.20.050 SERVICE CHARGES

8.20.060 METHOD OF PAYMENT OF SERVICE CHARGES

8.20.070 CONTAINERS

8.20.080 CLOSING OF GARBAGE CONTAINERS REQUIRED

8.20.090 NO ACCUMULATION OF GARBAGE

8.20.100 DISPOSAL OF COMMUNITY WASTE

8.20.110 BURNING OF REFUSE PROHIBITED

8.20.120 DUMPING REFUSE PROHIBITED

8.20.130 LIMITATIONS UPON DUMPING

8.20.140 REGULATIONS

8.20.150 ENFORCEMENT; SERVICE OF NOTICES AND ORDERS; HEARINGS

8.20.160 INSPECTION

8.20.170 EQUIPMENT

8.20.010 DEFINITIONS

For the purposes of this chapter:

COMMERCIAL GARBAGE: Garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.

COMMUNITY WASTE: Lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.

CONTAINER OR REGULATION CONTAINER: A type of garbage or trash container of galvanized metal or other approved material and having a tightfitting lid or properly and sufficiently treated weather resistant paper bag manufactured specifically for use in garbage and refuse collection.

GARBAGE: Waste from the preparation, handling, storing, cooking or consumption of food and food products.

REFUSE: All waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels or other places of dwelling and from the operation of a business. Refuse shall not be deemed to include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.

RESIDENTIAL GARBAGE: Garbage produced in places of private residence and dining halls not open to the public.

8.20.020 COLLECTION OF GARBAGE

- A. The municipality or its agent shall collect, remove and dispose of all residential, commercial garbage the removal of which is not otherwise provided for by the establishment or institution as provided in this chapter. All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as the governing body may from time to time establish by regulation.
- B. Except as otherwise expressly permitted by this chapter, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the municipality except by the municipality or its agent and except by authorized persons hauling commercial garbage or refuse as provided in this chapter. It is declared to be unlawful for any person, except as permitted in this chapter, to haul or remove garbage or refuse in the municipality.
- C. Commercial establishments, public or quasi-public, institutions and establishments creating commercial garbage, may remove commercial garbage themselves or may employ the services of authorized contractors to remove commercial garbage. Authorized garbage haulers must apply for and receive permission to do so from the recorder/clerk. Haulage of refuse must be done in the manner, at such times and in such vehicles as may be approved for such purposes as the governing body may from time to time by regulation provide.
- D. Nothing contained in this section shall preclude persons from hauling their own garbage, trash or community waste over the streets and alleys of the municipality in vehicles and containers approved by a sanitary inspector or such other personnel of the municipality as the governing body may authorize.
- E. Nothing in this section shall be construed as eliminating the charge made for garbage service.

8.20.030 TIME AND PLACE OF PICK UP

- A. All garbage and refuse subject to garbage collection by the municipality shall be placed at a pick up point at or near the premises designated from time to time by regulations adopted by the governing body and at such time or times as shall be designated by regulations of the governing body.
- B. Until otherwise provided by regulation, garbage and refuse must not be set out upon the street for collection prior to the evening of the day before collection and must be set out on the day of collection before the hour of collection designated by regulations of the governing body.
- C. All empty receptacles must be removed from the street as soon as practicable after being emptied, and in every case, must be removed from the street the same day they are emptied. Receptacles shall not be permitted to remain on any street longer than may be necessary for the removal of the contents.

8.20.040 PERMITS

It is unlawful for any person who does not possess an unrevoked permit from the Cache County service area no. 1 in addition to any business license required by the municipality to engage in the business of refuse collection or refuse disposal for compensation in the municipality. The Cache County service area no. 1 shall issue permits for such applicants; provided, that such permits shall be limited to persons having proper equipment and personnel to collect and dispose of refuse in accordance with the provisions of this chapter; and that no permit shall be required of any agency acting under contract with the municipality.

8.20.050 SERVICE CHARGES

- A. The city council is authorized to enter into contracts with any licensed agency to provide for the collection and disposal of refuse within the municipality.
- B. Refuse collection fees shall be as found in the most recently adopted "prevailing fee schedule" of the city set by resolution of the city council.

8.20.060 METHOD OF PAYMENT OF SERVICE CHARGES

- A. The garbage service charges imposed by this chapter shall be added to the charge made for water furnished through the water system of the municipality and shall be billed and collected in the same manner as water service charges are billed and collected.
- B. In the event that the obligee for the water service charges and the obligee for the garbage service charges do not coincide, or in the event that practical economic and administrative reasons do not make combined billing and collection feasible in the opinion of the governing body, the garbage service charges may be collected with such frequency and in such manner as the governing body shall by regulation provide.

8.20.070 CONTAINERS

All garbage and refuse shall be placed in a suitable and sufficient garbage receptacle as directed by the city pursuant to its contract for garbage collection services with Logan City, through Cache County. Until further notification, suitable containers shall be those required pursuant to the current regulations relating to the automated collection service provided to city residents.

8.20.080 CLOSING OF GARBAGE CONTAINERS REQUIRED

All garbage and market waste must be placed in rainproof and flyproof receptacles of the type required in this chapter, and the receptacle shall be tightly closed in such manner as to prevent offensive odors or flies.

8.20.090 NO ACCUMULATION OF GARBAGE

It is unlawful for any person to accumulate garbage or refuse or cause garbage or refuse to be deposited upon any street or alley or upon any premises in the municipality without express permission from the municipal health officer. The health officer may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health, or permit the depositing of ashes and other dry material for filling purposes at such places as the health officer may designate and under such restrictions as the governing body may by regulation impose. Additionally, the health officer may grant to any person permission for sorting, bailing and marketing trade waste upon premises properly equipped and maintained.

8.20.100 DISPOSAL OF COMMUNITY WASTE

- A. Community waste may be disposed of by residents and business establishments in vehicles provided by them subject to regulation by the governing body as to the places of disposal and as to the type of vehicle used to avoid spillage upon the public ways of the municipality, hazards to safety and the prevention of nuisances.
- B. The governing body from time to time may provide for the collection and disposal of such types of community waste as it may decide to collect and haul in connection with its regular garbage, waste collection and disposal service. In the event community waste disposal service should require a charge to be made by the municipality, the determination of the charge will be made by negotiation with the residents or business enterprises and the residents or business enterprises will be given an opportunity to choose from among services offered by persons other than the municipality.

8.20.110 BURNING OF REFUSE PROHIBITED

It is unlawful for any person to burn garbage, market waste, manure or other refuse in the open air or in any furnace or stove within the municipality.

8.20.120 DUMPING REFUSE PROHIBITED

It is unlawful for any person to place, deposit or dump garbage, ashes, market waste, paper boxes, cartons, trade waste, manure or night soil, or any other refuse upon any lot within the municipality whether such lot is occupied or vacant and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under his jurisdiction and control.

8.20.130 LIMITATIONS UPON DUMPING

Dumping waste and garbage shall be permitted only in such places as are designated by the governing body. Dumping shall be subject to such rules and regulations as may be formulated by the governing body.

8.20.140 REGULATIONS

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

8.20.150 ENFORCEMENT; SERVICE OF NOTICES AND ORDERS; HEARINGS

- A. Whenever the Cache County service area no. 1 has determined that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, notice of such alleged violation shall be given to the person or persons responsible therefor, as hereinafter provided. Such notice shall:
 - 1. Be put into writing;
 - 2. Include a statement of the reasons why it is being issued;
 - 3. Allow a reasonable time for the performance of any act it requires;
 - 4. Be served upon the holder of a permit issued under this chapter or upon the owner or agent or the occupant of any premises within the municipality; provided, that such notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of this state for commencement of civil actions.
- B. Such notice may:
 - 1. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter;
 - 2. State that unless conditions or practices described in such notice which violate this chapter are corrected within reasonable time specified in such notice, the violator

may be punished in accordance with the provisions of this chapter, or a permit which has been issued pursuant to this chapter may be suspended or revoked.

- C. Any person who is affected by any notice issued in connection with the enforcement of any provision of this chapter may request, and shall be granted, a hearing on the matter before the Cache County service area no. 1 or its designee; provided, that such person shall file, in the office of the Cache County service area no. 1 a written request for such hearing and within ten (10) days after the date the notice was served. Upon receipt of such request, the Cache County service area no. 1 shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than ten (10) days after the day on which the request was filed, provided that, upon application of the petitioner, the Cache County service area no. 1 may postpone the date of the hearing for a reasonable time beyond such ten (10) day period when, in its judgement, the petitioner has submitted a good and sufficient reason for such postponement.
- D. After such hearing, the Cache County service area no. 1 shall sustain, modify or withdraw the notice, depending upon its findings based on such hearing as to whether or not the provisions of this chapter and of the regulations adopted pursuant thereto have been complied with. If the Cache County service area no. 1 sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written request for a hearing has not been filed in the office of the Cache County service area no. 1 within ten (10) days after such notice was served. In the case of any notice which states that a permit required by this chapter may be suspended or revoked, the Cache County service area no. 1 may suspend or revoke such permit if an order is issued and corrective action has not been taken within the time specified in the notice.
- E. The proceedings at such hearing, including the findings and decision of the Cache County service area no. 1, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Cache County service area no. 1. Such record shall include, also, a copy of every notice or order issued in connection with the matter.
- F. If the corrective action ordered by the Cache County service area no. 1 under this chapter has not been taken within five (5) days after such decision or order thereof, the Cache County service area no. 1 shall give notice that the governing body shall hear the matter. Notice of the hearing shall be given by personal service or by leaving a copy at the residence or place of business of the person not complying, with anyone at such address who is over the age of fourteen (14) years and by mailing a copy of the notice to the last known address of the person not complying with the order.
- G. At the time set for the hearing by the Cache County service area no. 1, the governing body shall hear the matter and receive evidence and determine what corrective action is required, if any. The decision of the governing body shall be in writing and a copy mailed to the person not complying.
- H. Any person who does not comply with the decision of the governing body shall be guilty of a misdemeanor. The governing body may order the Cache County service area to take the corrective action required if the person who does not comply fails to do so and a court action shall be commenced against such person for any costs incurred by the municipality.
- I. Whenever the Cache County service area no. 1 finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health, it may without notice or hearing issue a written order reciting the existence of such an emergency and the conditions violating this chapter which require corrective action to remove such health hazard. If such corrective action is not taken, the Cache County service area no. 1 may take the action including the abatement of any nuisance as may be necessary to protect the public health. Notwithstanding other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the governing body shall be afforded a hearing as soon as possible, but in any case not later than three (3) days after the petition was filed. After such hearing, depending upon the findings of the governing body as to whether or not the provisions of this chapter and of the regulations adopted pursuant hereto have been complied with, the governing body may continue such order in effect, modify it or revoke it.

8.20.160 INSPECTION

Any authorized employee or agent of Cache County service area no. 1, after identifying himself, shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this chapter and where necessary shall obtain a search warrant from a court having jurisdiction.

8.20.170 EQUIPMENT

- A. All public or private vehicles used for the collection or disposal of refuse shall have enclosed bodies or suitable provision for covering the body. Provision and use of tarpaulin or canvas cover to enclose open bodies of collection vehicles may be permitted when specifically approved by the Cache County service area no. 1.
- B. Vehicles used for the collection or disposal of garbage, or of refuse containing garbage, shall have watertight, metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect breeding and shall be maintained in good repair.

8.24 LITTER AND COMMERCIAL HANDBILLS

8.24.010 DEFINITIONS

8.24.020 LITTER IN PUBLIC PLACES

8.24.030 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING

8.24.040 SWEEPING LITTER INTO GUTTERS PROHIBITED EXCEPT AS OTHERWISE AUTHORIZED BY THE GOVERNING BODY

8.24.050 MERCHANTS' DUTY TO KEEP SIDEWALKS FREE OF LITTER

8.24.060 LITTER THROWN BY PERSONS IN VEHICLES

8.24.070 TRUCK LOADS CAUSING LITTER

8.24.080 LITTER IN PARKS

8.24.090 LITTER IN LAKES AND FOUNTAINS

8.24.100 LITTER ON OCCUPIED PRIVATE PROPERTY

8.24.110 LITTER ON VACANT LOTS

8.24.120 POSTING NOTICE PROHIBITED

8.24.130 HANDBILLS AND POSTERS; PERMIT REQUIRED

8.24.140 THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES

8.24.150 DEPOSITING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES

8.24.160 PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED

8.24.170 DISTRIBUTING COMMERCIAL AND NONCOMMERCIAL HANDBILLS AT INHABITED PRIVATE PREMISES

8.24.180 EXEMPTION FOR MAIL AND NEWSPAPERS

8.24.010 DEFINITIONS

For the purposes of this chapter:

AUTHORIZED RECEPTACLE: A public or private litter storage and collection receptacle.

COMMERCIAL HANDBILL: Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature:

- A. Which advertises for sale any merchandise, product, commodity or thing;
- B. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof;
- C. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. However, the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this municipality; or
- D. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

GARBAGE: Waste from the preparation, cooking or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked or consumed.

LITTER: "Garbage", "refuse" and "rubbish" as defined in this section and all other waste material which, if thrown or deposited as prohibited in this chapter, tends to create a danger to public health, safety, welfare or appearance of the municipality.

NEWSPAPER: Any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

NONCOMMERCIAL HANDBILL: Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a "commercial handbill" or "newspaper".

PARK: A park, reservation, playground, beach, recreation center or any other public area in the municipality, owned or used by the municipality.

REFUSE: All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, streetcleanings, dead animals and solid market and industrial wastes.

RUBBISH: Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

VEHICLE: Every device in, on or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

8.24.020 LITTER IN PUBLIC PLACES

No person shall throw or deposit litter in or on any street, sidewalk or other public place except:

- A. In authorized receptacles for collection or in official municipal garbage dumps, or
- B. For collection as authorized by the governing body.

8.24.030 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING

Persons placing litter in authorized receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements on any street, sidewalks or other public place or on private property.

8.24.040 SWEEPING LITTER INTO GUTTERS PROHIBITED EXCEPT AS OTHERWISE AUTHORIZED BY THE GOVERNING BODY

No person shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

8.24.050 MERCHANTS' DUTY TO KEEP SIDEWALKS FREE OF LITTER

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business shall keep the sidewalk in front of their business premises free of litter.

8.24.060 LITTER THROWN BY PERSONS IN VEHICLES

No person, while a driver or passenger in a vehicle, shall throw or deposit litter on any street or other public place, or on private property.

8.24.070 TRUCK LOADS CAUSING LITTER

No person shall drive or move any truck or other vehicle unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited on any street, alley or other public place. Nor shall any person drive or move any vehicle or truck, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

8.24.080 LITTER IN PARKS

No person shall throw or deposit litter in any park except in authorized receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this chapter.

8.24.090 LITTER IN LAKES AND FOUNTAINS

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere.

8.24.100 LITTER ON OCCUPIED PRIVATE PROPERTY

No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.

8.24.110 LITTER ON VACANT LOTS

No person shall throw or deposit litter on any open or vacant private property whether or not owned by such person.

8.24.120 POSTING NOTICE PROHIBITED

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or on any public structure or building, except as may be authorized or required by law.

8.24.130 HANDBILLS AND POSTERS; PERMIT REQUIRED

- A. No person or business shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, or upon any sidewalk, curb or any other portion or part of any public way or public place or any lamppost, electric light, telegraph, telephone or railway structure, hydrant, shade tree or tree box, or upon the columns, trusses, girders, railings, gates or other parts of any bridge or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of this municipality.
- B. It is unlawful to distribute indiscriminately to the public by leaving at houses or residences in the municipality any cards, circulars, handbills, samples of merchandise or any advertising matter whatsoever without having first secured a permit therefor. This section shall not be construed to apply to the sale of articles by licensed peddlers.
- C. Applications for such permit shall be made to the recorder/clerk and shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant and the name of the manufacturer or distributor of such article or service advertised.
- D. Licenses shall be issued only to persons of good character. The chief of police shall make or cause to be made an investigation into the character of each applicant and shall report the results thereof to the recorder/clerk before any such license is issued.

8.24.140 THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES

No person shall throw or deposit any commercial or noncommercial handbill in or on any sidewalk, street or other public place. Unless otherwise authorized by the governing body, it is an infraction for any person to hand out, distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

8.24.150 DEPOSITING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES

No person shall throw or deposit any commercial or noncommercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant.

8.24.160 PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED

No person shall throw, deposit or distribute any commercial or noncommercial handbill on any private premises, if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement", or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left on such premises.

8.24.170 DISTRIBUTING COMMERCIAL AND NONCOMMERCIAL HANDBILLS AT INHABITED PRIVATE PREMISES

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or on private premises which are posted, except by handling or transmitting any such handbill directly to the owner, occupant or other person then present in or on such private premises. However, in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

8.24.180 EXEMPTION FOR MAIL AND NEWSPAPERS

The provisions of this chapter shall not apply to the distribution of mail by the United States, nor to newspapers except that newspapers shall be placed on private property in such a manner so as to prevent their being carried or deposited by the elements on any street, sidewalk or other public place or on private property.

8.28 NUISANCES

8.28.010 NUISANCES GENERALLY; DEFINITION

8.28.020 NUISANCES GENERALLY; AUTHOR OF NUISANCE DEFINED

8.28.030 NUISANCES GENERALLY; DECLARATION OF NUISANCE

8.28.040 NUISANCES GENERALLY; ENUMERATION OF NUISANCES

[8.28.050 NUISANCES GENERALLY; TOILET OR SEWER FACILITIES](#)
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[8.28.210 MAINTAINING, COMMITTING OR FAILING TO REMOVE PUBLIC NUISANCE; CLASSIFICATION OF OFFENSE](#)
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8.28.010 NUISANCES GENERALLY; DEFINITION

For the purposes of this chapter:

NUISANCE: Whatever is dangerous to human life or health and whatever renders soil, air, water or food impure or unwholesome is declared to be a nuisance and unlawful. It is unlawful for any person either as an owner, agent or occupant to create, or aid in creating or contributing to or maintaining a nuisance.

Further, a nuisance is any item, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.

Any person, whether as owner, agent or occupant who creates, aids in creating or contributes to a nuisance, or who supports, continues or retains a nuisance is guilty of a class B misdemeanor.

PUBLIC NUISANCE: A crime against the public order and economy of this municipality and consists in unlawfully doing any act or omitting to perform any duty, which act or omission, either:

- A. Annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons;
- B. Offends public decency;
- C. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, stream, canal or basin, or any public park, square, street or highway;
or
- D. In any way renders three (3) or more persons insecure in life or the use of property.

An act which affects three (3) or more persons in any of the ways specified in this definition is still a nuisance regardless of whether the extent of annoyance or damage inflicted on individuals is unequal.

8.28.020 NUISANCES GENERALLY; AUTHOR OF NUISANCE DEFINED

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

8.28.030 NUISANCES GENERALLY; DECLARATION OF NUISANCE

- A. Every act or condition made, permitted, allowed or continued in violation of SMC 8.28.010 of this chapter is declared to be a nuisance and may be abated and punished as provided in this chapter.
- B. Nuisances include, but are not limited to:
 - 1. Befouling water in any spring, stream, well or water source supplying water for culinary purposes;
 - 2. Allowing any privy, vault or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors to air or water;
 - 3. Permitting any garbage container to remain on premises when it has become unclean and offensive;
 - 4. Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area except when it is temporarily deposited for immediate removal;
 - 5. Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept;
 - 6. Permitting any slaughter house, market, meat shop, stable, feed yard or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed;
 - 7. Discharging or placing any offensive water, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so;
 - 8. Keeping or collecting any stale or putrid grease or other offensive matter;
 - 9. Having or permitting upon any premises any fly or mosquito producing condition;
 - 10. Keeping any drinking vessel for public use without providing a method of decontamination between uses;
 - 11. Permitting or performing any ablutions in or near any public drinking fountain;

12. Failing to furnish any dwelling house, boarding house or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition;
13. Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from an enforcement officer or official of the municipality;
14. Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances;
15. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the governing body.

8.28.040 NUISANCES GENERALLY; ENUMERATION OF NUISANCES

The types of nuisances stated in SMC 8.28.030 of this chapter shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

8.28.050 NUISANCES GENERALLY; TOILET OR SEWER FACILITIES

All toilet or sewer facilities shall be constructed and maintained in accordance with the ordinances of the municipality. All such facilities that do not comply with such provisions are declared to be a nuisance and are subject to abatement as prescribed in this chapter.

8.28.060 NUISANCES GENERALLY; RESTRICTIONS ON BLOCKING WATER

- A. It is unlawful for any person or persons to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.
- B. Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.

8.28.070 NUISANCES GENERALLY; BEFOULING WATERS

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

- A. Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop or other offensive yard or outhouse where the waste of drainage therefrom shall flow directly into the waters of any stream, well or spring of water used for domestic purposes;
- B. Deposits, piles, unloads or leaves any manure heap, offensive rubbish or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well or spring of water used for domestic purposes;
- C. Dips or washes sheep in any stream, or constructs, maintains, or uses any pool or dipping vat for dipping or washing sheep in such close proximity to any stream located within this municipality or over which this municipality may exercise its jurisdiction and used by the inhabitants of this municipality for domestic purposes as to make the waters thereof impure or unwholesome;
- D. Constructs or maintains any corral, yard or vat to be used for the purpose of shearing or dipping sheep within twelve (12) miles of the municipality, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of this municipality for domestic purposes; or
- E. Establishes and maintains any corral, camp or bedding place for the purpose of herding, holding or keeping any cattle, horses, sheep, goats or hogs, within seven (7) miles of this municipality, where the refuse or filth from the corral, camp or bedding place will naturally find its way into any stream of water used by the inhabitants of this municipality for domestic purposes.

8.28.080 NUISANCES ON PROPERTY; DEFINITION OF NUISANCE

A. Definitions:

ABANDON OR ABANDONED: Property left unattended and unused for a period in excess of three (3) months.

DEBRIS: Includes, but is not limited to, trash or waste products, inert construction materials, disassembled parts, deposits of materials or objects which have been demolished.

DISCARDED: The abandonment or rejection of any object, debris, equipment, personal property, or vehicle as being spent, useless, worthless, or unwanted.

INOPERABLE: Any equipment, personal property, or vehicle which is nonfunctioning for any reason, or cannot be used as designed by the manufacturer.

JUNK: Old or scrap copper, brass, rope, rags, batteries, plastic, paper, trash, rubber, waste, or like materials, junked, dismantled, or wrecked vehicle or its parts, and iron, steel, or other old or scrap ferrous or nonferrous material, or secondhand or castoff materials.

UNUSED: Any object, debris, equipment, personal property, or unlicensed or unregistered vehicle which has not been utilized or applied to or operated for its manufactured purpose, or stored in such a manner that would be contrary to that which a reasonable or prudent person would accept or approve.

VEHICLE: A device, in, on, or by which a person or property is or may be transported or drawn on a highway.

WASTE: Any substance, object, debris, or personal property which is destructive or injurious, or which would, could, or does mar or impair the scenic aspect or beauty of the property, or dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, trash or garbage, discarded glass, nails, wires, cans, barbed wire, boards, paper or paper products, munitions, chemical waste, biological materials, radioactive materials, wrecked, abandoned, or discarded equipment, rock, sand, dirt, and industrial and agricultural waste.

- B. **Nuisance Definition:** For the purpose of sections SMC 8.28.090, 8.28.100 and 8.28.110 of this chapter, "nuisance" means any condition of use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:

1. Lumber, junk, waste, trash or debris;
2. Abandoned, discarded or unused objects or equipment such as, but not limited to, furniture, stoves, refrigerators, freezers, washers, dryers, tires, cans or containers;
3. Notwithstanding any other provision of this code, it shall be permissible for any person to keep not more than two (2) inoperable, junked, wrecked, unused, or unregistered vehicles on his or her property, but only so long as such vehicles are kept behind and are surrounded by a six foot (6') opaque fence or structure which shall block the view of such vehicles from the public and private property; and provided further that such vehicles are in the process of being restored to an operable and/or exhibition condition by the owners thereof.

8.28.090 NUISANCES ON PROPERTY; DUTY OF MAINTENANCE OF PRIVATE PROPERTY

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

8.28.100 NUISANCES ON PROPERTY; STORAGE OF PERSONAL PROPERTY

Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely useable for the purposes of which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within this municipality, is declared to be a nuisance and dangerous to the public safety.

8.28.110 NUISANCES ON PROPERTY; ABATEMENT OF NUISANCE BY OWNERS

The owner, owners, tenants, lessees or occupants of any lot within this municipality on which such storage as defined in SMC 8.28.100 of this chapter is made, and also the owner, owners or lessees of the above described personal property involved in such storage shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured buildings to be used for such purposes, or otherwise to remove such property from the municipality.

8.28.120 APPOINTMENT AND DUTIES OF INSPECTOR

- A. There is established the position of nuisance inspector whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the chief of police shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.
- B. The nuisance inspector is authorized to:
 1. Perform all functions necessary to enforce the provisions of the chapter;
 2. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.
- C. If he concludes there exists an objectionable condition in violation of this chapter, the inspector shall:
 1. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist;
 2. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the inspector may designate, provided that any person notified pursuant to this subsection shall be given at least ten (10) but not more than twenty (20) days, as determined by the inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:
 - a. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists,
 - b. Inform the owner, occupant or other person that in the event he disagrees with the determination of the inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the governing body at a time and place to be set by the governing body. A written application for a hearing shall stay the time within which the person must conform to the provisions of the notice,
 - c. Inform the person that in the event he fails or neglects to correct the objectionable condition, the municipality will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax;
 3. In the event the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the recorder/clerk shall notify the owner, occupant or other persons in writing of the time and place at which they may appear and be heard. The hearing shall not be heard within less than five (5) days from the date of service or mailing of the notice of hearing.

8.28.130 HEARING

- A. At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such person may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter. The governing body shall also permit the presentation of evidence and argument by the inspector and other interested parties. Thereafter, within not less than five (5) nor more than ten (10) days, the governing body shall, over the signature of the mayor or such other member of the governing body as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or other person to whom the original notice was given by the inspector.
- B. In the event the decision of the governing body upholds the determination of the inspector, the notice originally given by the inspector as provided in this section shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the inspector.
- C. In the event that the decision of the governing body either overrules or modifies the determination of the inspector, the written decision of the governing body shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the governing body within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the governing body.
- D. The inspector shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

8.28.140 FAILURE TO COMPLY

If any owner, occupant or other person having an interest in land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the municipality.

8.28.150 ITEMIZED STATEMENT

The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant or persons having an interest in the property.

8.28.160 FAILURE TO MAKE PAYMENT

In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the municipal treasurer within the twenty (20) days, the inspector either may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter.

8.28.170 COLLECTION BY LAW SUIT

In the event collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

8.28.180 COLLECTION THROUGH TAXES

In the event that the inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the cost of the work shall be pursued by the county treasurer in accordance with the applicable provisions of the Utah Code Annotated, 1953, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

8.28.190 CRIMINAL PROCEEDING

The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant of an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

8.28.200 PENALTY FOR FAILURE TO COMPLY

- A. Any owner, occupant or person having an interest in the property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a class C misdemeanor for each offense and further sum of up to ninety nine dollars (\$99.00) for each and every day such failure to comply continues beyond the date fixed for compliance. The fine stated shall be the only punishment and no imprisonment shall be imposed.
- B. Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

8.28.210 MAINTAINING, COMMITTING OR FAILING TO REMOVE PUBLIC NUISANCE; CLASSIFICATION OF OFFENSE

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who wilfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class C misdemeanor. No imprisonment shall be imposed for nuisance ordinance violations.

8.28.220 CARCASS OR OFFAL; PROHIBITIONS RELATING TO DISPOSAL; CLASSIFICATION OF OFFENSE

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral or butcher shop into any river, creek, pond, street, alley or public highway, or road in common use or who attempts to destroy it by fire, within one-fourth ($\frac{1}{4}$) of a mile of this municipality is guilty of a class B misdemeanor.

8.28.230 CHAPTER NOT TO AFFECT OTHER PROVISIONS OF MUNICIPAL ORDINANCES

Nothing contained in this chapter shall affect any other provisions of this municipality's ordinances, rules or regulations which regulate, prohibit or effect nuisances or public nuisances.

8.28.240 ACTION FOR ABATEMENT OF PUBLIC NUISANCES

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

8.32 OFFENSIVE BUSINESSES

8.32.010 COMMENCEMENT OF OFFENSIVE BUSINESS

8.32.020 ISSUANCE OF PERMITS

8.32.030 EXISTING OFFENSIVE BUSINESS AND FACILITIES

8.32.040 CONTROL OF ANIMAL AND FOWL FACILITIES

8.32.010 COMMENCEMENT OF OFFENSIVE BUSINESS

- A. No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of this municipality without first filing an application for a permit to do so with the recorder/clerk.
- B. Offensive businesses, within the meaning of this chapter, shall include, but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughterhouses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases or noises.
- C. The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control or modify the emission by the business of the undesirable odors, fumes, noises and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

8.32.020 ISSUANCE OF PERMITS

- A. The recorder/clerk shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the board of health and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing body. The governing body, after

review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:

1. Deny the application;
 2. Recommend a modification thereof;
 3. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body with reference to controlling the offensive features of the business.
- B. In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body at the time of the granting of the permit, or because a change of circumstances make the continued operation or maintenance of the business or facility a public nuisance.
- C. The governing body shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

8.32.030 EXISTING OFFENSIVE BUSINESS AND FACILITIES

- A. The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.
- B. If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.

8.32.040 CONTROL OF ANIMAL AND FOWL FACILITIES

- A. The governing body shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the municipality and may compel the owner of any pigsty, privy, barn corral, furbearing animal farm, feed yard, poultry farm or other unwholesome or nauseous house or place to cleanse, abate or remove the same.
- B. The governing body may on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.
- C. In the event that the governing body decides that the business or facility should be abated, removed or controlled, it shall notify the owner or operator of the business or facility of such fact.
- D. After a hearing, the governing body may issue a limited license wherein it may prescribe the specifications and standard which must be followed by the business or facility in order to be permitted to continue in operation.
- E. Upon a determination by the governing body that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the governing body shall have power to bring all necessary legal proceedings to force removal, abatement or adherence to standards.

8.36 WEEDS

8.36.010 REAL PROPERTY TO BE KEPT CLEAN

8.36.020 WEEDS DEFINED

8.36.030 STANDARDS OF WEED CONTROL

8.36.010 REAL PROPERTY TO BE KEPT CLEAN

It shall be an infraction for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this chapter or not to remove from such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the health director as hereinafter provided.

8.36.020 WEEDS DEFINED

Weeds shall include any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the Utah commissioner of agriculture.

8.36.030 STANDARDS OF WEED CONTROL

- A. It is declared that the weeds mentioned in SMC 8.36.020 of this chapter constitute a nuisance when they:
1. Create a fire hazard, a source of contamination or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or are unsightly or deleterious to their surroundings; or
 2. Exceed eighteen inches (18") from the ground or soil in which they are anchored.
- B. The cut weeds shall be removed from the premises within seventy two (72) hours after cutting.

8.40 MISCELLANEOUS HEALTH REGULATIONS

8.40.010 UNWHOLESOME FOOD

8.40.020 VACATING PREMISES

8.40.030 DISCHARGE OF SEWAGE POLLUTION

8.40.040 INADEQUATE PLUMBING

8.40.050 USE OF TOBACCO IN PUBLIC AREAS AND PARKS PROHIBITED

8.40.010 UNWHOLESOME FOOD

It is a class B misdemeanor for any person to sell or offer for sale any unwholesome food or beverage which has been condemned by any government food inspector.

8.40.020 VACATING PREMISES

- A. It is unlawful for any person, upon vacating or moving from any dwelling, storeroom or other building, to fail to remove all garbage, rubbish or ashes from such building or premises and the grounds appurtenant thereto, or to fail to place the same in a thoroughly sanitary condition within twenty four (24) hours after the premises are vacated.
- B. In situations where rental property is so vacated, the owner of the property shall be concurrently responsible with the tenant thereof for compliance with this section.

8.40.030 DISCHARGE OF SEWAGE POLLUTION

- A. It is unlawful for any person to discharge or permit the discharge of any sewage or filth from any premises into and upon any public highway, stream, watercourse or public place, or into any drain, cesspool or private wastewater disposal system which does not conform to standards established by the state division of health or by this municipality.
- B. The health director may order a connection for sewage disposal to be made with the public sewer system provided by the municipality if such is available, provided that the public sewer system is within three hundred feet (300') of the premises.
- C. The health director shall use all due measures to prevent the fouling of any streams, watercourses, reservoirs or any source furnishing water to any of the inhabitants of this municipality.

8.40.040 INADEQUATE PLUMBING

The health director shall have power to require the prompt repair of all leaks or other defects in plumbing throughout the municipality. He shall have power to condemn and abate all plumbing which is deficient under the plumbing ordinances. When, in the opinion of the health officer, a change in occupants, type of business or other cause requires changes in plumbing, he shall have the power to compel the installation of an increased number of plumbing fixtures and a change in their type or capacity, and to make such other alterations or increases as may be necessary for the health and safety of the occupants of the building and of the public generally.

8.40.050 USE OF TOBACCO IN PUBLIC AREAS AND PARKS PROHIBITED

Smoking or carrying lighted cigarettes, pipes, cigars, and other tobacco products within fifty feet (50') of any city owned building and on all publicly owned or leased areas where playground equipment has been installed for public use by children, play pits, play structures, bleachers, backstops, sports fields, ball diamonds, basketball courts, tennis or volleyball courts, concession stands, skateboard areas, BMX areas, boweries and pathways for walking, is prohibited.

8.44 HAZARDOUS MATERIALS EMERGENCY EXPENSE RECOVERY

8.44.010 DEFINITIONS

8.44.020 RECOVERY

8.44.010 DEFINITIONS

As used in this chapter:

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

EXPENSES: Actual labor costs of the city and voluntary personnel including workers' compensation and other benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, and the costs of any contract labor and materials.

HAZARDOUS MATERIALS EMERGENCY: A sudden and unexpected release of any substance that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

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

8.44.020 RECOVERY

The mayor is authorized to take all necessary action to recover, on behalf of the city, from those persons whose negligent actions caused hazardous materials emergency expenses incurred by the city directly associated with a response to such hazardous materials emergency.

9 PUBLIC PEACE AND WELFARE

9.04 UTAH CRIMINAL CODE ADOPTED

9.08 CURFEW

9.12 TRUANCY

9.16 NOISE CONTROL

9.20 ALCOHOL OFFENSES

9.24 OUTDOOR LIGHTING

9.04 UTAH CRIMINAL CODE ADOPTED

9.04.010 ADOPTION OF UTAH CRIMINAL CODE

9.04.010 ADOPTION OF UTAH CRIMINAL CODE

The Utah criminal code located in title 76, chapters 1 to 10, inclusive, Utah Code Annotated, 1953, as amended, and as compiled, prepared and published as a code in the 2010 edition of the Utah criminal and traffic code, by the Utah safety council, and subsequent editions, is hereby approved and adopted as the criminal code for the city, except as such code may be altered or modified by the ordinances of the city and as may be subsequently amended by legislative act or executive order. One copy of said 2010 edition of the code has been filed for use and examination by the public in the office of the city recorder. One copy of any subsequent edition shall be filed for use and examination by the public in the office of the city recorder upon receipt by the city, and shall thereupon become the criminal code for the city. Except insofar as the application of the provisions thereof is clearly impractical or inappropriate, in view of the context of the purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, penalties, provisions and sections of the Utah criminal code, as adopted hereby, with corresponding penalties for an infraction, class C misdemeanor or class B misdemeanor, are hereby adopted by the city. References to the "state" and "county" in the Utah criminal code shall be deemed to mean "Smithfield City" when the context so requires and the enforcement of the Utah criminal code as the criminal code of the city shall be consistent with the jurisdiction, powers and authority of the Smithfield City justice court. Any and all violations thereof shall be considered violations of this section and each such violation shall be subject to the penalties provided in SMC 1.16 of this code and sections 76-10-101 to 502, inclusive, of said Utah criminal code, as currently written and as may be amended.

9.08 CURFEW

9.08.010 CURFEW FOR MINORS

9.08.020 RESPONSIBILITY OF PARENTS, GUARDIANS FOR CURFEW

9.08.010 CURFEW FOR MINORS

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

9.08.020 RESPONSIBILITY OF PARENTS, GUARDIANS FOR CURFEW

No parent, guardian or other person having legal charge or custody of any person under twelve (12) or eighteen (18) years of age respectively shall allow or permit any such person or child, ward or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys or public places when such going or being in or upon such streets, alleys or public places would be a violation by such minor person of any provision of SMC 9.08.010 of this chapter.

9.12 TRUANCY

9.12.010 TRUANCY OF MINORS

9.12.020 ENFORCEMENT

9.12.030 PENALTIES

9.12.010 TRUANCY OF MINORS

- A. Definitions: For the purposes of this chapter:
 1. **COMPULSORY SCHOOL AGE MINOR:** A person between the ages of six (6) and eighteen (18) years of age who is not exempted, and must be attending public school or regularly established private school during the school year of the district in which the minor resides pursuant to Utah compulsory education requirements, Utah Code Annotated 53A-11-101 to 53A-11-106.
 2. **EMERGENCY:** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident or any situation requiring immediate action to prevent bodily injury or loss of life.

3. **ESTABLISHMENT:** Any privately owned place of business, whether nonprofit or operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.
4. **GUARDIAN:**
 - a. A person who, under court order, is the guardian of the person of minor, or
 - b. A public or private agency with whom a minor has been placed by a court.
5. **MINOR:** Any person under eighteen (18) years of age.
6. **OPEN CAMPUS:** When a compulsory school age minor is allowed by school officials to leave school for lunch purposes.
7. **OPERATOR:** Any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes members or partners of any association or partnership and the officers of a corporation.
8. **PARENT:** A person who is:
 - a. A natural parent, adoptive parent, or step-parent of another person, or
 - b. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
9. **PUBLIC PLACE:** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, sidewalks, the common areas of schools, hospitals, apartment houses, office buildings, stores and shops.
10. **REMAIN:** To: 1) linger or stay, or 2) fail to leave premises when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises.
11. **SERIOUS BODILY INJURY:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the functions of any bodily member or organ.
12. **TRUANCY HOURS:** Those hours in which a compulsory school age youth should be attending school in the district or jurisdiction in which the student attends school.

B. Offenses:

1. A compulsory school age minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during truancy hours.
2. A parent or guardian of a minor commits an offense if he or she knowingly permits by insufficient control allows a compulsory school age minor to remain in any public place or on the premises of any establishment within the city during truancy hours.
3. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a compulsory school age minor to remain upon the premises of the establishment during truancy hours.

C. Defenses:

1. It is a defense to prosecution under SMC B of this section that a minor was:
2. Accompanied by the minor's parent, or guardian;
3. On an errand at the discretion of the minor's parent or guardian, without any detour or stop;
4. In a motor vehicle involved in interstate or intrastate travel with the permission of the minor's parent or guardian;
5. Engaged in an employment activity, or going to or returning home or to school from an employment activity, without any detour or stop; provided the employment activity does not violate the state's compulsory education requirements;
6. Involved in a legitimate emergency;
7. Following school policy regarding open campus for lunch;
8. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home or to school without any detour or stop, from an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor; provided attendance at such activity is with the permission of the minor's parent or guardian and/or is sponsored by the school at which the minor would otherwise be required to attend during truancy hours;
9. Is exercising first amendment rights protected by the United States constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or Married or had been married or had disabilities of minority removed in accordance with state law.
10. It is a defense to prosecution under SMC B3 of this section that the owner, operator or employee of an establishment promptly notified the sheriff's office, or the Smithfield City office, that a minor was present on the premises of the establishment during truancy hours and refused to leave.

9.12.020 ENFORCEMENT

Before taking any enforcement action under this chapter, the law enforcement officer shall ask the apparent offender's age and reason for not being at school. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense is present.

9.12.030 PENALTIES

A person who violates a provision of this chapter is guilty of a class C misdemeanor and a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

9.16 NOISE CONTROL

9.16.010 SHORT TITLE

9.16.020 SCOPE

9.16.030 DEFINITIONS

9.16.040 POWERS OF THE CITY MANAGER

9.16.050 PROHIBITED ACTS

9.16.060 EXCEPTIONS AND VARIANCES

9.16.010 SHORT TITLE

This chapter may be cited as the *NOISE CONTROL ORDINANCE OF THE CITY OF SMITHFIELD*.

9.16.020 SCOPE

This chapter shall apply to the control of all sound and vibration originating within the limits of the city.

9.16.030 DEFINITIONS

Terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A-WEIGHTED SOUND LEVEL: The sound pressure level in decibels as measured on a sound level meter using A-weighting network. The level so read is designated dB (A) or dBA.

AGRICULTURAL ZONES: Any area zoned as A (agricultural) by SMC 17 of this code.

CITY MANAGER: The official appointed by the mayor and approved by the city council per SMC 2.12 of this code.

COMMERCIAL ZONE: Any area zoned as, C-1 (community commercial), C-2 (community commercial), C-3 (general commercial) or CH (highway commercial) by title 17 of this code.

CONSTRUCTION: Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights of way, structures, utilities or similar property.

DAY-NIGHT AVERAGE SOUND: The twenty four (24) hour energy average of the A-weighted sound pressure level, with the levels during the period ten o'clock (10:00) P.M. to seven o'clock (7:00) A.M. the following day increased by ten (10) dBA before averaging.

DECIBEL (dB): A unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base-10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

DEMOLITION: Any dismantling, intentional destruction or removal of structures, utilities, public or private right of way surfaces, or similar property.

DYNAMIC BRAKING DEVICE: A 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. They are commonly referred to as a Jacobs brake, engine brake, or compression brake.

EMERGENCY: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY WORK: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

EQUIVALENT A-WEIGHTED SOUND LEVEL: The constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time varying A-weighted sound. For the purpose of this chapter, a time period of twenty four (24) hours shall be used, unless otherwise specified.

GROSS VEHICLE WEIGHT RATING (GVWR): The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

IMPULSIVE SOUND: Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

MANUFACTURING ZONE: Any area zoned as M-1 (manufacturing) by SMC title 17 of this code.

MOTOR CARRIER VEHICLE ENGAGED IN INTERSTATE COMMERCE: Any vehicle for which regulations apply pursuant to section 18 of the federal noise control act of 1972 (PL 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

MOTOR VEHICLE: A vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

MOTORBOAT: Any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, waterski towing devices and hovercraft.

MOTORCYCLE: An unenclosed motor vehicle having a saddle for the use of the operator and two (2), three (3) or four (4) wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

MUFFLER OR SOUND DISSIPATION DEVICE: A device for abating the sound of escaping gases of an internal combustion engine.

NOISE: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE: Any sound which: a) endangers or injures the safety or health of humans or animals; or b) annoys or disturbs a reasonable person of normal sensitivities; c) endangers or injures personal or real property; or d) exceeds the noise levels identified in section 9.16.090, tables I through III of this chapter.

NOISE SENSITIVE ZONE: Any area designated for the purpose of ensuring exceptional quiet.

PERSON: Any individual, association, partnership, corporation, or entity, public or private in nature, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

POWERED MODEL VEHICLE: Any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

PUBLIC RIGHT OF WAY: Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE: Any real property or structures thereon which are owned or controlled by a governmental entity.

PURE TONE: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this chapter, a pure tone shall exist if the one-third (1/3) octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty five (125) Hz.

RMS SOUND PRESSURE: The square root of the time averaged squared of the sound pressure, P.

REAL PROPERTY BOUNDARY: An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

RESIDENTIAL ZONE: Any area zoned as RA (residential agricultural), R-1 (single-family residence), or RM (multiple-family residence) by title 17 of this code.

SOUND: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1985, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER: An instrument which includes at least a microphone, amplifier, output meter, and weighting networks used to measure sound pressure levels.

SOUND PRESSURE: The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

SOUND PRESSURE LEVEL: Twenty (20) times the logarithm to the base-10 of the ratio of the rms sound pressure to the reference pressure of twenty (20) micropascals (20×10^{-6} N/m²). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

VIBRATION: An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

WEEKDAY: Any day Monday through Friday which is not a legal holiday.

9.16.040 POWERS OF THE CITY MANAGER

- A. The noise control program established by this chapter will be administered by the city manager. In performing these duties, the city manager may contract the services of a private consultant to assist with the technical details of the chapter.
- B. In order to implement and enforce this chapter and for the general purpose of sound and vibration abatement and control, the city manager shall have, in addition to any other authority vested in him/her, the power to:
 1. Conduct research, monitoring or studies related to sound and vibration;
 2. Conduct programs of public education regarding sound and vibration;
 3. Coordinate noise and vibration control activities with other city, county, state, and national officers;
 4. Review public and private projects that are likely to cause sound and vibration;
 5. Require operators of commercial or industrial activities to keep records of sound and vibration;
 6. Prepare recommendations for noise sensitive zones;
 7. Delegate functions within his/her authority under this chapter where appropriate, to other personnel, agencies or departments or contract the same with competent persons, subject to approval of the city council.

9.16.050 PROHIBITED ACTS

- A. Noise Disturbances Prohibited: No person shall make, continue, or cause to be made or continued, any noise disturbance.
- B. Specific Prohibition: Violations of this chapter shall include, but not be limited to, the following acts, and the causing thereof, as set forth as follows:
 1. Radios, Television Sets, Musical Instruments And Similar Devices: Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:
 - a. Between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone, except for activities open to the public and for which a permit has been issued by the mayor according to criteria set forth in SMC 9.16.060B of this chapter;
 - b. In such a manner as to create a noise disturbance at fifty feet (50') from such device, when operated in, or on a motor vehicle on a public right of way or public space;
 - c. In such a manner to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier (i.e., bus).
 2. Loudspeakers/Public Address Systems:
 - a. Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device between the hours of ten o'clock (10:00)

- P.M. and six o'clock (6:00) A.M. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- b. Using or operating for any commercial purpose any loudspeaker, public address system, or similar device: 1) such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or 2) between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. the following day on a public right of way or public space.
3. Street Sales: Offering for sale or selling anything by shouting or outcry within any residential area of the city except by permit issued by the mayor and city council according to criteria set forth in SMC 9.16.060B of this chapter.
 4. Animals And Birds: Owning, possessing or harboring any animal or bird which frequently or for continued duration of thirty (30) minutes or more intermittently, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone. Because of the agricultural and rural heritage, tradition and source of family income established in the city for many decades and the desire to preserve the same this provision shall not apply to cattle, horses, donkeys, mules, sheep, or goats.
 5. Loading And Unloading: Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
 6. Construction: Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:
 - a. Between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for required work of public service utilities and city maintenance crews or by special variance issued pursuant to SMC 9.16.060B of this chapter;
 - b. This section shall not apply to the use of domestic power tools subject to SMC B15 of this section.
 7. Vehicle, Lawnmower, Or Motorboat Repairs And Testing: Repairing, rebuilding, modifying, or testing any motor vehicle, lawnmower, motorcycle, or motorboat within any residential area in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. the following day.
 8. Places Of Public Entertainment: Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than ninety five (95) dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating:
WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT.
 9. Explosives, Firearms, And Similar Devices: The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way without first obtaining a special variance issued pursuant to SMC 9.16.060B of this chapter. Such permit need not be obtained for Health Days activities.
 10. Powered Model Vehicles: Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in section 9.16.090, table I of this chapter and shall be measured at a distance of fifty feet (50') from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by SMC B14 of this section and section 9.16.070 of this chapter, respectively.
 11. Vibration: Operating or permitting the operation of any device that creates vibration, which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at fifty feet (50') from the source if on a public space or public right of way. For the purposes of this section, "vibration perception threshold" means the minimum ground or structureborne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
 12. Stationary And Nonstationary Nonemergency Signaling Devices And Horns:
 - a. Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place;
 - b. The sounding of any horn or other auditory signaling device, including backup signals, on or in any motor vehicle on any public right of way or public space, except as a warning of danger. Vehicle signaling devices and horns shall be used for purpose and intent of such vehicle;
 - c. Devices used in conjunction with places of religious worship or education shall be exempt from the operation of this provision.
 13. Emergency Signal Devices:
 - a. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for reasonable testing;
 - b. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before six o'clock (6:00) A.M. or after ten o'clock (10:00) P.M. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before six o'clock (6:00) A.M. or after ten o'clock (10:00) P.M. The time limit specified above in this subsection shall not apply to such complete system testing;
 - c. Devices used in conjunction with places of noncommercial purpose such as for religious worship or education shall be exempt from the operation of these provisions.
 14. Noise Sensitive Zones:
 - a. Creating or causing the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone; or
 - b. Creating or causing the creation of any sound within any noise sensitive zone, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.
 - c. Domestic Power Tools: Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device, with an exemption of snow removal equipment, used outdoors in residential areas between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. the following day so as to cause a noise disturbance across a residential real property boundary.
 15. Pumps And Motors Associated With Irrigation Activities: Operating or permitting the operation of any pump, motor, or combustion engine associated with

irrigation activities without the use of an adequate muffler or sound dissipation device. Pumps and motors used for public culinary water supply purposes are exempt from this provision.

16. Pile Drivers, Hammers, Backhoes, Trackhoes, Track Vehicles, Pumps And Motors: The operation between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, backhoe, trackhoe, track vehicle, pump or motor or like appliance, the use of which is usually attended by loud or unusual noise.

9.16.060 EXCEPTIONS AND VARIANCES

A. **Emergency Exception:** The provisions of this chapter shall not apply to: 1) the emission of sound for the purpose of alerting persons to the existence of an emergency; or 2) the emission of sound in the performance of emergency work.

B. **Special Variances:**

1. The mayor or city manager shall have the authority, consistent with this section, to grant special variances which may be requested.
2. Any person seeking a special variance pursuant to this section shall file an application with the city manager. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Prior to rendering a decision on the application, the city shall make reasonable efforts to give notification of the request to property owners within three hundred feet (300') of the expected source of the noise. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the mayor and city council containing any information to support their claim. If the mayor finds that a sufficient controversy exists regarding an application, a public hearing may be held.
3. In determining whether to grant or deny the application, the mayor and council shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the mayor and council may reasonably require. In granting or denying an application, the mayor shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
4. Special variances which are allowed, shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective for seventy two (72) hours following written notification to the applicant or before all conditions are agreed to in writing by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted.
5. The maximum time period for a special variance shall not exceed forty eight (48) hours, unless an extension is granted by the mayor or city manager in writing. If the special variance exceeds forty eight (48) hours, a written request must be made by the applicant to the city. In such cases, the request must be made in advance of the expected decision date to allow the city a minimum of five (5) working days for the notification of property owners within three hundred feet (300') of the expected source of the noise. Included in such notice shall be a statement describing the variance being sought, the time period being requested, and the date of the expected decision. This approval may be subject to review by the city council if the city manager deems it necessary. Applicant will be charged according to the existing fee schedule.
6. Applications for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under SMC B2 of this section.
7. The city manager may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

C. **Variances For Time To Apply:**

1. Within thirty (30) days following the effective date hereof, or notification of violation, the owner of any commercial or industrial source of sound may apply to the mayor for a variance in time to comply. The mayor and city council shall have the authority to grant a variance not to exceed six (6) months from the effective date hereof.
2. Any person seeking a variance in time to comply shall file an application with the city manager. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the variance in time to comply may file a statement with the city manager containing any information to support the claim. If the mayor finds that sufficient controversy exists regarding the application, a public hearing may be held.
3. In determining whether to grant or deny the application, the mayor and city council shall balance the hardship of the applicant, the community, and other persons of not granting the variance in time to comply against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance. In making a decision, the mayor is empowered to seek such advice as deemed by the mayor to be necessary and advisable from the city council, city attorney, other professionals, or other persons. Applicants for variances in time to comply and persons contesting variances may be required to submit any information the mayor may reasonably require. In granting or denying an application, the mayor shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.
4. Variances in time to comply which are allowed, shall be granted by notice, to the applicant containing all necessary conditions, including a time schedule for achieving compliance. The variances in time to comply shall not become effective until all conditions are agreed to in writing by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this chapter for which the variance was granted.
5. Applications for extension of time limits specified in variances in time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under SMC C2 of this section, except that the mayor and city council must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.
6. The city manager may issue guidelines defining the procedures to be followed in applying for a variance in time to comply and the criteria to be considered in deciding whether to grant a variance.

D. **Appeals:** An appeal of any decision of the city council shall be made to the district court for Cache County within thirty (30) calendar days after the decision is rendered.

9.20 ALCOHOL OFFENSES

9.20.010 POSSESSION OF KEG BEER

9.20.020 POSSESSION AND CONSUMPTION OF ALCOHOL ON CITY OWNED PROPERTY

9.20.010 POSSESSION OF KEG BEER

It is unlawful for any person to purchase, consume or possess either solely or jointly with another, any beer in a keg in the city of Smithfield, state of Utah, except that persons licensed as manufacturers and distributors and other licensed individuals, possessing a valid license to possess keg beer issued by a political subdivision of the state may possess keg beer for the purpose of transportation through Smithfield City or other lawful purposes within Smithfield City.

9.20.020 POSSESSION AND CONSUMPTION OF ALCOHOL ON CITY OWNED PROPERTY

It shall be unlawful to possess or consume beer, liquor, or any other alcoholic beverages within any city park, playground or city building, except only beer can be consumed or possessed on the city owned municipal golf course.

9.24 OUTDOOR LIGHTING

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9.24.010 SHORT TITLE

This chapter may be cited as the *SMITHFIELD OUTDOOR LIGHTING ORDINANCE*.

9.24.020 PURPOSES

The general purpose of this chapter is to protect and promote the public health, safety and welfare, the quality of life, and the ability to view the night sky, by establishing regulations and a process for review of exterior lighting. This chapter establishes standards for exterior lighting in order to accomplish the following:

- A. To provide safe roadways for motorists, cyclists and pedestrians;
- B. To protect against direct glare and excessive lighting;
- C. To ensure that sufficient lighting can be provided where needed to promote safety and security;
- D. To prevent light trespass in all areas of the city;
- E. To protect and reclaim the ability to view the night sky;
- F. To allow for flexibility in the style of lighting fixtures;
- G. To provide lighting guidelines.

9.24.030 APPLICABILITY

- A. New Lighting: All exterior lighting installed after the effective date hereof shall conform to the standards established by this chapter.
- B. Existing Lighting:
 - 1. All existing exterior lighting subject to the "Utah Power & Light Franchise Agreement", dated September 1, 1954, installed or upgraded after the effective date hereof shall conform to the standards established by this chapter.
 - 2. All exterior lighting existing prior to the effective date hereof and not defined in SMC B1 of this section and which is determined to be an annoyance by two (2) or more households and the lighting administrator shall be modified or corrected to meet the provisions of this chapter.

9.24.040 DEFINITIONS

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

AREA LIGHT: A luminaire equipped with a lamp that produces over one thousand eight hundred (1,800) lumens. Area lights include, but are not limited to, streetlights, parking lot lights and yard lights. (See SMC 0.24.070, table 1 of this chapter, for light output of various lamps.)

AVERAGE HORIZONTAL FOOT-CANDLE: The average level of illuminance for a given situation (with snow cover if that is to be expected in the given situation) measured at ground level with the light meter placed parallel to the ground.

BUILDING OFFICIAL: The city of Smithfield building official.

CANDELA (cd): Unit of luminous intensity.

CUTOFF LUMINAIRES: Luminaires with light distribution such that the candela per one thousand (1,000) lamp lumens does not exceed twenty five (25) (2.5 percent) at an angle of ninety degrees (90°) or above. Additionally, the candela per one thousand (1,000) lamp lumens does not exceed one hundred (100) (10 percent) at a vertical angle of eighty degrees (80°).

EIGHTY FIVE DEGREE CUTOFF TYPE OF LUMINAIRES: Luminaires that do not allow light to escape above an eighty five degree (85°) angle measured from a vertical line from the center of the lamp extended to the ground. (See SMC 9.24.060, figure 2 of this chapter.)

EXTERIOR LIGHTING: Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors. Luminaires that are indoors that are intended to light something outside are considered exterior lighting for the purpose of this chapter.

FLOODLIGHT: A lamp that produces up to one thousand eight hundred (1,800) lumens and is designed to flood a well defined area with light. (See SMC 9.24.070, table 1 of this chapter for light output of various lamps.)

FOOT-CANDLE (fc): The American unit used to measure the total amount of light cast on a surface (illuminance). One foot-candle is equivalent to the illuminance produced by a source of one candle at a distance of one foot (1'). For example, the full moon produces 0.01 fc. Foot-candles are measured with a light meter. One foot-candle is approximately equal to ten (10) lux, the British unit used to measure illuminance.

FULL CUTOFF LUMINAIRES: Luminaires with light distribution such that no light is emitted at or above a horizontal plane running through the lowest point on the luminaire. (See SMC 9.24.060, figure 1 of this chapter.)

FULLY SHIELDED: The luminaire incorporates a solid barrier (the shield), which permits no light to escape through the barrier. (See SMC 9.24.060, figure 4 of this chapter.)

GLARE: Stray, unshielded light striking the eye that may result in: a) nuisance or annoyance glare such as light shining into a window; b) discomfort glare such as bright light causing squinting of the eyes; c) disabling glare such as bright light reducing the ability of the eyes to see into shadows; or d) reduction of visual performance.

IESNA: Illuminating Engineering Society Of North America (IES or IESNA). The professional society of lighting engineers.

IESNA RECOMMENDED PRACTICES: The current publications of the IESNA setting forth illuminance levels.

ILLUMINANCE: The amount of light falling on any point of a surface measured in foot-candles or lux.

LAMP: The generic term for an artificial light source, to be distinguished from the whole assembly (see definition of Luminaire). Commonly referred to as "bulb".

LIGHT: The form of radiant energy acting on the retina of the eye to make sight possible.

LIGHT POLLUTION: Any adverse effect of manmade light including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uplighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky.

LIGHT TRESPASS: Light falling on the property of another or the public right of way when it is not required to do so.

LIGHTING: Any or all parts of a luminaire that function to produce light.

LIGHTING ADMINISTRATOR: An individual designated by the Smithfield City council to administer, interpret, and enforce the Smithfield outdoor lighting ordinance, and make recommendations thereunder.

LUMEN: The unit used to quantify the amount of light energy produced by a lamp at the lamp. Lumen output of most lamps is listed on the packaging. For example, a sixty (60) watt incandescent lamp produces nine hundred fifty (950) lumens while a fifty five (55) watt low pressure sodium lamp produces eight thousand (8,000) lumens.

LUMINAIRE: A complete lighting unit, consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power. When used, includes ballasts and photocells. Commonly referred to as "fixture".

MAINTAINED ILLUMINANCE: The condition that occurs after two hundred (200) hours of lamp use prior to a point where luminaire cleaning is necessary. Measurements are taken at ground level with sensor parallel to the ground for horizontal illuminance and measured at five feet (5') aboveground with sensor perpendicular to the ground for vertical illuminance.

NONESSENTIAL LIGHTING: Lighting that is not necessary for an intended purpose after the purpose has been served. Does not include any lighting used for safety and/or public circulation purposes.

PARTIALLY SHIELDED: The luminaire incorporates a translucent barrier, the "partial shield" around the lamp that allows some light to pass through the barrier while concealing the lamp from the viewer. (See SMC 9.24.060, figure 3 of this chapter.)

PLANNING AND ZONING ADMINISTRATOR: The city of Smithfield planning and zoning administrator.

SKYGLOW: The overhead glow from light emitted sideways and upwards. Skyglow is caused by the reflection and scattering of light by dust, water vapor and other particles suspended in the atmosphere. Skyglow reduces one's ability to view the night sky.

TEMPORARY LIGHTING: Lighting that is intended to be used for a special event for seven (7) days or less.

UPLIGHTING: Fully shielded lighting that is directed in such a manner as to shine light rays above the horizontal plane.

9.24.050 OUTDOOR LIGHTING STANDARDS

A. General Standards:

1. Exterior Lighting: All exterior lighting shall be designed, located and lamped in order to prevent:

- a. Overlighting;
- b. Energy waste;
- c. Glare;
- d. Light trespass;
- e. Skyglow.

2. Nonessential Exterior Commercial And Residential Lighting: All nonessential exterior commercial and residential lighting is encouraged to be turned off after business hours and/or when not in use. Lights on a timer are encouraged. Sensor activated lights are encouraged to replace existing lighting that is desired for security purposes.

3. Canopy Lights: Canopy lights, such as service station lighting shall be fully recessed or fully shielded so as to ensure that no light source is visible from or causes

glare on public rights of way or adjacent properties.

4. Area Lights: All area lights are encouraged to be eighty five degree (85°) full cutoff type luminaires.
5. Approval Necessary: Utah Power & Light shall not install any luminaires after the effective date hereof that light the public right of way without first receiving approval for any such application by the lighting administrator.

B. Type Of Luminaires: All exterior lighting shall use full cutoff luminaires with the light source downcast and fully shielded, with the following exceptions:

1. Luminaires that have a maximum output of one thousand (1,000) lumens per fixture, regardless of number of lamps (equal to one 60-watt incandescent light), may be left unshielded provided the luminaire has an opaque top or is under an opaque structure. (See SMC 9.24.060, figure 5 of this chapter.)
2. Luminaires that have a maximum output of one thousand seven hundred (1,700) lumens per fixture, regardless of number of lamps (equal to a 100 watt incandescent light) may be partially shielded provided the lamp is not visible, and the luminaire has an opaque top or is under an opaque structure. (See SMC 9.24.060, figure 3 of this chapter.)
3. Floodlights with external shielding shall be angled provided that no light is directed above a twenty five degree (25°) angle measured from the vertical line from the center of the light extended to the ground, and only if the luminaire does not cause glare or light to shine on adjacent property or public rights of way. (See SMC 9.24.060, figure 6 of this chapter.) Photocells with timers that allow a floodlight to go on at dusk and off by eleven o'clock (11:00) P.M. are encouraged.
4. Residential and commercial holiday lighting.
5. Sensor activated luminaires, provided:
 - a. It is located in such a manner as to prevent glare and lighting onto properties of others or into a public right of way;
 - b. The luminaire is set to only go on when activated and to go off within five (5) minutes after activation has ceased;
 - c. The luminaire shall not be triggered by activity off the property.
6. Vehicular lights and all temporary emergency lighting needed by the fire and police departments, or other emergency services.
7. Uplighting for flags provided the flag is of a government and the maximum lumen output is one thousand three hundred (1,300) lumens.
8. Lighting of radio, communication and navigation towers; provided the owner or occupant demonstrates that the federal aviation administration (FAA) regulations can only be met through the use of lighting that does not comply with this chapter.
9. Luminaires used for public playing fields shall be exempt from the restriction of this chapter provided the light is used only while the field is in use.
10. Residential dwelling lights, not including yard lights, with lamp wattage no greater than sixty (60) watts.
11. Streetlights used to light public rights of way shall be either full cutoff luminaires or cutoff luminaires.

C. Placement And Height Of Luminaires:

1. Parking area luminaires shall be no taller than twenty five feet (25') from the ground to their tallest point. Parking area lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level.
2. Freestanding luminaires on private property in residential zones shall be mounted at a height equal to or less than the sum of $H = (D/3) + 3$, where D is the distance in feet to the nearest property boundary, but shall not be higher than fifteen feet (15') from ground level to the top of the luminaire, whichever is less.

Example:

<u>Pole Height</u>	<u>Distance To Property Line</u>
15 feet	36 feet ($36/3 = 12 + 3 = 15$)
12 feet	27 feet ($27/3 = 9 + 3 = 12$)
9 feet	18 feet ($18/3 = 6 + 3 = 9$)

3. Streetlights to light the public right of way shall be no more than twenty five feet (25') above the stand/pole base.
4. Streetlights used on state highways may exceed twenty five feet (25') in height, with the recommendation by the city council, and only with a finding that exceeding twenty five feet (25') is necessary to protect the safety of the residents of Smithfield.
5. Luminaires used for playing fields shall be exempt from the height restriction provided the light is used only while the field is in use.

D. Illuminance And Type Of Lamp:

1. Illuminance Levels: Illuminance levels for parking lots, sidewalks, and other walkways affected by side mounted building lights, and freestanding sidewalk lights (not streetlights) shall not exceed illuminance levels listed in the most current IESNA recommended practices. The city of Smithfield recognizes that not every such area will require lighting.
2. Parking Lot Lighting Limits: Parking lot lighting shall not exceed an overall average illumination of 1.5 foot-candles.
3. Streetlights: Streetlights shall be high pressure sodium, low pressure sodium or metal halide, unless otherwise determined that another type is more efficient. Streetlights along residential streets shall be limited to a one hundred (100) watt high pressure sodium (hps) light with a lumen output of nine thousand five hundred (9,500). Streetlights along nonresidential streets or at intersections shall be limited to two hundred fifty (250) watts hps light with a lumen output of twenty eight thousand five hundred (28,500). Streetlights along state highways shall be limited to four hundred (400) watts hps light with a lumen output of fifty thousand (50,000). If a light type other than high pressure sodium is permitted, then the equivalent output shall be the limit for the other light type. (See SMC 9.24.070, table 1 of this chapter.)
4. Light Trespass: All existing and/or new exterior lighting shall not cause light trespass and shall protect adjacent properties from glare and excessive lighting
5. Figures And Tables: The figures and tables in SMC 9.24.060 and 9.24.070 of this chapter shall be used as guidelines for the public and the city for use in enforcing this chapter. The city does not endorse or discriminate against any manufacturer or company that may be shown, portrayed or mentioned by the examples. Additional information is provided at the Smithfield planning department.

E. Procedure:

1. All applications for design review, conditional use permits, planned unit developments, subdivision approvals, applicable sign permits, or nonresidential building permits shall include lighting plans showing location, type, height, lumen output, and illuminance levels in order to verify that lighting conforms to the provisions of this chapter. The lighting administrator may waive the requirement for illuminance level information only, if the lighting administrator finds that the illuminance levels conform to this chapter. For all other exterior lights the city shall make available applicable sections of this chapter with each building permit application.
2. The lighting administrator shall review any new exterior lighting or any existing exterior lighting on subject property where the lighting is proposed to be modified or constructed and where an application for design review, conditional use permit, planned unit development, subdivision approval, applicable sign permits or building permit is required, to determine whether the exterior lighting complies with the standards of this chapter.

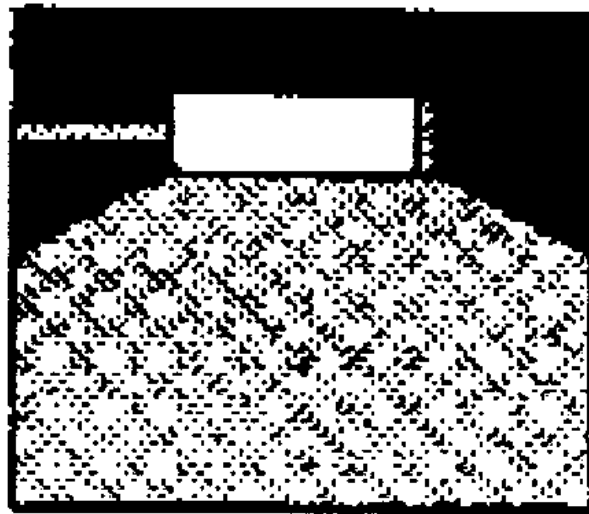
3. The lighting administrator shall convey in writing a recommendation whether the exterior lighting complies with the standards of this chapter to the building official, Smithfield City engineer, the Smithfield planning commission, or the Smithfield mayor and city council, as the case may be, before any review or hearing on a building permit, design review, conditional use permit, planned unit development, subdivision application, or applicable sign permit is approved.

F. Violations And Legal Actions:

1. If the lighting administrator finds that any provision of this chapter is being violated, the lighting administrator shall give notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that the violation be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. The planning department staff or lighting administrator shall be available to assist in working with the violator to correct said violation. If the violation is not abated within the thirty (30) day period, the lighting administrator may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this chapter.

9.24.060 FIGURES

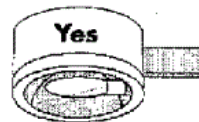
FIGURE 1



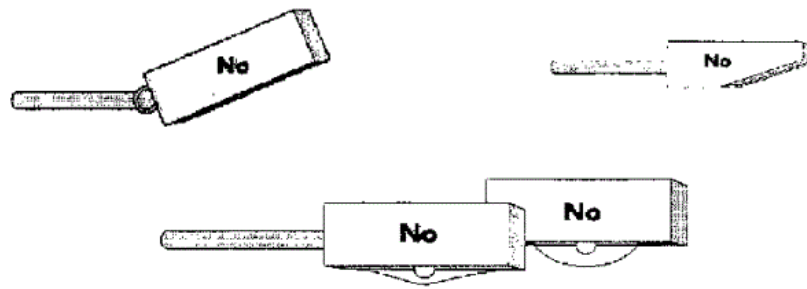
What is a true full cutoff outdoor lighting fixture?



Flat glass lens, eliminates or minimizes direct glare, no upward throw of light. The housing for these fixtures is available in many styles.



Same fixture as above mounted incorrectly, defeating the horizontal mounting design. The fixture now produces direct glare, and can also produce uplight at steeper mounting angles.



Known as just "cutoff" center "drop" or "sag" lens with or without exposed bulb; produces direct glare.

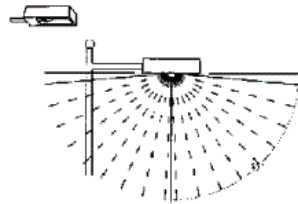


Figure 2
95° beam spread fixture

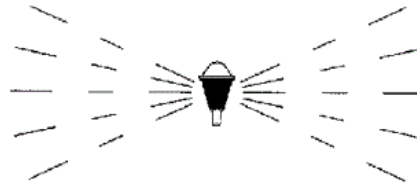


Figure 3
Partially shielded
(Translucent siding - but not visible)

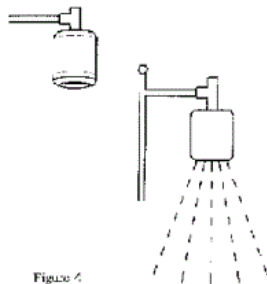


Figure 4
Shielded

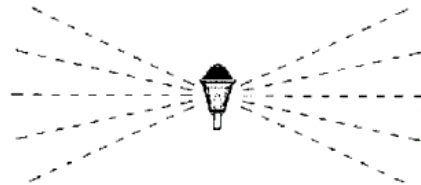


Figure 5
Unshielded with opaque top
(less than 375 lumens)

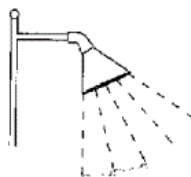


Figure 6
Angle of floodlight
with external shielding

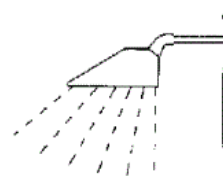


Figure 7
Directional floodlight

9.24.070 TABLES

TABLE 1
INITIAL RATED LIGHT OUTPUT OF VARIOUS LAMPS

(Information from Sylvania #PL-150, General Electric #9200 and Phillips #SG-100 large lamp catalogs)

Lamp Type	Lamp Wattage	Initial Lumen Output
Incandescent lamp (frosted) (Sylvania)	25	235
Incandescent lamp (frosted) (Sylvania)	40	375
Incandescent lamp (frosted) (Sylvania)	60	890
Incandescent lamp (frosted) (Sylvania)	100	1,690
Incandescent lamp (frosted) (Sylvania)	150	2,850
Incandescent flood or spot (G.E.)	75	765
Incandescent flood or spot (G.E.)	120	1,500

Incandescent flood or spot (G.E.)	150	2,000
Quartz halogen lamp (frosted) (Sylvania)	42	665
Quartz halogen lamp (frosted) (Sylvania)	52	885
Quartz halogen lamp (frosted) (Sylvania)	72	1,300
Quartz halogen lamp (frosted) (Sylvania)	300	6,000
Quartz halogen lamp (frosted) (Sylvania)	500	10,500
Quartz halogen lamp (frosted) (Sylvania)	1,000	21,000
Quartz halogen mini flood or spot (G.E.) (12 volt MR-16 type)	20	260
Quartz halogen mini flood or spot (G.E.) (12 volt MR-16 type)	42	630
Quartz halogen mini flood or spot (G.E.) (12 volt MR-16 type)	50	895
Quartz halogen mini flood or spot (G.E.) (12 volt MR-16 type)	75	1,300
Fluorescent lamp (Phillips)	7	400
Fluorescent lamp (Phillips)	9	600
Fluorescent lamp (Phillips)	13	900
Fluorescent lamp (Phillips)	22	1,200
Fluorescent lamp (Phillips)	28	1,600
Fluorescent lamp (G.E. cool white)	40	3,150
Low pressure sodium lamp (Phillips)	18	1,800
Low pressure sodium lamp (Phillips)	35	4,800
Low pressure sodium lamp (Phillips)	55	8,000
Low pressure sodium lamp (Phillips)	90	13,500
Low pressure sodium lamp (Phillips)	135	22,500
Low pressure sodium lamp (Phillips)	180	33,000
High pressure sodium lamp (diffuse) (G.E.)	35	2,250
High pressure sodium lamp (diffuse) (G.E.)	50	4,000
High pressure sodium lamp (diffuse) (G.E.)	70	6,400
High pressure sodium lamp (diffuse) (G.E.)	100	9,500
High pressure sodium lamp (diffuse) (G.E.)	150	16,000
High pressure sodium lamp (diffuse) (G.E.)	250	27,500
High pressure sodium lamp (diffuse) (G.E.)	400	50,000
Mercury vapor lamp (white deluxe) (Sylvania)	100	4,500
Mercury vapor lamp (white deluxe) (Sylvania)	175	8,500
Mercury vapor lamp (white deluxe) (Sylvania)	250	11,100
Mercury vapor lamp (white deluxe) (Sylvania)	400	20,100
Metal halide lamp (coated) (G.E.)	32	2,500
Metal halide lamp (coated) (Venture)	50	3,400
Metal halide lamp (coated) (G.E.)	100	9,000
Metal halide lamp (coated) (G.E.)	175	15,750
Metal halide lamp (coated) (G.E.)	250	20,500
Metal halide lamp (coated) (G.E.)	400	36,000

TABLE 2

This table lists the maximum lumen level standards at various heights above ground level. It provides specific examples listing the common types of lighting sources, lumen levels, and permitted mounting heights.

MOUNTING HEIGHT/LAMP OUTPUT RECOMMENDATIONS

<u>Mounting Height (Feet)</u>	<u>Maximum Lumens</u>
6	1,000
8	600 to 1,600
10	1,000 to 2,000
12	1,600 to 2,400
16	2,400 to 6,000
20	4,000 to 8,000
24	6,000 to 9,000
28	8,000 to 12,000
32	9,000 to 24,000
36	12,000 to 28,000
40	16,000 to 32,000

TABLE 3

MOUNTING HEIGHT RECOMMENDATIONS PER LAMP TYPE

Low Pressure Sodium:										
Wattage	180W	135W	90W	55W	35W	18W				
Mounting heights	>40'	30'-32'	28'	24'	16'-20'	10'				
Initial lumens	33,000	22,500	13,500	8,000	4,800	1,800				
Mean lumens	33,000	22,500	13,500	8,000	4,800	1,800				
Lamp wattage	180	135	90	55	35	18				
Circuit wattage	220	180	125	80	60	30				
Initial lum/watt	150	125	108	100	80	60				
Mean lum/watt	150	125	108	100	80	60				
Annual kWh use	902	738	513	328	216	123				
High Pressure Sodium:										
Wattage	400W	250W	200W	150W	100W	70W	50W	35W		
Mounting heights	>50'	32-36'	30'	28'	24'	20'	16'	12'		
Initial lumens	50,000	28,500	22,000	16,000	9,500	6,300	4,000	2,250		
Mean lumens	45,000	25,700	19,800	14,400	8,550	5,470	3,600	2,025		
Lamp wattage	400	250	200	150	100	70	50	35		
Circuit wattage	465	294	246	193	130	88	66	46		
Initial lum/watt	108	97	89	83	73	72	61	49		
Mean lum/watt	97	87	80	75	66	64	55	44		
Annual kWh use	1,907	1,205	1,009	791	533	361	271	189		
Metal Halide:										
Wattage	1,000W	400W	250W	175W	150W	100W	70W	50W	32W	
Mounting heights	>60'	>36'	>30'	>28'	>24'	>20'	>16'	>12'	>10'	
Initial lumens	110,000	36,000	20,500	16,600	13,000	9,000	5,500	3,500	2,500	
Mean lumens	88,000	28,800	17,000	10,350	8,700	6,400	4,000	2,500	1,900	
Lamp wattage	1,000	400	250	175	150	100	70	50	32	
Circuit wattage	1,070	456	295	215	184	115	88	62	43	
Initial lum/watt	103	79	69	77	71	78	63	56	58	
Mean lum/watt	82	63	58	48	47	56	45	40	44	

Annual kWh use	4,387	1,870	1,210	882	754	472	361	254	176
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10 VEHICLES AND TRAFFIC

10.04 UTAH TRAFFIC CODE ADOPTED

10.08 PARKING

10.12 SUPPLEMENTAL TRAFFIC REGULATIONS

10.04 UTAH TRAFFIC CODE ADOPTED

10.04.010 ADOPTION OF UNIFORM TRAFFIC CODE

10.04.010 ADOPTION OF UNIFORM TRAFFIC CODE

The state of Utah traffic rules and regulations or traffic code, 1995 edition, and subsequent editions, as compiled, prepared and published as a code in book form by the Utah department of public safety, or other authorized agency, and as they may be subsequently amended by legislative act or executive order, three copies of which have been filed for use and examination by the public in the office of the city recorder, are approved and adopted as the traffic code for the city except as such code may be altered or modified by the ordinances of the city. Three (3) copies of any subsequent edition shall be filed for use and examination by the public in the office of the city recorder upon receipt by the city, and shall thereupon become the traffic code for the city.

10.08 PARKING

10.08.010 PARKING OR BLOCKING STREETS OR HIGHWAYS

10.08.020 PARKING PROHIBITED IN CERTAIN AREAS

10.08.030 PARKING REGULATIONS; SIGN PLACEMENT

10.08.040 UNATTENDED MOTOR VEHICLE

10.08.050 ABATEMENT OF NUISANCE VEHICLES; IMPOUNDING

10.08.060 APPROACH TO PARKING SPACE

10.08.070 PARKING NOT TO OBSTRUCT TRAFFIC

10.08.080 PARKING IN ALLEYS

10.08.090 ANGLE PARKING

10.08.100 WINTER; ALL NIGHT PARKING PROHIBITED

10.08.110 PARKING FOR CERTAIN PURPOSES PROHIBITED

10.08.120 CUTTING THROUGH CORNERS

10.08.130 STOP WHEN TRAFFIC OBSTRUCTED

10.08.140 PARKING IN DITCHES

10.08.150 PLACING NO PARKING SIGNS PROHIBITED

10.08.160 PUBLIC PARKING AREAS

10.08.170 OVERNIGHT CAMPING PROHIBITED

10.08.180 PARKING REGULATIONS AT SKY VIEW HIGH SCHOOL

10.08.190 HANDICAPPED PARKING

10.08.200 STOPPING, STANDING AND PARKING; VIOLATION; PENALTY

10.08.010 PARKING OR BLOCKING STREETS OR HIGHWAYS

In addition to the parking provisions contained in the Utah traffic code, as adopted by this municipality, it shall be a class B misdemeanor for any person to:

- A. Remain standing, lying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon;
- B. Wilfully remain standing, lying or sitting on any street or highway in such a manner for more than one minute after being requested to move by any police officer;
- C. Wilfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or of any property abutting upon the street or highway or any property having access to such street or highway.

10.08.020 PARKING PROHIBITED IN CERTAIN AREAS

- A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:
 1. On a sidewalk;
 2. In front of a public or private driveway;
 3. Within an intersection;
 4. Within fifteen feet (15') of a fire hydrant;
 5. On a crosswalk;
 6. Within twenty feet (20') of a crosswalk at an intersection;
 7. Within thirty feet (30') upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
 8. Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings;
 9. Within fifty feet (50') of the nearest rail of a railroad crossing;
 10. Within twenty feet (20') of the driveway entrance to any fire station or within seventy five feet (75') of said entrance when properly signposted;
 11. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
 12. On the roadway side of any vehicle stopped or parked at the end or curb of a street;
 13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 14. At any place where signs or markings placed by order of the municipal council prohibit stopping, standing or parking, or in a manner contrary to the directions on such signs or markings;
 15. In any parking stall marked for angle parking with the rear wheels of the vehicle adjacent to the curb or the roadway edge;
 16. In any parking stall marked by painted lines unless the vehicle is entirely within such parking space or painted lines upon the surface of the street or parking area;
 17. On that portion of an unlaned roadway which is within fifteen feet (15') from the center of such roadway on a street not having adjacent curbs;

18. Parked in a direction opposite to the direction of traffic flow on a one-way street.

B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

10.08.030 PARKING REGULATIONS; SIGN PLACEMENT

- A. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be stopped or parked with the right hand wheels parallel to and within twelve inches (12") of the right hand curb or as close as practicable to the right edge of the right hand shoulder so as not to be facing oncoming traffic.
- B. On one-way streets, vehicles may also park parallel with the curb and with the left hand wheels adjacent to and within eighteen inches (18") of the left hand curb or as close as practical to the left edge of the left hand shoulder.
- C. Angle parking is permitted on any street containing painted lines designating parking at an angle to the curb or the edge of the roadway where curb is not present.
- D. The municipal council may direct the placement of signs prohibiting, restricting or otherwise directing the stopping, standing or parking of vehicles on any public property, street or highway where it is determined that such stopping, standing or parking would unduly interfere with the free movement of traffic thereof, or to otherwise indicate standing or parking regulations. Such signs as are placed at the direction of the municipal council or the state road commission shall be official signs, and no person shall stop, stand or park any vehicle in violation of the restriction stated on such signs.

10.08.040 UNATTENDED MOTOR VEHICLE

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, placing the transmission in park or the gears in low or reverse if the vehicle has a manual shift, or effectively setting the brakes thereon; and when standing upon any perceptible grade, turning the front wheels to the curb or side of the roadway.

10.08.050 ABATEMENT OF NUISANCE VEHICLES; IMPOUNDING

Every police officer of the city is authorized summarily to seize and take possession of every abandoned or illegally parked or operated vehicle, which are declared to be an obstruction to traffic and a nuisance, wherever found, by removing or causing such vehicle to be removed and impounded in any authorized vehicle pound. Every police officer of the city is also further authorized to seize and take possession of any vehicle which is being operated upon the public streets of the city with improper registration, or which the officer has good reason to believe has been stolen, or on which any motor number, manufacturer's number or identification mark has been defaced, altered or obliterated, and to remove or cause such vehicle to be removed and impounded in any authorized vehicle pound. An impounded vehicle shall be stored and disposed of in accordance with the provisions of state law.

10.08.060 APPROACH TO PARKING SPACE

(Repealed)

10.08.070 PARKING NOT TO OBSTRUCT TRAFFIC

No person shall stop or park any vehicle upon a street in such a manner or under such conditions as to leave available less than twenty feet (20') of width of the roadway for free movement of vehicular traffic nor upon any laned roadway within the lanes designated for moving traffic, nor on any public street or alley where the width of the roadway or traveled portion is less than twenty feet (20').

10.08.080 PARKING IN ALLEYS

No person shall park a vehicle within an alley except during the necessary and expeditious loading and unloading of merchandise, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property or interfere with the free movement of traffic through the alley.

10.08.090 ANGLE PARKING

When appropriate traffic control or regulatory signs are posted permitting angle parking, angle parking shall be permitted on the streets or parts of streets so posted at the angle designated by the sign.

10.08.100 WINTER; ALL NIGHT PARKING PROHIBITED

- A. It is unlawful for the driver of any vehicle to park a motor vehicle on any street in this municipality between November 15 of each year and March 15 of the following year, for a period of time longer than ten (10) minutes when loading or unloading passengers and for a period of time longer than thirty (30) minutes when loading, unloading or delivering property between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M. A first offense of the provisions of this subsection during the season described above shall result in the issuance of a warning citation; all subsequent offenses shall be deemed a violation. Nonresident visitors may obtain a winter parking permit which when displayed prominently in the front windshield will exempt the nonresident vehicle from the provisions of this subsection for the period indicated on the permit, except when snow is falling or predicted, but in no case shall the period exceed three (3) days from the date of issuance. This section shall not apply to doctors on house calls or vehicles used in the repair of utilities. For purposes of this section, a street shall be within the confines of the curb and gutter except in those cases where no curb and gutter exists, a street shall be that area bounded by a line twenty feet (20') from the edge of the pavement or within the right of way lines, whichever is less.
- B. No person who owns or has possession, custody or control of any vehicle shall park or leave standing any such vehicle on any public road, street, alley or municipal property for forty eight (48) or more consecutive hours, and any vehicle so parked or left standing may be impounded and removed by the chief of police. For purposes of impoundment and removal, the chief of police may impound and remove any motor vehicle which reasonably appears to have remained unmoved for forty eight (48) consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle.
- C. When not otherwise posted or subject to another ordinance of this municipality, it shall be unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than necessary for the loading or unloading of passengers, not to exceed ten (10) minutes, and for the driver to stand or park any freight carrying motor vehicle for a period of time longer than is necessary to load, unload and deliver materials, not to exceed thirty (30) minutes in any place designated by resolution of the governing body as a loading zone and marked as such.

10.08.110 PARKING FOR CERTAIN PURPOSES PROHIBITED

No person shall park or operate a vehicle upon any roadway for the principal purpose of:

- A. Displaying such vehicle for sale;
- B. Greasing or repairing such vehicle except repairs necessitated by an emergency;
- C. Displaying advertising; or
- D. The sale of foodstuffs or other merchandise in any business district.

10.08.120 CUTTING THROUGH CORNERS

No driver of a motor vehicle, motorcycle or vehicle of any kind shall drive through any private driveway or private property, such as a gas station/convenience store or lot or similar area, whether vacant or not, with intent to avoid obedience to any traffic regulation set forth in this chapter; and no person shall drive a motor vehicle, motorcycle or any other vehicle through any private driveway, lot or similar area where any business establishment, manufactory, retail store, drugstore, cafe, confectionery, drive-in food and drink establishment, or drive-in market or any other kind of business or trade is maintained or carried on for the purpose and with the intent of avoiding obedience to any traffic regulation or for the purpose and with the intent of harassing and annoying the owner thereof or the owner's patrons.

10.08.130 STOP WHEN TRAFFIC OBSTRUCTED

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

10.08.140 PARKING IN DITCHES

It is unlawful for any person to park a vehicle in any ditch or gutter in such a manner as to hinder the free flow of the full stream of water through such ditch or gutter.

10.08.150 PLACING NO PARKING SIGNS PROHIBITED

No person shall, without the permission of the municipal council, place or cause to be placed on any street or sidewalk or on any building any sign preventing or forbidding the parking of vehicles in the street in front of any building or place of business.

10.08.160 PUBLIC PARKING AREAS

- A. Definition: "Public parking area" means any land within the corporate limits of the city other than public streets owned by or under the supervision and control of the city, county or any instrumentality of the state or federal government which has been specifically designated or made available for off street parking purposes for the public at large or for a particularly limited or specified purpose.
- B. Posted Parking Regulations: The municipal council is authorized to cause to be placed upon any public parking area within the city appropriate signs regulating parking thereon, including regulations pertaining to the maximum duration during which parking is allowed, periods of time when parking may be prohibited, specified uses for particular parking facilities, the designation of certain parking spaces for municipal, county, state or federal employees and other matters pertaining to the efficient regulation and control of public parking areas.
- C. Violation Of Posted Regulations: When signs are in place in public parking areas controlling or regulating parking thereon and have been so placed in conformity with the provisions of this chapter, it is unlawful to park any vehicle in a public parking area within the city in violation of the direction given by such signs.

10.08.170 OVERNIGHT CAMPING PROHIBITED

Overnight and extended camping is prohibited in any Smithfield City park or street, and no tents or other temporary structures are to be erected for camping purposes. Smithfield City may grant permission for one night stopovers for tourists or travelers who have and utilize self-contained stopover units such as campers or house trailers. Such units will be placed in designated areas after permission has been obtained from Smithfield City law enforcement personnel and subject to personnel jurisdiction and supervision. Extended stopovers for more than one night for tourists and travelers is prohibited unless specific approval is granted for such extension by the mayor, councilman in charge of parks or his designee.

10.08.180 PARKING REGULATIONS AT SKY VIEW HIGH SCHOOL

- A. Sky View High School may post the parking lots and other areas at the high school, where parking is to be restricted, with appropriate signs prohibiting parking except as directed on the signs, between the hours of seven thirty o'clock (7:30) A.M. and four o'clock (4:00) P.M., inclusive. It is unlawful to park any vehicle on Sky View High School property in violation of the direction given by such signs.
- B. The city has received a request from the Cache County school district to enforce such parking regulations and city law enforcement officers shall have full authority to patrol any parking lot on the school grounds to enforce this section or any other ordinance.

10.08.190 HANDICAPPED PARKING

Only those vehicles carrying a distinctive (logo) handicapped license plate or transferable identification card may park in a parking space which is clearly identified as reserved for use by the handicapped. This subsection applies to and may be enforced on public property and on private property which is used or intended for use by the public.

10.08.200 STOPPING, STANDING AND PARKING; VIOLATION; PENALTY

- A. Any person engaged in the unauthorized stopping, standing or parking of a vehicle within the city shall be liable for a civil penalty. Any penalty assessed in this section, in appropriate cases, may be in addition to such other penalties as may be provided in the uniform traffic code, as adopted by the city.
- B.

1. Civil penalties shall be imposed as follows:

<u>Section</u>	<u>Penalty</u>
SMC 10.08.020A1	\$30.00

SMC10.08.020A2	35.00
SMC 10.08.020A3	35.00
SMC 10.08.020A4	35.00
SMC 10.08.020A5	35.00
SMC 10.08.020A6	35.00
SMC 10.08.020A7	35.00
SMC 10.08.020A8	35.00
SMC 10.08.020A9	35.00
SMC 10.08.020A10	35.00
SMC 10.08.020A11	35.00
SMC 10.08.020A12	35.00
SMC 10.08.020A13	30.00
SMC 10.08.020A14	30.00
SMC 10.08.020A15	30.00
SMC 10.08.020A16	30.00
SMC 10.08.020A17	35.00
SMC 10.08.020A18	35.00
SMC 10.08.030A	30.00
SMC 10.08.030B	30.00
SMC 10.08.030C	30.00
SMC 10.08.030D	30.00
SMC 10.08.040	30.00
SMC 10.08.070	35.00
SMC 10.08.080	35.00
SMC 10.08.100A	35.00
SMC 10.08.100B	35.00
SMC 10.08.100C	35.00
SMC 10.08.110A	30.00
SMC 10.08.110B	30.00
SMC 10.08.110C	30.00
SMC 10.08.110D	30.00
SMC 10.08.110	30.00
SMC 10.08.160C	30.00
SMC 1.08.180A	35.00
SMC 10.08.190	75.00

2. Any penalties that are paid within five (5) normal working days from the date of receipt of notice shall be reduced by the sum of ten dollars (\$10.00).

3. As used in this section, "receipt of notice" means the affixing of a notice to the vehicle alleged to have been employed in such unauthorized stopping, standing or parking or by delivery of such notice to the owner or driver thereof.
- C. Whenever a vehicle shall have been employed in the unauthorized stopping, standing or parking on the streets within the city, the person or persons in whose name such vehicle is registered shall be strictly liable for such unauthorized stopping, standing or parking and the penalty therefor. Except that the person or persons in whose name such vehicle is registered shall not be liable for a civil penalty for violations of SMC 10.08.020B and SMC 10.08.020, 10.08.130, 10.08.150, and 10.08.170 of this chapter. Penalties for violations of SMC 10.08.020B and SMC 10.08.020SMC 10.08.030, 10.08.050, and 10.08.170 of this chapter shall be imposed as provided in SMC D of this section.
- D. Any person who violates any of the provisions of SMC 10.08.020B and SMC 10.08.020, 10.08.130, 10.08.150, and 10.08.170 of this chapter shall for each and every violation and noncompliance, be guilty of an infraction, and upon conviction thereof shall be fined a sum not to exceed seventy five dollars (\$75.00) for each offense or violation.

10.12 SUPPLEMENTAL TRAFFIC REGULATIONS

10.12.010 PRIMA FACIE SPEED; POSTED STREETS

10.12.020 THROUGH STREETS; STOP AND YIELD INTERSECTIONS

10.12.030 DESIGNATION OF STREETS AND INTERSECTIONS TO BE POSTED

10.12.040 USE OF DYNAMIC BRAKING DEVICES PROHIBITED

10.12.010 PRIMA FACIE SPEED; POSTED STREETS

- A. When appropriate traffic control or regulatory signs giving notice of speeds are posted, the prima facie maximum speed limits designated upon said signs shall apply to the appropriate streets or portions of streets so posted.
- B. In the absence of any speed limit sign designating a speed limit applicable thereto, the prima facie speed limit shall be twenty five (25) miles per hour.

10.12.020 THROUGH STREETS; STOP AND YIELD INTERSECTIONS

When appropriate traffic control or regulatory signs are posted at entrances to intersections identifying them as stop or yield entrances, such streets are declared to be stop entrances and yield entrances as designated by said signs.

10.12.030 DESIGNATION OF STREETS AND INTERSECTIONS TO BE POSTED

The governing body shall designate the places at which appropriate traffic control devices or regulatory signs shall be placed relating to maximum speed limits, angle parking, through streets, stop and yield intersections and other regulations governing traffic.

10.12.040 USE OF DYNAMIC BRAKING DEVICES PROHIBITED

- A. Dynamic Braking Device; Definition: "Dynamic braking device" (commonly referred to as a Jacobs brake, engine brake or compression brake) means a 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.
- B. Use Of Dynamic Braking Systems Prohibited: It is unlawful for any person to operate any motor vehicle with a dynamic braking device engaged, except for the aversion of imminent danger within the Smithfield City limits.

12 STREETS, SIDEWALKS AND PUBLIC PLACES

12.04 CITY PROPERTY GENERALLY

12.08 STREET AND SIDEWALK CONSTRUCTION AND REPAIR

12.12 STREET, SIDEWALK AND PARK USE REGULATIONS

12.16 EXCAVATIONS

12.20 CEMETERIES

12.24 CITY TREES

12.28 TELECOMMUNICATIONS RIGHTS OF WAY

12.30 TELECOMMUNICATIONS TOWER FACILITIES

12.04 CITY PROPERTY GENERALLY

12.04.010 UNLAWFUL USE

12.04.020 REPAIR OR RESTORATION

12.04.030 FRANCHISE

12.04.040 ACTS EXEMPTED

12.04.010 UNLAWFUL USE

Unless authorized by permit or other written authorization issued by the municipality or unless authority is granted by provisions of this code or other ordinance of the municipality now or hereafter enacted, it shall be a class B misdemeanor for any person to:

- A. Construct, lay, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by this municipality any utility, canal, ditch, construction or building;
- B. Enter upon any property of this municipality contrary to posting or marking restricting or prohibiting use of the area;
- C. Intentionally use or perform acts upon property of the municipality which materially impairs, alters or damages the property.

12.04.020 REPAIR OR RESTORATION

The governing body, in addition to any other penalty which may be imposed, may order any person who has damaged, altered or changed any property of this municipality to repair or restore the property to its original condition prior to the damage, alteration or change.

12.04.030 FRANCHISE

- A. The governing body may grant to any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for other use of the property of this municipality, and the provisions of SMC 12.04.010 and 12.04.020 of this chapter shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.
- B. Any franchise or easement granted by this municipality shall be in writing and any franchise or easement not in writing shall be void.

12.04.040 ACTS EXEMPTED

It shall not be a violation of this chapter where any person uses the public property of this municipality in the manner or for the purpose or purposes for which such property has been made available for public use.

12.08 STREET AND SIDEWALK CONSTRUCTION AND REPAIR

12.08.010 CONSTRUCTION BY PERSONS

12.08.020 PERMIT REQUIRED; SUPERVISION

12.08.030 CONSTRUCTION OF DRIVEWAYS OR CHANGES OF CONSTRUCTION

12.08.010 CONSTRUCTION BY PERSONS

It is unlawful for any person either as owner, agent, servant, contractor or employee to construct a street or sidewalk which does not conform to specifications established by the municipal engineer or other authorized representative of the municipality, unless special permission to deviate from such specification is first obtained from the governing body.

12.08.020 PERMIT REQUIRED; SUPERVISION

- A. No person, either as owner, agent, servant, contractor or employee, shall construct any permanent sidewalk without first obtaining from the recorder/clerk a permit so to do. The permit shall specify that the sidewalk be constructed of cement, the character and quality of the cement, the consistent parts of the mixture and the thickness of the walk.
- B. It is unlawful to construct a sidewalk in violation of the specifications given by a proper municipal official.
- C. All sidewalks shall be constructed under the inspection of the superintendent of streets or his duly authorized representative.

12.08.030 CONSTRUCTION OF DRIVEWAYS OR CHANGES OF CONSTRUCTION

It is unlawful for any person to construct a driveway across a sidewalk, or cut or change the construction of sidewalk, curb or gutter without first making written application and obtaining from the recorder/clerk a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the municipality.

12.12 STREET, SIDEWALK AND PARK USE REGULATIONS

12.12.010 OBSTRUCTION

12.12.020 BUILDING MATERIALS IN STREET; PERMIT
12.12.030 PLACING OR MIXING SAND OR GRAVEL ON PAVED STREET OR SIDEWALK
12.12.040 OVERFLOWING OF WATER ON PUBLIC PROPERTY
12.12.050 IRRIGATION DITCHES ACROSS SIDEWALKS
12.12.060 REMOVAL OF SOD, EARTH FROM STREETS OR OTHER PROPERTY
12.12.070 CONSTRUCTION OF DITCHES, DRIVEWAYS AND BRIDGES
12.12.080 REMOVAL OF SNOW
12.12.090 PLACING TRASH OR OTHER OBSTRUCTION IN STREETS, GUTTERS, SIDEWALKS
12.12.100 OPENINGS IN STREET
12.12.110 DOORS OPENING INTO STREETS
12.12.120 DISCHARGE OF WATER ON STREET
12.12.130 CROSSING AT INTERSECTIONS
12.12.140 BUSINESSES TO KEEP SIDEWALK CLEAN
12.12.150 PLACING GOODS ON SIDEWALKS FOR SALE OR SHOW
12.12.160 PLACING GOODS ON SIDEWALKS FOR RECEIPT OR DELIVERY
12.12.170 PLAYING ON SIDEWALKS
12.12.180 CONGREGATING ON SIDEWALKS
12.12.190 OVERNIGHT CAMPING

12.12.010 OBSTRUCTION

It is unlawful for any person to commit in or upon any public street, public highway, public sidewalk or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in, upon, facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

12.12.020 BUILDING MATERIALS IN STREET; PERMIT

It is unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the governing body a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the governing body. Any such permit may be revoked by the governing body at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the governing body, the public interest requires such revocation.

12.12.030 PLACING OR MIXING SAND OR GRAVEL ON PAVED STREET OR SIDEWALK

Unless a permit from the superintendent has been obtained, it is unlawful to:

- A. Place or pile, or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete or any like substance or mixture, or allow the same to remain on any portion of any paved street or sidewalk;
- B. Make or mix or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk.

12.12.040 OVERFLOWING OF WATER ON PUBLIC PROPERTY

It is unlawful for any person to allow water to overflow from any ditch, canal, well or irrigation stream onto the streets, sidewalks or property of the municipality.

12.12.050 IRRIGATION DITCHES ACROSS SIDEWALKS

All owners or occupants of lots in this municipality who require water from a main ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall have a minimum two foot (2') diameter or equivalent, unless otherwise approved by the city.

12.12.060 REMOVAL OF SOD, EARTH FROM STREETS OR OTHER PROPERTY

No person shall dig, cut or remove any sod or earth from any street or other public place without a permit from the superintendent of streets.

12.12.070 CONSTRUCTION OF DITCHES, DRIVEWAYS AND BRIDGES

- A. No ditch shall be covered without prior approval of the city.
- B. Construction of driveways or bridges over waterways must first be approved by the city.

12.12.080 REMOVAL OF SNOW

- A. It is unlawful for the owner, occupant, lessor or agent of any property, abutting on a paved sidewalk to fail to remove, or have removed from such paved sidewalk, all hail, snow or sleet thereon within a reasonable time after such snow, hail or sleet has fallen.
- B. It is unlawful for any person removing snow from the sidewalk to deposit snow, dirt, leaves or other material in the gutter so as to clog or prevent the free flow of water therein.
- C. It is unlawful for any person to push, plow, or otherwise deposit snow from private property into the public street.

12.12.090 PLACING TRASH OR OTHER OBSTRUCTION IN STREETS, GUTTERS, SIDEWALKS

It is unlawful for any person owning, occupying or having control of any premises to place, or permit to be placed upon or in the sidewalk, parking area, gutter or on the half of the street next to such premises:

- A. Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, ashes, tin cans or other like substances;
- B. Any wagons, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, or the passage over and upon the same, or any part thereof, except as expressly authorized by ordinance, without the permission of the governing body first had and obtained;
- C. Any permanent or temporary structure, mechanism, device, vehicle or other thing of any kind or character except trees planted pursuant to the provisions of applicable ordinances.

12.12.100 OPENINGS IN STREET

- A. It is unlawful for the owner or occupant of any building having a cellar which opens upon any street or sidewalk to fail to keep the door or other covering in good repair and safe for the passage of the customary traffic on the street or sidewalk. If the owner or occupant of any such building shall neglect or refuse to repair properly any such door or covering within twenty four (24) hours after notice from the superintendent of streets to do so, the superintendent shall forthwith cause such repairs to be made at the expense of the owner or occupant.
- B. It is unlawful to construct or maintain coal holes or other openings in streets or sidewalks, except with the special permission of the governing body, and under the direction and supervision of the superintendent of streets.

12.12.110 DOORS OPENING INTO STREETS

It is unlawful for any person, firm, or corporation owning or having the control or management of any alley, road or passageway to construct or hang gates or doors to such alley, road or passageway so that the gates or doors thereto, when open, shall project outwardly more than two feet (2') over or upon the sidewalk beyond the property line.

12.12.120 DISCHARGE OF WATER ON STREET

It is unlawful for any person owning, occupying or having control of any premises to fail, refuse or neglect to prevent water from the roof or eaves of any house, building or other structure, or from any other source under the control of such person to be discharged upon the surface of any sidewalk.

12.12.130 CROSSING AT INTERSECTIONS

It is unlawful for any person to drive or park a self-propelled vehicle or lead, drive or ride any animal upon any sidewalk except across a sidewalk at established crossings.

12.12.140 BUSINESSES TO KEEP SIDEWALK CLEAN

It is unlawful for any owners or occupants of any place of business to refuse, neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of nine o'clock (9:00) A.M.

12.12.150 PLACING GOODS ON SIDEWALKS FOR SALE OR SHOW

No goods, wares or merchandise shall be placed, maintained or permitted for sale or show in or on any parking area, street or sidewalk beyond two feet (2') from the front line of the lot, without first obtaining the written approval of the governing body. Such approval shall be granted only when such sale or show shall be a promotional activity displaying only new merchandise owned by the business seeking the approval. The governing body's written approval shall specify the length of time the exception shall be permitted and provide that no goods, wares or merchandise shall be placed in such a manner as to leave less than a six foot (6') passageway for pedestrians, and that no goods, wares or merchandise shall be placed in such a manner as to interfere with snow removal, or required maintenance of sidewalks or landscaped areas. All goods, wares or merchandise shall be removed at the end of normal business hours.

12.12.160 PLACING GOODS ON SIDEWALKS FOR RECEIPT OR DELIVERY

It is unlawful for any person to place, or suffer to be placed or kept upon any sidewalk, any goods, wares or merchandise which he may be receiving or delivering, without leaving a foot passageway upon such sidewalk. It is unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than two (2) hours.

12.12.170 PLAYING ON SIDEWALKS

Every person who obstructs the sidewalk or street by playing any game or engaging in any activity which obstructs the free travel thereon is guilty of an infraction.

12.12.180 CONGREGATING ON SIDEWALKS

It is an infraction for any person or persons to congregate about or upon any sidewalks, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere and by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises.

12.12.190 OVERNIGHT CAMPING

Overnight and extended camping is prohibited in any Smithfield City park or street, and no tents or other temporary structures are to be erected for camping purposes except the Smithfield City mayor may grant special permission for individuals or groups to camp in city parks. Such permission shall be limited to a specific location and time period and be subject to any fees that may be adopted in the most current prevailing fee schedule. Prior to granting special camping permission, the availability of the park area shall be verified with the office of the recreation director.

12.16 EXCAVATIONS

12.16.010 APPLICATION FOR STREET EXCAVATION PERMIT

12.16.020 PERMIT FRANCHISE REQUIRED

12.16.030 EXCLUDED EXCAVATIONS

12.16.040 SUBJECT EXCAVATIONS

12.16.050 PREPARATION

12.16.060 BACKFILL

12.16.070 RESTORATION OF SURFACES
12.16.080 RESTORING STREET SURFACES
12.16.090 GRAVEL SURFACES
12.16.100 PROTECTION OF PUBLIC DURING EXCAVATION PROJECT
12.16.110 RELOCATION AND PROTECTION OF UTILITIES
12.16.120 INSPECTION AND ACCEPTANCE

12.16.010 APPLICATION FOR STREET EXCAVATION PERMIT

It is unlawful for any person to break, excavate, tunnel, undermine or in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an excavation permit therefor from the recorder/clerk. Any public utility regulated by the state or holding a franchise from the municipality which in the pursuit of its calling has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the municipality to cover all excavations such utilities may make within the streets of the municipality. All permits shall be subject to revocation and the municipality may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this chapter. Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the municipality is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency.

12.16.020 PERMIT FRANCHISE REQUIRED

- A. No person shall make any excavation in any street, lane or alley, or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the superintendent of streets or other authorized representative of the municipality.
- B. No person shall excavate any sidewalk without first obtaining a permit from the superintendent of streets or other authorized personnel.
- C. Nothing contained in this chapter shall be construed to waive the franchise required for any person by the ordinances of this municipality or laws of Utah.

12.16.030 EXCLUDED EXCAVATIONS

The following types of excavations do not come within the scope of this chapter:

Excavations of any kind in municipal streets in projects designed, contracted for and inspected by the municipal engineer or other authorized personnel of the municipality.

12.16.040 SUBJECT EXCAVATIONS

The following types of excavations are subject to the provisions of this chapter:

Excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits and all other excavations for any other purpose within the street rights of way of the municipality or in other public places.

12.16.050 PREPARATION

The pavement, sidewalk, driveway or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hardsurfacing. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of the work.

12.16.060 BACKFILL

Backfill shall be done in a manner consistent with the adopted construction specifications on file in the office of the city engineer for the nature of work being done.

12.16.070 RESTORATION OF SURFACES

- A. General: All street surfacing, curbs, gutters, sidewalks, driveways or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the governing body, in accordance with the specifications contained in this chapter governing the various types of surfaces involved.
- B. Protection Of Paved Surfaces: In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
- C. Time: In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five (5) days from the date of completion of the backfill except for periods:
 - 1. When permanent paving material is not available;
 - 2. When weather conditions prevent permanent replacement;
 - 3. When an extension of time is granted by the superintendent of streets or other authorized representative of the municipality.
 - 4. Temporary Repair: If temporary repair has been made on paved street with gravel and a permanent repair cannot be made within the time specified in this section due to any of the above mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible.

12.16.080 RESTORING STREET SURFACES

- A. **Temporary Grade Surface:** Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches (6") below the bottom of the bituminous or concrete surface. The gravel shall be maintained by blading, sprinkling, rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the inspector until the final surface is laid. Excess material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for gradings:

Passing 1 inch sieve	100 percent
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Passing $\frac{3}{4}$ inch sieve	85_100 percent
No. 4 sieve	45_65 percent
Passing no. 10 sieve	30_50 percent
Passing no. 200 sieve	5_10 percent

- B. **Bituminous Surface:** The exposed edges of existing pavement shall be primed with type MC-1 bituminous material. The type, grade and mixture of the asphalt to be used for street surface replacement shall be approved by the superintendent of streets or the city engineer. The thickness shall be equal to the adjacent surface but not less than two and one-half inches ($2\frac{1}{2}$ "). The complete surface shall not deviate more than one-fourth inch ($\frac{1}{4}$ ") between old and new work.

12.16.090 GRAVEL SURFACES

Trenches excavated through gravel surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in SMC 12.16.080 of this chapter, except that the gravel shall be a minimum of one inch (1") more than the thickness of the existing gravel.

12.16.100 PROTECTION OF PUBLIC DURING EXCAVATION PROJECT

Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of excavator's equipment is removed from site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares and other devices. Police and fire departments shall be notified at least twenty four (24) hours in advance of any planned excavation requiring street closures or detour.

12.16.110 RELOCATION AND PROTECTION OF UTILITIES

An excavator shall not interfere with any existing utility without the written consent of the governing body and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by the municipality or by a private enterprise, shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along or across the work. In case any of the pipes, conduits, poles, wires or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices able to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this chapter that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation which the permittee accepts upon acceptance of an excavation permit. The municipality need not be made a party to any action because of this chapter. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

12.16.120 INSPECTION AND ACCEPTANCE

In order to ensure proper backfill and restoration of surface, the permittee shall deposit a surety bond in the amount of five hundred dollars (\$500.00) with the recorder/clerk payable to the municipality, except that a public utility operating or using any of the streets under a franchise from the municipality will not be required to furnish such bond, providing such franchise obligates the holder thereof to restore the streets and to hold the municipality harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation operations under such franchise. The required surety bond must be:

- A. With good and sufficient surety;
- B. By a surety company authorized to transact business in the state;
- C. Satisfactory to the municipal attorney in form and substance;
- D. Conditioned upon the permittee's compliance with this part in order to secure and hold the municipality and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the municipality, the governing body or any municipal officer may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee;
- E. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the municipality, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of twenty four (24) months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.

12.20 CEMETERIES

12.20.010 DEFINITIONS

12.20.020 NAME

12.20.030 CEMETERIES OWNED AND MAINTAINED BY CITY SUBJECT TO CHAPTER

12.20.040 OFFICE OF CEMETERY SUPERINTENDENT

12.20.050 DUTIES OF CEMETERY SUPERINTENDENT

12.20.060 CERTIFICATE OF BURIAL RIGHT

12.20.070 REGISTRATION OF BURIALS

12.20.080 BURIALS AND DISINTERMENT

12.20.090 VAULTS REQUIRED

12.20.100 SALE SUBJECT TO RULES AND REGULATIONS

12.20.110 CITY'S RIGHT TO PERFORM WORK

12.20.120 ORDERS BY TELEPHONE; RESPONSIBILITY FOR ERRORS

12.20.130 TRAFFIC RULES IN EFFECT

12.20.140 CHILDREN

12.20.150 ANIMALS PROHIBITED
12.20.160 ACTIVITIES PROHIBITED
12.20.170 DECORUM
12.20.180 INJURY TO CEMETERY PROPERTY PROHIBITED
12.20.190 LANDSCAPING BY PRIVATE PERSONS
12.20.200 PLACEMENT OF MARKERS
12.20.210 ADDITIONAL RULES AND REGULATIONS
12.20.220 COLLECTION OF FEES
12.20.230 FEE TO BE PAID FOR OPENING GRAVE
12.20.240 PURCHASE PRICE AND FEES
12.20.250 SALE OF LOTS
12.20.260 RESTRICTIONS OF RESALE
12.20.270 CONTRACTING FOR LOT PURCHASE
12.20.280 CARE OF CEMETERY GENERALLY INCLUDED IN AGREEMENT
12.20.290 BURIAL OF INDIGENTS

12.20.010 DEFINITIONS

The following words or phrases shall have the following meanings unless the context otherwise clearly requires:

DECORUM: Proper behavior and conduct giving respect to those who are dead.

INDIGENT: A resident of Smithfield City who is without means or family who cannot pay the required fees of a burial.

LOT: Means and includes the partial lots or single graves in the municipal cemetery intended to hold one deceased body or two (2)cremains.

LOT OWNER OR PURCHASER AND GRAVE OWNER OR PURCHASER: The owner or purchaser of burial privileges or the collateral right of use of any burial space evidenced by a deed or burial right for a described lot or by proved and recognized descent or devise from the original owner.

NONRESIDENT: Any person who does not have a principal residence in Smithfield City limits.

PERPETUAL CARE: Wherever the term "perpetual care" appears in this chapter or any other ordinance or resolution of the city, the term "prepaid continued maintenance" may be substituted for the term "perpetual care" and the two (2) terms may be used interchangeably when the context of the ordinance or resolution requires, given the termination of the city's perpetual care trust fund.

RECORDER/CEMETERY CLERK: The title of recorder shall refer to the city recorder of the municipality who has been appointed and approved by the city council to the position. The title of cemetery clerk shall refer to the clerk of the cemetery who has been assigned the responsibility of maintaining the records of the cemetery and performs his/her functions under the supervision of the recorder.

RESIDENT: An individual who lives within Smithfield City limits. A resident may also be a person who made Smithfield City their principal residence but for reasons of health or age, has moved from the city to be cared for by family or by a licensed healthcare facility.

12.20.020 NAME

The burial ground of this municipality shall be known and designated by the name of Smithfield City cemetery.

12.20.030 CEMETERIES OWNED AND MAINTAINED BY CITY SUBJECT TO CHAPTER

All cemeteries owned and/or maintained by the municipality or which may hereafter be acquired by the municipality wherever situated are declared subject to the provisions of this chapter.

12.20.040 OFFICE OF CEMETERY SUPERINTENDENT

There is created the position of cemetery superintendent.

12.20.050 DUTIES OF CEMETERY SUPERINTENDENT

The cemetery superintendent shall have the general supervision and administration of the municipal cemetery including, but not limited to:

- A. Recommending to the governing body such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery;
- B. Keeping in proper repair the enclosure around the cemetery and preventing its being entered by animals and, so far as practical, preventing the destruction or defacing of any tablet or marker placed or erected therein;
- C. Opening any graves in the cemetery upon application being made by the recorder/cemetery clerk or by any person having the right to make such application and being responsible for closing all graves;
- D. Removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery, but such floral pieces or displays shall not be removed sooner than three (3) days after original placement except in emergency;
- E. Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed.

12.20.060 CERTIFICATE OF BURIAL RIGHT

- A. It is unlawful for any person to bury the body of a deceased person in the municipal cemetery without first obtaining a certificate of burial right for the lot used or producing satisfactory evidence of a right to burial based on a properly acquired certificate of burial right.
- B. The recorder/cemetery clerk shall, after payment of the lot price has been received in the treasury, issue a certificate of burial rights which shall describe the lot or grave to which the right to burial is granted. The certificate shall be signed by the recorder/cemetery clerk.

12.20.070 REGISTRATION OF BURIALS

Before any deceased person may be buried in the municipal cemetery, the relatives or person having charge of the deceased shall provide the recorder/cemetery clerk with a written statement which shall be filed by the recorder/cemetery clerk, which statement shall contain, if known, information about the deceased regarding his or her name, when and where born, the date of burial, name of cemetery and the description of the location of the grave.

12.20.080 BURIALS AND DISINTERMENT

- A. It is an infraction for any person to:
 - 1. Disinter any body buried in any cemetery, except under the direction of the cemetery superintendent who shall, before disinterment, require a written permission from both the municipal health officer and the owner of the lot or his or her heirs, which written authorization shall be filed and preserved in a record kept for such purposes.
- B. It is an infraction to inter anything other than the remains of human bodies in cemeteries.
- C. It is an infraction to bury the body of any person within this municipality except in the municipal cemetery or a private cemetery, unless by special permission of the governing body under such rules and regulations that it may prescribe.

12.20.090 VAULTS REQUIRED

- A. It is unlawful for any person to be buried in the cemetery unless the casket shall be placed in a vault made of concrete, fiberglass, steel or of such other material approved by the governing body, substantially constructed and covered with a similar durable material. Children's caskets of fiberglass or plastic are the exception.
- B. No wood shall be used as a permanent part of the construction of any part of the vault. Cremains are the exception.
- C. A vault is not required for cremation when cremation vessel is made exclusively of glass, porcelain, plastic or any combination thereof.

12.20.100 SALE SUBJECT TO RULES AND REGULATIONS

Every lot or single grave sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as are found necessary for the protection of lot owners, the remains of the dead and the preservation of the cemetery.

12.20.110 CITY'S RIGHT TO PERFORM WORK

The municipality reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in its cemeteries.

12.20.120 ORDERS BY TELEPHONE; RESPONSIBILITY FOR ERRORS

Under no circumstances will the municipality assume responsibilities for errors in opening graves when orders are given by telephone.

12.20.130 TRAFFIC RULES IN EFFECT

- A. The provisions of the municipal traffic ordinances relative to the operation of vehicles and conduct of pedestrians shall be in effect in the cemetery, except as otherwise modified by this chapter.
- B. It is unlawful for any person to ride or drive within the municipal cemetery at a speed greater than ten (10) miles per hour.

12.20.140 CHILDREN

Children under the age of eight (8) years shall not be allowed in cemeteries unless accompanied by their parents or other adults, except for the purposes of attending authorized funerals or, in the company of adults, placing flowers on the grave of a deceased relative or friend, or performing any other customary evidence of respect in accordance with their religious principles.

12.20.150 ANIMALS PROHIBITED

No animal shall be allowed in any cemetery except in the confines of a vehicle and must be at all times retained within the confines of said vehicle while the vehicle remains in the cemetery.

Horsedrawn carriages that bring the deceased to the cemetery will be allowed as long as the horses are held in control by the driver or an attendant.

12.20.160 ACTIVITIES PROHIBITED

The following activities are prohibited in the cemetery at any time:

- A. Skateboarding, rollerskating, or rollerblading,
- B. Sledding or tubing,
- C. Motorcycles, snowmobiles, ATVs, or similar motorized vehicles,
- D. Bicycles, scooters,
- E. Any other activity that would not be in keeping with SMC 12.20.170 of this chapter,
- F. Any activities from dusk to dawn,
- G. Walking a dog.

12.20.170 DECORUM

Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.

12.20.180 INJURY TO CEMETERY PROPERTY PROHIBITED

- A. It is a class B misdemeanor for any person to attempt, or allow someone else, to commit injury, removal or defacing of any monument, gravestone, tablet, marker, tree, shrub, fence or enclosure on the premises of the cemetery.
- B. It shall be an infraction for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or any other property in the cemetery.

12.20.190 LANDSCAPING BY PRIVATE PERSONS

Except as provided by the rules and regulations of the governing body, it is unlawful for any person to erect or maintain any fence, corner post, coping or boundary of any kind, to plant any vegetation upon any lot or lots, street, alley or walk in the cemetery or to grade the ground or land thereof. The cemetery superintendent shall, whenever required, furnish the true lines of any lots according to official survey, shall prevent and prohibit any markings of the same except by official landmarks and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land.

12.20.200 PLACEMENT OF MARKERS

It is unlawful for any person to erect, place or cause to be placed any marker or monument on any lot in the cemetery in violation of the rules and regulations promulgated by the governing body regarding the placement, construction and design of all such markers.

12.20.210 ADDITIONAL RULES AND REGULATIONS

- A. The governing body may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.
- B. The mayor may from time to time as the governing body deems necessary direct and publish a booklet of rules and regulations for the convenience of the purchasers of lots in the municipal cemetery. Such rules and regulations shall constitute a part of the terms and conditions under which owners and users may utilize the cemetery and shall form a supplement to this chapter after they have been adopted as official by resolution of the governing body.
- C. Any changes in the rules and regulations shall be adopted by the governing body before such changes shall be official.

12.20.220 COLLECTION OF FEES

The recorder/cemetery clerk and such other persons as the governing body may designate, are authorized and required to collect in advance prices and fees for the opening and closing of graves or other services which shall include, but not be limited to, properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal, and raised monument privileges. The fees shall be such amounts as adopted in the most current version of the prevailing fee schedule.

12.20.230 FEE TO BE PAID FOR OPENING GRAVE

- A. No grave shall be opened in the municipal cemetery until payment arrangement or payment of a fee for the labor and expense in so opening the grave is made.
- B. The presentation of a receipt from the recorder/cemetery clerk or person designated by the governing body when presented to the cemetery superintendent, shall be authority to open a grave for the burial of a deceased person. However, upon a contract being entered into between any mortician and the municipality wherein the mortician agrees to be responsible and liable for fees for the opening of a grave, and wherein that mortician will be personally liable for such fees the recorder/cemetery clerk or authorized person may give the cemetery superintendent authority to open graves without the presentation of a receipt from the recorder/cemetery clerk or authorized person.

12.20.240 PURCHASE PRICE AND FEES

The governing body shall from time to time by resolution fix the size of lots, the price at which burial rights shall be sold and the fees which shall be charged for the various cemetery services to be provided.

12.20.250 SALE OF LOTS

- A. The recorder/cemetery clerk and such other person as the governing body may designate, are authorized to sell the use of lots in the municipal cemetery for burial purposes only and to collect all sums arising from the sale. The recorder/cemetery clerk shall keep a complete record of all sales, which record shall describe the location of the lot purchased and the price paid therefor. The recorder/cemetery clerk or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, and the purchase price as provided in the prevailing fee schedule.
- B. A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price, except as may be provided by the city council after the effective date of the ordinance codified in this section. Payments made pursuant to this section shall not be construed to be payment for cemetery services other than perpetual care or prepaid continued maintenance.
- C. Payment of the burial fees shall be deemed to include the filling of the grave, the placing of topsoil upon the grave, seeding the grave with grass (or resodding), and watering and cutting the grass. No other services are included.
- D. No other improvements, changes or service(s) shall be made on any lot without the certificate holder or his heirs first submitting to and receiving from the cemetery superintendent, written approval for such improvements, changes or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the governing body.
- E. The sale of lots shall be restricted to four (4) burial spaces per head of household. Special exceptions will be considered upon request.
- F. The sale of lots will be confined to existing platted area.

12.20.260 RESTRICTIONS OF RESALE

- A. From and after August 1, 1977, the lots sold by this municipality shall not be further sold, transferred, conveyed or assigned to any person except the municipality unless authorized by the city recorder or cemetery clerk. The municipality agrees to buy back any municipal cemetery grave lot which it may hereafter sell. The repurchase of such lots shall be for the original price paid by the purchaser, or the current selling price of the lot, whichever is less, less a recording fee as set by the prevailing fee schedule.
- B. Whenever a certificate to burial rights or lots reverts to the municipality, as provided for in this chapter, or becomes vested in the municipality for any reason, before new certificates are issued, the original certificate shall be canceled or an assignment given, and the record shall be so changed.

- C. The certificates shall be issued and signed by the mayor (or cemetery clerk) and shall be attested by the recorder/cemetery clerk. All lots or parts of lots, as provided in this section, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment.

12.20.270 CONTRACTING FOR LOT PURCHASE

- A. No grave shall be opened in the cemetery of this municipality until the lot where the grave is to be opened shall have been contracted for with this municipality, or thereon paid. Should it be the desire of any person to have a grave opened and the body interred therein and purchase not have been previously contracted for or paid in full for the lot therein, the person may either pay the full purchase price or enter into a contract wherein payment shall be agreed.
- B. The agreement shall provide for a down payment in the amount of twenty percent (20%) of the total purchase price of the cost of the lot, and shall further provide for the payment of monthly installments over a period not to exceed twelve (12) months. The monthly installments shall be in the amounts equal to the balance of the contract divided by the number of months which the contract is to run, plus six percent (6%) of the initial balance.
- C. The installment contract for the purchase of a lot shall provide for collection by the municipality in event of a default and such collection shall be by civil action, and the defendant therein shall pay cost of collection, together with a reasonable attorney fee to the municipality, and shall also pay interest at the rate of eight percent (8%) per annum upon the past due installments. All installments shall immediately become due upon the default of any of the installments.

12.20.280 CARE OF CEMETERY GENERALLY INCLUDED IN AGREEMENT

The essential perpetual care that the municipality agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to, mowing of all lots and graves at reasonable intervals, resodding, seeding and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the lots, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by the municipality.

12.20.290 BURIAL OF INDIGENTS

- A. The governing body may by resolution designate a portion of the municipal cemetery to the burial of indigents. Whenever it is made to appear to the mayor by proof submitted to him by the recorder/cemetery clerk that any person who has died does not have an estate sufficient to pay the purchase price of a lot in the cemetery, and that the nearest relative or representative of such deceased person is unable to pay the fees and desires to have the body of such deceased interred in the cemetery, the mayor may grant burial space for such deceased person at the request made to him by the recorder/cemetery clerk.
- B. The mayor shall communicate his decision to both the recorder/cemetery clerk and the cemetery superintendent. The mayor shall give report of his decision, whether affirmative or negative, to the governing body at its next regular meeting. All strangers without funds or other persons who may die in the municipality may be granted the privilege granted in this section.

12.24 CITY TREES

12.24.010 DEFINITIONS

12.24.020 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD

12.24.030 TERM OF OFFICE

12.24.040 DUTIES AND RESPONSIBILITIES OF BOARD

12.24.050 PLANTINGS

12.24.060 CITY TREE WARDEN

12.24.070 DISTANCES FROM STREET CORNERS AND FIRE HYDRANTS

12.24.080 PUBLIC TREE CARE

12.24.090 PRUNING, CORNER CLEARANCE

12.24.100 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

12.24.110 TREE REMOVAL ON PUBLIC PROPERTY

12.24.120 INTERFERENCE WITH SHADE TREE AND BEAUTIFICATION COMMISSION

12.24.130 ARBORIST'S LICENSE AND BOND

12.24.140 REVIEW BY CITY COUNCIL

12.24.150 VIOLATION; PENALTY

12.24.010 DEFINITIONS

For the purposes of this chapter:

PARK TREES: Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city or to which the public has free access to as a park.

STREET TREES: Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

12.24.020 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD

There is created and established a city tree board for the city which shall consist of six (6) members, citizens and residents of this city, five (5) of said members who shall be appointed by the mayor with the approval of the council. The sixth member shall be the city council member responsible for the activities and shall be an ex officio member. All members of the commission shall serve without pay.

12.24.030 TERM OF OFFICE

The term of the five (5) persons to be appointed by the mayor shall be three (3) years except that the term of two (2) of the members appointed to the first board shall be for only two (2) years. In the event that a vacancy shall occur during the term of any members, the successor shall be appointed for the unexpired portion of the term.

12.24.040 DUTIES AND RESPONSIBILITIES OF BOARD

The board shall meet at least semiannually or as deemed necessary by the board to set and discuss annual goals that the board has set for that year. These goals will exist in the following areas:

- A. To assist in the dissemination of news and information regarding selection, planting and maintenance of trees within the corporation limits whether they be on public or private property;
- B. To make recommendations from time to time to the city council concerning community forestry program and activities for the municipality;
- C. It shall be the responsibility of the board to study, investigate, council, develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks along streets and in other public areas. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city.

12.24.050 PLANTINGS

Street tree plantings must conform in species and location with the Smithfield City community forest plan. No species other than those included in the forest plan may be planted as street trees or park trees without the written permission of the commission and trees may only be selected from the tree list that corresponds with the specific proposed tree location as designated in the forest plan. In the case of new residential, commercial or industrial development (of any size or type), the developer shall be responsible for new street tree planting. The developer must purchase and plant in the public right of way, trees no smaller than three-fourths inch (3/4") caliper which conform in species and spacing to the forest plan and this section and SMC 12.24.070 of this chapter. Persons planting trees shall abide by the arboricultural specifications adopted by the commission.

12.24.060 CITY TREE WARDEN

An employee of Smithfield City appointed by the city manager shall hold the office of city tree warden. The responsibilities of this office shall be as follows:

- A. To enforce the Smithfield City tree ordinance;
- B. To make recommendation to the commission concerning changes in the Smithfield City tree ordinance;
- C. To answer questions posed by the public concerning the Smithfield City tree ordinance.

12.24.070 DISTANCES FROM STREET CORNERS AND FIRE HYDRANTS

No street trees shall be placed any closer than forty feet (40') to any street corner, measured from the point of intersection of the street lines. No street tree shall be planted any closer than ten feet (10') to any fire hydrant.

12.24.080 PUBLIC TREE CARE

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The commission may remove or order to be removed any tree or part thereof in an unsafe condition or which by reason of nature is injurious to sewers, sidewalks, electrical power lines, gas lines, water lines or other public improvements, or is affected by any injurious insect, pest or disease. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with this chapter.

12.24.090 PRUNING, CORNER CLEARANCE

- A. Every owner of any tree overhanging any street or right of way within the city shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk.
- B. Said owners shall remove all dead, diseased, dangerous, broken or decayed limbs that constitute a menace to the safety of the public. The city shall have the right to enter upon private property to prune any tree or shrub on said private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with the visibility of any traffic control device or sign.

12.24.100 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

The city shall have the right to cause the removal of any dead or diseased trees on private property, when such trees constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the city. The commission will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to enter upon said property to remove such trees and charge the cost of removal on the owner's property tax notice.

12.24.110 TREE REMOVAL ON PUBLIC PROPERTY

- A. **Application And Permit:** No person shall remove or otherwise seriously disturb any tree on municipal property without first filing an application and procuring a permit from the commission. Applications for permits must be made with the commission not less than forty eight (48) hours of the time work is to be done.
- B. **Standards Of Issuance:** The commission shall issue the permit provided for in this section if, in its judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed by the permit and in the manner as therein described. Any permit shall be void if its terms are violated. Notice of completion shall be given within five (5) days to the commission for their inspection.

12.24.120 INTERFERENCE WITH SHADE TREE AND BEAUTIFICATION COMMISSION

It is unlawful for any person to prevent, delay or interfere with Smithfield City personnel, the commission or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds as authorized in its ordinance.

12.24.130 ARBORIST'S LICENSE AND BOND

It is unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a business license. No license shall be required of any public service company or city employee doing such work in the pursuit of their public endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of twenty five thousand dollars (\$25,000.00) for

bodily injury and two hundred fifty thousand dollars (\$250,000.00) for property damage, indemnifying the city or any person injured or damage resulting from the pursuit of such endeavors as described in this section.

12.24.140 REVIEW BY CITY COUNCIL

The city council shall have the right to review the conduct, acts and decisions of the tree committee. Any person may appeal any ruling or order by the commission to the city council who may hear the matter and make a final decision.

12.24.150 VIOLATION; PENALTY

Any person violating any of the provisions of this chapter shall be, upon a conviction or a plea of guilty, subject to a fine not to exceed two hundred ninety nine dollars (\$299.00).

12.28 TELECOMMUNICATIONS RIGHTS OF WAY

12.28.010 DECLARATION OF FINDING AND INTENT

12.28.020 SCOPE OF CHAPTER

12.28.030 EXCLUDED ACTIVITY

12.28.040 DEFINITIONS

12.28.050 NONEXCLUSIVE FRANCHISE

12.28.060 EVERY PROVIDER MUST OBTAIN

12.28.070 NATURE OF GRANT

12.28.080 CURRENT PROVIDERS

12.28.090 NATURE OF FRANCHISE

12.28.100 REGULATORY APPROVAL NEEDED

12.28.110 TERM

12.28.120 COMPENSATION

12.28.130 TIMING

12.28.140 FEE STATEMENT AND CERTIFICATION

12.28.150 FUTURE COSTS

12.28.160 TAXES AND ASSESSMENTS

12.28.170 INTEREST ON LATE PAYMENTS

12.28.180 NO ACCORD AND SATISFACTION

12.28.190 NOT IN LIEU OF OTHER TAXES OR FEES

12.28.200 CONTINUING OBLIGATION AND HOLDOVER

12.28.210 COSTS OF PUBLICATION

12.28.220 FRANCHISE APPLICATION

12.28.230 APPLICATION CRITERIA

12.28.240 FRANCHISE DETERMINATION

12.28.250 GENERAL REQUIREMENT

12.28.260 QUALITY

12.28.270 LICENSES AND PERMITS

12.28.280 RELOCATION OF THE SYSTEM

12.28.290 PROTECT STRUCTURES

12.28.300 NO OBSTRUCTION

12.28.310 SAFETY PRECAUTIONS

12.28.320 REPAIR

12.28.330 SYSTEM MAINTENANCE

12.28.340 TRIMMING OF TREES

12.28.350 NOTIFICATION OF SALE

12.28.360 EVENTS OF SALE

12.28.370 INSURANCE, INDEMNITY AND SECURITY

12.28.010 DECLARATION OF FINDING AND INTENT

A. Findings Regarding Rights Of Way: The city finds that the rights of way within the city:

1. Are critical to the travel and transport of persons and property in the business and social life of the city;
2. Are intended for public uses and must be managed and controlled consistent with that intent;
3. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit to the enhancement of the health, welfare, and general economic well being of the city and its citizens; and
4. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation, and maintenance in the rights of way.

B. Finding Regarding Compensation: The city finds that the city should receive fair and reasonable compensation for use of the rights of way.

C. Finding Regarding Local Concern: The city finds that while telecommunications systems are in part an extension of interstate commerce, their operations also involve rights of way, municipal franchising, and vital business and community service, which are of local concern.

D. Finding Regarding Promotion Of Telecommunications Services: The city finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of telecommunications services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.

E. Findings Regarding Franchise Standards: The city finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner

that:

1. Fairly and reasonably compensates the city on a competitively neutral and nondiscriminatory basis as provided herein;
2. Encourages competition by establishing terms and conditions under which providers may use the rights of way to serve the public;
3. Fully protects the public interests and the city from any harm that may flow from such commercial use of rights of way;
4. Protects the police powers and rights of way management authority of the city, in a manner consistent with federal and state law;
5. Otherwise protects the public interests in the development and use of the city infrastructure;
6. Protects the public's investment in improvements in the rights of way; and
7. Ensures that no barriers to entry of telecommunications providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting telecommunication services, within the meaning of the telecommunications act of 1996 ("act") (PL 104-104).

F. **Power To Manage Rights Of Way:** The city adopts the telecommunications ordinance codified herein pursuant to its power to manage the rights of way, pursuant to common law, the Utah constitution and statutory authority, and receive fair and reasonable, compensation for the use of rights of way by providers as expressly set forth by section 253 of the act.

12.28.020 SCOPE OF CHAPTER

This chapter shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights of way, including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. This chapter shall apply to all future providers and to all providers in the city prior to the effective date of said ordinance, whether operating with or without a franchise as set forth in SMC 12.28.540 of this chapter.

12.28.030 EXCLUDED ACTIVITY

- A. **Cable TV:** This chapter shall not apply to cable television operators otherwise regulated by TCI cablevision franchise agreement, September 1994.
- B. **Wireless Services:** This chapter shall not apply to personal wireless service facilities.
- C. **Provisions Applicable To Excluded Providers:** Providers excused by other law that prohibits the city from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this chapter through the exercise of the city's police power and not preempted by other law shall be applicable.

12.28.040 DEFINITIONS

For purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The word "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

APPLICATION: The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights of way of all, or a part, of the city. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the city concerning: the construction of a telecommunications system over, under, on or through the rights of way; the telecommunications services proposed to be provided in the city by a provider; and any other matter pertaining to a proposed system or service.

CITY: Smithfield City, Utah.

COMPLETION DATE: The date that a provider begins providing services to customers in the city.

CONSTRUCTION COSTS: All costs of constructing a system, including make ready costs, other than engineering fees, attorney or accountant's fees, or other consulting fees.

CONTROL OR CONTROLLING INTEREST: Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than twenty five percent (25%) of any provider (which person or group of persons is hereinafter referred to as "controlling person"). "Control" or "controlling interest" as used herein may be held simultaneously by more than one person or group of persons.

FCC: The federal communications commission, or any successor thereto.

FRANCHISE: The rights and obligation extended by the city to a provider to own, lease, construct, maintain, use or operate a system in the rights of way within the boundaries of the city. Any such authorization, in whatever form granted, shall not mean or include: a) any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city; b) any other permit, agreement or authorization required in connection with operations on rights of way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along the rights of way.

FRANCHISE AGREEMENT: A contract entered into in accordance with the provisions of this chapter between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

GROSS REVENUE: Includes all revenues of a provider that may be included as gross revenue within the meaning of chapter 26, title 11 Utah Code Annotated, 1953, as amended.

INFRASTRUCTURE PROVIDER: A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the rights of way.

OPEN VIDEO SERVICE: Any video programming services provided to any person through the use of rights of way, by a provider that is certified by the FCC to operate an open video system pursuant to sections 651, et seq., of the telecommunications act (to be codified at 47 USC title VI, part V), regardless of the system used.

OPEN VIDEO SYSTEM: The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or

facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the city.

OPERATOR: Any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

ORDINANCE OR TELECOMMUNICATIONS ORDINANCE: The telecommunications ordinance codified in this chapter concerning the granting of franchises in and by the city for the construction, ownership, operation, use or maintenance of a telecommunications system.

PSC: The public service commission, or any successor thereto.

PERSON: Includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the city.

PERSONAL WIRELESS SERVICES FACILITIES: Has the same meaning as provided in section 704 of the act (47 USC 332(c)(7)(c)), which includes what is commonly known as cellular and PCS services that do not install any system or portion of a system in the rights of way.

PROVIDER: An operator, infrastructure provider, resaler, or system lessee.

RESALER: Refers to any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

RIGHTS OF WAY: The surface of and the space above and below any public street, sidewalk, or other public way of any type whatsoever, now or hereafter existing as such within the city.

SIGNAL: Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

SYSTEM LESSEE: Refers to any person that leases a system or a specific portion of a system to provide services.

TELECOMMUNICATIONS: The transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video, and voice), without change in the form or content of the information sent and received.

TELECOMMUNICATIONS SERVICE(S) OR SERVICES: Any telecommunications services provided by a provider within the city that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the city, except that these terms do not include "cable service" as defined in the cable communications policy act of 1984, as amended by the cable television consumer protection and competition act of 1992 (47 USC section 521, et seq.), and the telecommunications act of 1996.

TELECOMMUNICATIONS SYSTEM OR SYSTEM: All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased or used by a provider, located in the rights of way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. Telecommunications system or systems also includes an open video system.

WIRE: Fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

12.28.050 NONEXCLUSIVE FRANCHISE

The city is empowered and authorized to issue nonexclusive franchises governing the installation, construction, and maintenance of systems in the city's rights of way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the city and provider.

12.28.060 EVERY PROVIDER MUST OBTAIN

Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights of way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the city is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.

12.28.070 NATURE OF GRANT

A franchise shall not convey title, equitable or legal, in the rights of way. A franchise is only the right to occupy rights of way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned, or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the city's property. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.

12.28.080 CURRENT PROVIDERS

Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date of the ordinance codified in this chapter shall request issuance of a franchise from the city within ninety (90) days of the effective date of said ordinance. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of SMC 12.28.450 of this chapter.

12.28.090 NATURE OF FRANCHISE

The franchise granted by the city under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights of way in order to provide services.

12.28.100 REGULATORY APPROVAL NEEDED

Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the city upon the written request of the city evidence of all such approvals, permits, authorizations or licenses.

12.28.110 TERM

No franchise issued pursuant to this chapter shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner.

12.28.120 COMPENSATION

As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:

- A. Application Fee: In order to offset the cost to the city to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the city, at the time of application, five hundred dollars (\$500.00) as a nonrefundable application fee.
- B. Franchise Fees: The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date. The franchise fee is offset by any business license fee or business license tax enacted by the city.

12.28.130 TIMING

Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty five (45) days of the close of each calendar month.

12.28.140 FEE STATEMENT AND CERTIFICATION

Unless a franchise agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.

12.28.150 FUTURE COSTS

A provider shall pay to the city or to third parties, at the direction of the city, an amount equal to the reasonable costs and reasonable expenses that the city incurs for the services of third parties (including, but not limited to, attorneys and other consultants) in connection with any renewal or provider initiated renegotiation, or amendment of this chapter or a franchise, provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.

12.28.160 TAXES AND ASSESSMENTS

To the extent taxes or other assessments are imposed by taxing authorities, other than the city on the use of the city property as a result of a provider's use or occupation of the rights of way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.

12.28.170 INTEREST ON LATE PAYMENTS

In the event that any payment is not actually received by the city on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.

12.28.180 NO ACCORD AND SATISFACTION

No acceptance by the city of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the city may have for additional sums payable.

12.28.190 NOT IN LIEU OF OTHER TAXES OR FEES

The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this chapter, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the city owned poles are not waived and remain applicable.

12.28.200 CONTINUING OBLIGATION AND HOLDOVER

In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.

12.28.210 COSTS OF PUBLICATION

A provider shall assume any publication costs associated with its franchise that may be required by law.

12.28.220 FRANCHISE APPLICATION

To obtain a franchise to construct, own maintain or provide services through any system within the city, to obtain a renewal of a franchise granted pursuant to this chapter, or to obtain the city approval of a transfer of a franchise, as provided in SMC 12.28.350B of this chapter, granted pursuant to this chapter, an application must be filed with the city on the form attached to ordinance 98-6 as exhibit A, which is hereby incorporated by reference. The application form may be changed by the mayor so long as such

changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.

12.28.230 APPLICATION CRITERIA

In making a determination as to an application filed pursuant to this chapter, the city may, but shall not be limited to, request the following from the provider:

- A. A copy of the order from the PSC granting a certificate of convenience and necessity;
- B. Certification of the provider's financial ability to compensate the city for provider's intrusion, maintenance and use of the rights of way during the franchise term proposed by the provider;
- C. Provider's agreement to comply with the requirements of article VI of this chapter.

12.28.240 FRANCHISE DETERMINATION

The city, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights of way, without competitive bidding.

12.28.250 GENERAL REQUIREMENT

No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this article governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the city or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with city utilities. A provider shall obtain an excavation permit, pursuant to the excavation ordinance, before commencing any work in the rights of way.

12.28.260 QUALITY

All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.

12.28.270 LICENSES AND PERMITS

A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including, but not limited to, any necessary approvals from persons and/or the city to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

12.28.280 RELOCATION OF THE SYSTEM

- A. **New Grades Or Lines:** If the grades or lines of any rights of way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance.
- B. **The City Authority To Move System In Case Of An Emergency:** The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights of way of the city, in which event the city shall not be liable therefor to a provider. The city shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in SMC 12.28.510 of this chapter.
- C. **A Provider Required To Temporarily Move System For Third Party:** A provider shall, upon prior reasonable written notice by the city or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the city for any such movement of its systems.
- D. **Rights Of Way Change; Obligation To Move System:** When the city is changing a rights of way and makes a written request, a provider is required to move or remove its system from the rights of way, without cost to the city, to the extent provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights of way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.

12.28.290 PROTECT STRUCTURES

In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the city. A provider shall obtain the prior written consent of the city to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights of way of the city required because of the presence of the system. Any such alteration shall be made by the city or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the city to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any municipal structure or any other rights of way of the city involved in the construction, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.

12.28.300 NO OBSTRUCTION

In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights of way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the city without the prior consent of the appropriate authorities.

12.28.310 SAFETY PRECAUTIONS

A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including, but not limited to, the national electric safety code.

12.28.320 REPAIR

After written reasonable notice to the provider, unless, in the sole determination of the city, an eminent danger exists, any rights of way within the city which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the city, at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the city shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights of ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the city the entire amount thereof.

12.28.330 SYSTEM MAINTENANCE

A provider shall:

- A. Install and maintain all parts of its system in a nondangerous condition throughout the entire period of its franchise.
- B. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the national electrical safety code and all applicable other federal, state and local laws or regulations.
- C. At all reasonable times, permit examination by any duly authorized representative of the city of the system and its effect on the rights of way.

12.28.340 TRIMMING OF TREES

A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights of way so as to prevent the branches of such trees from coming in contact with its system.

12.28.350 NOTIFICATION OF SALE

- A. Notification And Election: When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part; either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the city of the nature of the transaction. The notification shall include either:
 1. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement, or
 2. The successor entity's application in compliance with article V of this chapter.
- B. Transfer Of Franchise: Upon receipt of a notification and certification in accordance with SMC A1 of this section, the city designee, as provided in SMC 12.28.430A of this chapter, shall send notice affirming the transfer of the franchise to the successor entity. If the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer. The application shall comply with article III of this chapter.
- C. If PSC Approval No Longer Required: If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in SMC A of this section, and the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application. The application shall comply with article V of this chapter.

12.28.360 EVENTS OF SALE

The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with SMC 12.28.350 of this article: a) the sale, assignment or other transfer of all or a majority of a provider's assets to another person; b) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider; c) the issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or d) the entry by a provider into an agreement with respect to the management or operation of such provider or its system.

12.28.370 INSURANCE, INDEMNITY AND SECURITY

Prior to the execution of a franchise, a provider will deposit with the city an irrevocable, unconditional letter of credit or surety bond as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the franchise. A provider shall also indemnify the city as set forth in the franchise.

12.30 TELECOMMUNICATIONS TOWER FACILITIES

12.30.010 PURPOSE OF CHAPTER

12.30.020 APPLICABILITY

12.30.030 DEFINITIONS

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12.30.060 PROCEDURES

12.30.070 REVOCATIONS

12.30.080 APPEALS

12.30.010 PURPOSE OF CHAPTER

In recognition of the requirements of the federal telecommunications act of 1996, this chapter is designed and intended to balance the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the interest of Smithfield City in the regulation of land uses including telecommunications facilities within the city. Further, this chapter is enacted for the following purposes:

- A. To provide reasonable opportunities for the siting of telecommunications facilities;
- B. To reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to persons and property, and prosperity through protection of property values;
- C. To require cooperation and collocation to the highest extent possible between competitors where practical and consistent with goals of this chapter in order to reduce the cumulative negative impacts upon Smithfield City;
- D. To permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

- E. To ensure constant maintenance and safety inspections of these facilities;
- F. To provide for the removal of abandoned or discontinued facilities, and to provide a mechanism for Smithfield City to remove such facilities to protect the public from imminent harm or danger.

12.30.020 APPLICABILITY

This chapter applies to all construction and expansion of telecommunication towers and facilities, except as provided below.

- A. The following are exempt from the provisions of this chapter:
 - 1. Emergency Telecommunications Facility: Temporary telecommunications facilities for emergency communications by public officials.
 - 2. Amateur (Ham) Radio Services: Amateur (ham) radio services licensed by the federal communications commission.
 - 3. Parabolic (Dish) Antenna: A parabolic antenna that is accessory to a residential use of property.
 - 4. Maintenance, Repair Or Reconstruction: Maintenance and repair of a telecommunication facility and related equipment, provided that there is no change in the height of the facility or its use as described in the application for conditional use permit.
- B. Telecommunication facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the city's ordinances and regulations. Siting for telecommunication facilities is a use of land, and is addressed by this chapter.
- C. Telecommunication facilities shall not be considered an accessory use for either a residential or commercial property.

12.30.030 DEFINITIONS

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

ANTENNA: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), including, but not limited to, wireless telecommunications signals or other communication signals.

BACKHAUL PROVIDER: The provider who provides the facilities to connect a provider's telecommunications towers/facilities to one or more cellular switching sites, and/or long distance providers, or the public switched telephone network.

COLLOCATION: The use of a single support structure or site by more than one communications provider.

FAA: The federal aviation administration.

FCC: The federal communications commission.

GUYED TOWER: A communications tower that is supported, in whole or in part, by guywires and ground anchors.

HEIGHT: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

LATTICE TOWER: A guyed or self-supported structure with three (3) or four (4) sides, of open frame construction used to support communications equipment.

MONOPOLE TOWER: A telecommunication tower consisting of a single pole without guywires or ground anchors.

OSHA: The occupational safety and health administration.

PROVIDER: Any entity or individual licensed to provide communications over telecommunication facilities regulated by this chapter.

TELECOMMUNICATION TOWER/FACILITY: A tower or antenna, whether guyed or of monopole or lattice type design, or equipment and associated facilities constructed to transmit or receive signals for the purpose of providing communication services for commercial use. This definition includes, but is not limited to, radio, television, cellular, PCS, telephone and microwave towers.

12.30.040 APPLICATIONS

In addition to the application requirements defined in SMC 17.32 of this code for conditional use permits, all applications for telecommunication towers/facilities shall submit the following information (as applicable):

- A. A scaled site plan clearly indicating the location, type, and height of the proposed tower and related equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on site parking and driveways, tower and equipment setbacks from property lines, security fencing, planned access for maintenance personnel, and other information deemed by the building inspector to be necessary to assess compliance with this chapter;
- B. The separation distance between the proposed tower and the nearest property lines, rights of way, structures, and parking lots sufficient to evaluate compliance with SMC 12.30.050F;
- C. An inventory of the applicant's existing towers/facilities within Cache County north of Logan, Utah, including specific information about the location, height, and design of each tower. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within Cache County north of Logan, Utah. Smithfield City may disclose the location and ownership of existing telecommunications towers with other applicants applying for conditional use permits under this chapter within the jurisdiction of Smithfield City, provided, however that the city is not, by sharing this information, in any way representing or warranting that such sites are available or suitable for collocation facilities;
- D. A description of the type of service offered and the consumer receiving equipment;
- E. Identification of the provider and backhaul provider, if different;
- F. An engineer's analysis/report detailing the recommended size, coverage range, and site location area for the proposed facility. The applicant shall obtain from Smithfield City a map of the city and mark thereon the areas that are technically suitable for the proposed tower/facility on the basis of topography. If an existing structure within the area recommended by the engineer's report provides an opportunity for collocating, reasons for not collocating shall be provided and must demonstrate at least one of the following deficiencies:

1. The structure is not of sufficient height to meet engineering requirements;
 2. The structure is not of sufficient structural strength to accommodate the facility;
 3. Electromagnetic interference for one or both facilities will result from collocation and cannot be mitigated by reasonable technical means;
 4. The radio frequency coverage objective cannot adequately be met;
- G. A visual impact assessment including before condition photographs and after condition photographic simulations of the proposed facility showing what can be seen from one or more public viewpoints as selected by the building inspector;
- H. A written statement from the FAA regarding coloring and potential lighting requirements. If desired, the applicant may substitute for this statement other materials from the FAA that normally result from the FAA application process and meet the intent of this application requirement.
- I. Upon receipt of the application, the building inspector or other city staff shall provide a copy of the application and relevant materials to the Logan-Cache airport authority for coordination purposes.

12.30.050 REQUIREMENTS

- A. **Compliance With Federal Requirements:** All towers and antennas must meet or exceed current standards and regulations of the FAA, FCC, and any other applicable agency of the federal government. If such standards and regulations are changed, then the permit holder shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna, as abandoned, at the owner's expense.
- B. **Building Permits, Certificates Of Use And Occupancy:** The installation and/or construction of all telecommunications facilities subject to this chapter shall require a building permit and a certificate of use and occupancy. No telecommunications facility shall operate prior to the issuance of a certificate of use and occupancy.
- C. **Access Control And Security Fencing:** For telecommunication towers/facilities, a fence not less than six feet (6') in height from the finished grade shall be provided which completely encloses the tower, facilities, and associated equipment. Access shall be through a locked gate. Safeguards shall be provided to prevent unauthorized access to the telecommunication tower/facility. Safeguards include certain devices identified and recommended by the manufacturer of the antenna or support structure, and may include climbing guards, etc. Climbing systems on telecommunications towers shall meet OSHA requirements and shall be inaccessible to the public.
- D. **Guywires:** No guy or other support wires shall be used in connection with antennas or support structures, except when used to anchor the antenna(s) or support structure (s) to an existing building to which the equipment is attached.
- E. **Signs, Flags, And Lights:** All commercial or public service signs, flags, lights, floodlights, and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA or FCC shall be prohibited on any antenna or antenna structure. This prohibition shall include the attachment to the antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering, or revolving devices, but not including weather devices. Security lighting for on ground facilities and equipment shall comply with the Smithfield outdoor lighting ordinance, SMC 9.24 of this code. If any signage is required consistent with this standard, such signage shall comply with the requirements of SMC 17.36, "Signs", of this code.
- F. **Setbacks:** All telecommunication towers/facilities and associated equipment shall comply with the building setback provisions of the underlying zone in which the facility is located.
1. In order to ensure public safety from falling ice, debris, tools or materials, the minimum distance from the base of any tower to any property line, residential property, accessory apartment, occupied business or institutional structure and/or parking area, or public recreation area shall be equal to:
 - a. Two-thirds ($\frac{2}{3}$) of the height of the tower in the M-1 or A zones,
 - b. One hundred percent (100%) of the height of the tower in the CC or GC zones.
- G. **View Impacts:** Consideration shall be given to the placement of all telecommunication towers/facilities to minimize impacts to views.
- H. **Maintenance:** To ensure the structural integrity of towers and antennas, the owner of a telecommunications tower/facility shall ensure that they are maintained in compliance with applicable standards of the Electronic Industries Association, as amended from time to time.
- I. **Abandoned Facilities:** Any provider using telecommunications towers/facilities within Smithfield City shall provide the city with a copy of the notice to the FCC or other applicable agency of intent to cease operations. Regardless of whether such notice has been provided, any telecommunications tower/facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner shall remove the facilities at the owner's expense within one year from the date of said notice or within one year of receipt of a declaration of abandonment from the city unless:
1. There are two (2) or more providers collocated on the facility, in which case this provision shall not be effective until all providers cease using the facility, or
 2. Use of the facility is resumed by the provider or it is transferred to another provider who makes actual use of the facility.
- A declaration of abandonment shall only be issued following a public hearing with notice to the abutters and the last known owner/operator of the telecommunications tower/facility. Failure to remove such an abandoned telecommunications tower/facility within said one year shall constitute a violation under SMC 17.08.070, "Violation; Penalty", of this code. In addition to the penalties set forth in SMC 17.08.070 of this code, the city may have the telecommunications tower/facility removed at the owner's expense; provided, however, that recovery of expenses shall be limited to reasonable and documented costs of removal.
- J. **Bonding, Security, And Insurance:** Recognizing the hazardous situation presented by abandoned and unmonitored towers, the planning commission, at the time of review of the application for conditional use permit, shall set the form and amount of security that represents the estimated cost for removal and disposal of the abandoned telecommunications tower/facility in the event the tower is abandoned and the tower owner is incapable or unwilling to remove the tower. All security shall be maintained for the life of the tower. The city, as an administrative matter, may periodically require the amount of the security to be adjusted to cover the then current cost of removal and disposal. Proof of adequate insurance coverage for accident or damage shall be provided for all telecommunications towers/facilities prior to the issuance of a certificate of use or occupancy. Said proof shall be submitted to the city on an annual basis and placed on file. Failure to maintain adequate security for removal of an abandoned tower and/or adequate insurance coverage shall invalidate the certificate of use or occupancy.
- K. **Antennas Mounted On Buildings Or Existing Structures:** Antennas shall be mounted in such a manner that the distance from the wall of the building to the front of the antenna does not exceed ten inches (10"). Antennas and associated structures shall be painted to match the building or existing structure on which they are mounted. If cables are routed outside the building or structure, they shall be enclosed within cable trays, and the cable trays shall be painted to match the building or existing structure. For roof mounted antennas, cables shall be enclosed within cable trays or conduits.

12.30.060 PROCEDURES

The planning commission shall consider the application in accordance with the procedures and standards set forth in SMC 12 and 17.32, "Conditional Uses", of this code.

- A. Each conditional use permit for a telecommunications tower/facility shall be granted for a maximum of three (3) calendar years and shall expire on December 31 of the

third year regardless of the month in which it is granted. Renewals must be applied for and granted prior to the expiration date.

12.30.070 REVOCATIONS

Revocation of a conditional use permit for a telecommunications tower/facility shall be in accordance with the conditional use permits chapter, SMC 17.32.080, "Revocations", of this code.

12.30.080 APPEALS

Appeals to the decision of the planning commission may be pursued as described in the conditional use permits chapter, SMC 17.32.090, "Appeals", of this code.

13 PUBLIC SERVICES

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13.04 WATER SERVICE SYSTEM

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13.04.010 WATER DEPARTMENT AND SYSTEM

The water department of the municipality is created. It shall administer the operation and maintenance of the water systems of the municipality which shall include both culinary and secondary systems.

13.04.020 SUPERINTENDENT

There is created the position of superintendent of the water department.

13.04.030 DUTIES OF THE SUPERINTENDENT

The superintendent of the water system shall manage and supervise the municipal water system pursuant to the provisions of this chapter and pursuant to resolutions, rules and regulations adopted by the governing body from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the city manager relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the city manager.

13.04.040 APPLICATION FOR WATER CONNECTION

Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system, shall file with the water department for each such connection a written and signed connection application in substantially the following form:

SMITHFIELD, UTAH
APPLICATION FOR WATER CONNECTION
TO THE MUNICIPALITY OF SMITHFIELD

I hereby apply to the municipality of Smithfield for permission to connect my premises at with the municipality of water system and hereby agree as follows:

1. (a) *The municipality shall make the requested connection from its water main to and including the water meter and up to my property line or to the meter if the meter is installed within my property. I agree to pay the municipality the connection charges and fees as may be fixed by the governing body by resolution or ordinance including a reservoir charge if so provided.*

Additionally, I agree to pay \$ for inspection and overhead charges and other miscellaneous costs of the municipality as may be fixed by the governing body by resolution or ordinance.

The work of extending the water connection from the point to which the municipality installs it to the place at which the water is to be used shall be my responsibility and shall be performed at my sole cost.

(b) The connection so made by the municipality, including the meter, shall remain the property of the municipality at all times, and the municipality shall have access thereto at all times.

2. *The location of the meter, whether on my premises or at some point near my premises, may be decided solely by the municipality.*

3. *Before making connection with the water system, I shall cause the plumbing upon my premises to be inspected by the municipality and if the plumbing is not approved, I will cause the plumbing to be rectified at my own expense to meet the requirements of the municipality or of any other governmental agency having jurisdiction to regulate the water system within the municipality.*

4. *I will be bound by the rules, regulations, resolutions or ordinances enacted now or hereafter by the municipality applicable to the municipality's water system.*

5. *The purpose for which the water connection will be used is _____.*

6. *The municipality shall have free access to the lines and meters installed under this agreement and, at reasonable times, through my property if necessary.*

Dated this day of , 20_.

(Applicant)

13.04.050 APPLICATION FOR WATER CONNECTION BY SUBDIVIDER

Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

13.04.060 APPLICATION FOR WATER SERVICE

Any person who desires or is required to secure water service when such service is available from the municipal water system, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:

SMITHFIELD, UTAH
APPLICATION FOR WATER SERVICE
TO THE MUNICIPALITY OF SMITHFIELD, UTAH

The undersigned hereby applies for water service from the municipality of Smithfield, Utah, for premises located at , and hereby agrees:

1. *To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.*

2. *In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention, until all delinquencies and any reconnection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.*

3. *To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality's water system.*

Applicant does hereby deposit \$ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit issued by the municipality at the time the deposit is made.

4. *That the deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to*

avoid delinquency.

Dated this day of , 20_.

(Applicant)

13.04.070 NONOWNER APPLICANTS; AGREEMENT OF OWNER

Applications for water service made by the tenant of an owner must in addition to the above requirements be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent in substantially the following form:

In consideration of the acceptance of the application for water service submitted by (tenant), I or we will pay for all water services for any such tenant or any other occupant of premises in case such tenant or occupant shall fail to pay for the same according to the ordinances, rules regulations or resolutions enacted by the municipality.

Dated this day of , 20_.

(Owner)

13.04.080 RATES AND CONNECTION FEES

The rates, penalty fee for delinquent payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the municipal water system shall be fixed from time to time by resolution enacted by the governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of services established or that may hereafter be established.

13.04.090 SPECIAL RATES

The governing body may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.

13.04.100 BOARD OF EQUALIZATION, RATES AND REBATES

The governing body is constituted a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person.

13.04.110 USE WITHOUT PAYMENT PROHIBITED

It is unlawful for any person by himself, family, servants or agents to utilize the municipal water or sewer system without paying therefor, as provided in this chapter or, without authority, to open any fire hydrant, stopcock, valve or other fixtures attached to the water supply unless it is done pursuant to proper application, agreement or resolution. It is unlawful to injure, deface or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system.

13.04.120 DELINQUENCY; DISCONTINUANCE OF SERVICE

- A. The recorder/clerk or water supervisor shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against him once each month or at such other regular interval as the governing body shall direct.
- B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges within thirty (30) days of the date due, the recorder/clerk or water supervisor shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within five (5) days from the date of notice.
- C. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges must have been paid to the treasurer or arrangements made for their payment in a manner satisfactory to the municipality. In the event water is turned off for nonpayment of water charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on and off as the governing body may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge of five dollars (\$5.00) for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The recorder/clerk is authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the municipality.

13.04.130 TURNING ON WATER AFTER BEING TURNED OFF PROHIBITED

It is unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the superintendent or recorder/clerk.

13.04.140 SEPARATE CONNECTIONS

It is unlawful for two (2) or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the governing body and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the municipality for all water services utilized on all such premises. Nothing in this section shall be deemed to preclude the power of the municipality to require separate pipes, connections or meters at a subsequent time.

13.04.150 UNAUTHORIZED USERS

It is unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises.

13.04.160 PERIOD FOR VISITORS' WATER USE

Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed two (2) months. Continued use thereafter shall be deemed unauthorized and violative of the provisions of this chapter relating to separate connections and unauthorized use.

13.04.170 PIPES TO BE KEPT IN GOOD REPAIR

All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the water superintendent shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

13.04.180 QUALITY OF SERVICE PIPE

- A. All service and other pipe used in conjunction with the water services of the municipality shall be of such material, quality and specifications as the governing body may from time to time by resolution provide, and shall be installed at such distances below ground as may be specified by regulations relating to the water department. All work, alterations or extensions affecting water pipes shall be subject to the acceptance of the water superintendent, and no connections with any water mains shall be made without first obtaining a permit therefor from the recorder/clerk.
- B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him.

13.04.190 UNLAWFUL ACTS

It is unlawful for any water user to:

- A. Waste water;
- B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow;
- C. Wastefully run water from hydrants, faucets or stops or through basins, water closets, urinals, sinks or other apparatus;
- D. Use the water for purposes other than those for which he has applied, or to use water in violation of the rules and regulations for controlling the water supply.

13.04.200 SPRINKLING VEHICLES

Vehicles for sprinkling shall be regulated and controlled by the water department through the superintendent of the water department.

13.04.210 DEPARTMENT TO HAVE FREE ACCESS

The water superintendent and his agents shall at all ordinary hours have free access to any place supplied with water services from the municipal system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use.

13.04.220 NONLIABILITY FOR DAMAGES

The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the governmental immunity act.

13.04.230 WATER NOT SUPPLIED FOR MOTORS, SYPHONS, ETC.

No water shall be supplied from the pipes of the municipal water system for the purpose of driving motor, syphon, turbine or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the governing body.

13.04.240 SPRINKLERS

- A. It is unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which have such effect.
- B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this chapter.

13.04.250 SCARCITY OF WATER

In time of scarcity of water, whenever it shall, in the judgment of the mayor and the governing body, be necessary, the mayor shall by proclamation limit the use of water to such extent as may be necessary. It is unlawful for any person, his family, servants or agents, to violate any proclamation made by the mayor in pursuance of this chapter.

13.04.260 WASTE OF WATER

- A. Users of water from the municipal water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the water superintendent or of any of the officers of the municipality, a user of municipal water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue such wastefulness has been given, the superintendent or any officer may refer the matter to the governing body.

- B. The governing body 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 service 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 the termination.
- C. 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.
- D. After due hearing, the governing body 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.

13.04.270 WATER METERS

- A. Except as otherwise expressly permitted by this chapter, all structures, dwelling units, establishments and persons using water from the municipal water system must have such number of water meters connected to their water system as are necessary in the judgment of the superintendent to adequately measure use and determine water charges to the respective users.
- B. Meters will be furnished by the municipality upon application for a connection, and upon payment of such connection fees and other costs as may be established by the governing body from time to time by resolution.
- C. Meters shall be deemed to be and remain the property of the municipality. Whenever a dispute between superintendent and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the governing body after due notice in writing to the parties involved.
- D. The superintendent shall cause meter readings to be taken regularly and shall advise the recorder/clerk thereof for the purpose of recording the necessary billings for water service.
- E. Meters may be checked, inspected or adjusted at the discretion of the municipality, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the municipality unless special permission is given by the municipality through its representatives to the customer to do so.
- F. If a customer submits a written request to the superintendent to test his water meter, the municipality may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve (12) months after the date of the last previous test, the customer may be required to pay the cost of such test. If the meter is found in such test to record from ninety seven percent (97%) to one hundred three percent (103%) of accuracy under methods of testing satisfactory to the governing body, the meter shall be deemed to accurately measure the use of water.
- G. If the municipality's meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than ninety seven percent (97%) or more than one hundred three percent (103%) of accuracy, the municipality shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.
- H. All damages or injury to the lines, meters or other materials of the municipality on or near the customer's premises caused by any act or neglect of the customer shall in the discretion of the municipality be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the municipality through its efforts to repair the damage to the lines, meters or to other equipment of the department or collect such costs from the customer.

13.04.280 PERMITS FOR INSTALLATION

It is unlawful for any person to lay, repair, alter or connect any water line to the municipal culinary water system without first having received a construction permit from the office of the recorder/clerk or from the water superintendent.

13.04.290 APPLICATIONS FOR INSTALLATION PERMIT

- A. Applicants for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the municipal water system must be made in writing by a licensed plumber, his authorized agent or by the owner of the premises who shall describe the nature of the work to be done for which the application is made.
The application shall be granted if the superintendent determines that:

- 1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main;
- 2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the municipality.
All connections, alterations or installations shall be to the line and grade designated by the water superintendent.

- B. Fees for permits or for inspection services shall be of such amounts as the governing body shall from time to time determine by resolution.

13.04.300 MOVING OR REPLACEMENT OF WATER LINES

In the event that the municipality in its sole discretion determines that any water line of the municipality must be moved or replaced, the municipality shall bear that portion of the cost of such move or replacement which applies to main lines up to the property line of the customer. The cost of reconnecting such new line or lines from the house of the customer to his property line shall be borne by the customer.

13.04.310 BUILDINGS MUST MEET PROVISIONS OF BUILDING AND PLUMBING CODES

Permission to connect with the municipal water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the municipality.

13.04.320 DISCONTINUANCE OF SERVICE

Any customer desiring to discontinue service shall notify the municipality in writing of such fact at least ten (10) days before the date when such service shall be discontinued. On giving such written notice, the customer shall not be responsible for water bills incurred after the date specified in the notice. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded upon discontinuance of service.

13.04.330 FIRE HYDRANTS

Water for fire hydrants will be furnished free of charge by the municipality. Installation and repairs on such hydrants shall be at the expense of the municipality and shall be made under the direction of the municipality. All customers shall grant the municipality, upon demand, a right of way or easement to install and maintain such hydrants on their premises if the municipality concludes that hydrants shall be so installed for the protection of the residents of the municipality.

13.04.340 EXTENSION OF WATER MAINS WITHIN THE MUNICIPALITY

Any person or persons, including any subdivider, who desires to have the water mains extended within the municipality, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the governing body by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the water superintendent. The governing body may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the municipality.

13.04.350 COST OF EXTENSIONS DETERMINED

Upon the receipt of such petition and map and before the petition is granted, the governing body shall obtain from the water superintendent a certified statement showing the whole cost of expense of making such extension.

13.04.360 AMOUNT OF COST TO BE DEPOSITED WITH RECORDER

If the governing body grants the petition, the amount of the cost of making the extension, as certified by the superintendent, shall be deposited with the recorder/clerk before any work shall be done on such extension. The deposit shall be made within thirty (30) days, or such other time as the governing body shall indicate, after the granting thereof.

13.04.370 RETURN OF ANY MONEY; FORFEITURE

- A. At the time the governing body decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.
- B. In the event any deposit remains unclaimed for a period of five (5) years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund.

13.04.380 OWNERSHIP OF EXTENSION

Any such extension shall be deemed the property of the municipality.

13.04.390 SUPPLY OF WATER SERVICES TO PERSON OUTSIDE THE MUNICIPAL LIMITS

The municipality may furnish water service from its water system to persons outside the municipality in accordance with the provisions of this chapter.

13.04.400 PETITION FOR SERVICE

Any person located outside the municipal limits and within the area designated in the Smithfield City annexation policy declaration who desires to be supplied with water services from the municipal water system may make application to the governing body by petition containing:

- A. A description of the proposed extension;
- B. A map showing the location thereof;
- C. An offer to pay the entire expense incurred by the municipality in providing such extension beyond the municipal limits and to advance such expense as shall be verified to by the city engineer or water superintendent;
- D. An acknowledgement that in time of scarcity of water, whenever it shall in the judgment of the mayor and the governing body be necessary, the mayor may by proclamation limit the use of water to such extent as may be necessary. It is unlawful for any person, his family servants or agent, to violate any proclamation made by the mayor in pursuance of this condition;
- E. An acknowledgement that the applicant's request will be limited to one tapage for one home with no other hook ups to be run off that one home and restricted to residential areas only unless specifically approved by the governing body;
- F. An offer to give two (2) shares of water stock in the Logan, Hyde Park and Smithfield Canal Company or shares of an equivalent value in the Logan Northern Canal Company or the Smithfield Irrigation Company, and pay a water tapage fee at the same price as established for tappings within the municipal limits;
- G. An acknowledgement that the charge for water usage will be as established by the municipality for water sales outside the municipal limits;
- H. A deposit equal to the minimum charge for two (2) billing periods shall be presented to the city. It is agreed and understood that the municipality may apply the deposit as payment toward past due water service bills and on final settlement of applicant's account, any unused balance of the deposit will be refunded to the applicant upon termination of the service;
- I. An acknowledgement that should it become necessary for the municipality to turn on water at the request of the applicant for the convenience of the applicant, or for nonpayment or other violation of this chapter, a minimum fee of fifteen dollars (\$15.00) will be assessed;
- J. A statement whereby the applicant agrees to sign an application for water service and agrees to pay such sums as required by this chapter and be bound by the terms set forth in said application.

13.04.410 EXTENSIONS MAY BE MASTERMETERED

When an extension supplying more than one house or user outside the municipal limits is connected to municipal 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 municipal main. This installation will be at the expense of the persons for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.

13.04.420 COST OF EXTENSIONS WITHIN MUNICIPAL LIMITS

Upon receipt of such petition and map and before the petition is granted, the governing body shall determine what portion, if any, of the proposed extension situated within the municipal limits the municipality shall construct, and shall obtain from the city engineer or water superintendent a verified statement showing the whole cost and expense of

making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the municipal water department, which shall in no event be deemed to be less than ten percent (10%) of the cost of materials and labor.

13.08 CROSS CONNECTION CONTROL

13.08.010 PURPOSE OF CHAPTER

13.08.020 DEFINITIONS

13.08.030 RESPONSIBILITY

13.08.040 PLUMBING OFFICIAL

13.08.050 CERTIFIED BACKFLOW ASSEMBLY TECHNICIAN

13.08.060 POLICY

13.08.070 REQUIREMENTS

13.08.080 VIOLATION; PENALTY

13.08.010 PURPOSE OF CHAPTER

- A. To protect the public potable water supply of Smithfield City from the possibility of contamination or pollution by isolating within the user's internal distribution system (s) or private water system(s) such contaminants or pollutants which could backflow into the public water systems;
- B. To promote the elimination or control of existing cross connections, actual or potential, between the users in-plant potable water system(s), and nonpotable water system(s), plumbing fixtures and industrial piping system(s); and
- C. To provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

13.08.020 DEFINITIONS

For the purposes of this chapter:

APPROVED BACKFLOW ASSEMBLY: A device currently listed as acceptable by the International Association of Plumbing and Mechanical Officials.

AUXILIARY WATER SUPPLY: Any water supply on or available to the premises other than the municipality's public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another municipality's public potable water supply or any natural source(s) such as a 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 municipality does not have authority for sanitary control.

BACK PRESSURE: The flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of a potable water supply system from any source (s) other than the intended source.

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.

BACKFLOW: The reversal of the normal flow of water caused by either back pressure or back siphonage.

BACKFLOW PREVENTION ASSEMBLY: An assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Utah plumbing code, chapter 10, (appendix J), and the cross connection control program for Utah. All backflow prevention assemblies must be approved by the Utah department of health, bureau of general sanitation, prior to installation. A listing of these approved backflow prevention assemblies may be found in the cross connection control program for Utah.

CONTAMINATION: An impairment of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

CROSS CONNECTION: Any physical connection or arrangement of piping or fixtures between two (2) otherwise separate piping systems one of which contains potable water and the other nonpotable water or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system. This would include any temporary connections, such as swing connections, removable sections, four- way plug valves, spools, dummy sections of pipe, swivel or changeover devices or sliding multiport tubes.

CROSS CONNECTION CONTAINMENT: The installation of an approved backflow assembly at the water service connection to a 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 shall mean 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).

CROSS CONNECTION CONTROLLED: A connection between a potable water system and nonpotable 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.

SUPERINTENDENT: The person designated to be in charge of the water department of Smithfield City and who 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.

13.08.030 RESPONSIBILITY

- A. The water superintendent shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the water superintendent an approved backflow prevention assembly is required (at the user's water service connection; or, within the user's private water system) for the safety of the water system, the water superintendent or his designated agent shall give notice in writing to said user to install such an approved backflow prevention assembly(s) at specific location(s) on his premises. The user shall immediately install such approved assembly(s) at the user's own expense; and failure, refusal or inability on the part of the consumer to install, have tested and maintain said

assembly(s) shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

- B. In the absence of a designated water superintendent the city engineer shall assume the powers and responsibilities of the water superintendent as designated in this chapter.

13.08.040 PLUMBING OFFICIAL

- A. The building inspector of Smithfield City has the responsibility to not only review building plans and inspect plumbing as it is installed, but he/she has the explicit responsibility of preventing cross connections from being designed and built into the structures within his/her jurisdiction. Where the review of building plans suggests or detects a potential for a cross connection being made an integral part of the plumbing system, the building inspector has the responsibility to require such cross connections be either eliminated, or provided with an approved backflow prevention assembly in accordance with the plumbing code.
- B. The building inspector's responsibility begins at the point of service (the downstream side of the meter) and carries throughout the entire length of customer's water system. The building inspector should inquire about the intended use of water at any point where it is suspected that a cross connection might be made or where one is actually called for by the plans. When such a cross connection is discovered, it will be mandatory that a suitable, approved backflow prevention assembly be required by the plans and be properly installed, in accordance with the Utah plumbing code as adopted by Smithfield City.

13.08.050 CERTIFIED BACKFLOW ASSEMBLY TECHNICIAN

- A. When employed by the user to test, repair, overhaul and/or maintain backflow prevention assemblies, a backflow prevention assembly technician will have the following responsibilities:
 - 1. Be responsible for insuring acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies;
 - 2. Make reports of such testing and/or repair to the user, water superintendent and the bureau of public water supplies on forms approved for such use by the bureau of public water supplies;
 - 3. The report shall include the list of materials or replacement parts used;
 - 4. It is the technician's responsibility to ensure replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired;
 - 5. It will be the technician's responsibility not to change the design, material or operational characteristics of the assembly during repair or maintenance;
 - 6. A certified technician shall perform the work and be responsible for the competence and accuracy of all tests and reports;
 - 7. It will be the technician's responsibility to ensure his license is current, the testing equipment being used is acceptable to the state and is in proper operating condition;
 - 8. Failure to report a failing assembly to the bureau of public water supplies and the municipality in writing within five (5) working days, may be grounds for revocation of the technician's certification;
 - 9. He shall be equipped with and be competent to use all necessary tools, gages and other equipment necessary to properly test, repair and maintain backflow prevention assemblies;
 - 10. The certified technician must tag each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and air gaps, showing the serial number, date tested and by whom. The technician's license number must also be on this tag.
- B. In the case of user requiring a commercially available technician, any certified technician is authorized to make the test and report the results of that test to the user, municipality and the bureau of public water supplies.

13.08.060 POLICY

- A. No water service connection to any premises shall be installed or maintained by the municipality unless the water supply is protected as required by state laws, regulations, codes and this chapter. Service of water to any premises shall be discontinued by the municipality if a backflow prevention assembly required by this chapter for control of backflow and cross connections is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.
- B. The user's system shall be open for inspection at all reasonable times to authorized representatives of the municipality to determine whether cross connections or other structural or sanitary hazards, including violation of this chapter, exist. When such a condition becomes known, the water superintendent 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, water supplies and the regulations adopted pursuant thereto.
- C. An approved backflow prevention assembly shall be installed on each service line to a customer'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, whenever the water superintendent deems the protection of the water supply to be in the best interest of the water supply customer.
- D. The type of protective assembly required under SMC B of this section shall depend upon the degree of hazard which exists at the point of cross connection (whether direct or indirect), as stipulated in the uniform plumbing code, SMC 10.
- E. 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 SMC A of this section, be excluded from the requirements of these rules so long as the water superintendent 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 superintendent finds that the maintenance of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this chapter.

13.08.070 REQUIREMENTS

- A. It shall be the duty and responsibility of the user at any premises where backflow prevention assemblies are installed to have certified inspection and operational tests made at least once per year at the user's expense. In those instances where the water superintendent deems the hazard to be great, he may require certified inspections and tests at a more frequent interval. These inspections and tests shall be performed by a certified backflow assembly technician, licensed through the state department of health. It shall be the duty of the water superintendent to see that these tests are made according to the standards set forth by the state department of health, bureau of public water supplies.
- B. Backflow prevention assemblies shall be installed whenever the water superintendent deems the protection of the water supply to be in the best interest of the water supply customers. The superintendent shall also decide which backflow prevention assemblies will be installed in water supply lines to provide at least a degree of protection stipulated in the uniform plumbing code SMC 10.
- C. All backflow prevention assemblies installed in a potable water supply for protection against backflow shall be maintained in good working condition by the person or persons having control of such assemblies. The state department of health, bureau of public water supplies and the municipality having jurisdiction, may inspect such

assemblies and, if found to be defective or inoperative, shall require the replacement thereof. No assembly shall be removed from use, relocated or another assembly substituted without the approval of the municipality.

D. All backflow prevention assemblies shall be tested within ten (10) working days of installation.

E. 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.

13.08.080 VIOLATION; PENALTY

Any person violating the provisions of this chapter shall be deemed guilty of a class B misdemeanor and punished accordingly and subject to such fine and imprisonment allowed for a class B misdemeanor under this code.

13.12 WATER UTILITY CAPITAL IMPROVEMENT SINKING FUND

13.12.010 FUND ESTABLISHED

13.12.020 PURPOSE OF FUND

13.12.030 USE OF REVENUES

13.12.040 FUND TO BE INVESTED

13.12.050 CHARGE FOR WATER TAPS

13.12.010 FUND ESTABLISHED

There is established a water utility capital improvement sinking fund for the purpose of accruing money to improve the culinary water supply for the city water distribution system.

13.12.020 PURPOSE OF FUND

The fund shall be used to maintain and provide adequate services to all citizens, to increase storage capacity, increase sources of water through developing new springs and wells, improvements to existing well and storage, improving the distribution system by upgrading of pipes, pressure stations, valves, etc., and purchase of major equipment and materials to maintain the water system.

13.12.030 USE OF REVENUES

The revenues for this fund shall be derived from an additional assessment, over and above the estimated actual costs of materials and installation on all water tappings installed after January 1, 1976.

13.12.040 FUND TO BE INVESTED

The fund shall be invested in permitted investments to draw the highest interest possible.

13.12.050 CHARGE FOR WATER TAPS

The governing body is empowered to change the water tapping charge and the amount of assessment to be placed into the water utility capital improvement fund from time to time by resolution.

13.16 SEWER SERVICE SYSTEM

13.16.010 SEWER DEPARTMENT AND SYSTEM CREATED

13.16.020 SUPERINTENDENT OF THE SEWER DEPARTMENT CREATED

13.16.030 DUTIES OF THE SUPERINTENDENT

13.16.040 SEWER HOOKUP FEES AND SERVICE RATES

13.16.050 ESTABLISHMENT OF FEES

13.16.060 SPECIAL RATES

13.16.070 BOARD OF EQUALIZATION, RATES AND REBATES

13.16.080 PERMITS FOR INSTALLATIONS

13.16.090 WHEN PERMITS SHALL NOT BE ISSUED

13.16.100 INDUSTRIAL USE PERMITS

13.16.110 WASTE HAULER PERMIT

13.16.120 REVOCATION OF PERMITS

13.16.130 DELINQUENCY; DISCONTINUANCE OF SERVICE

13.16.140 USE OF SEWER SYSTEM MANDATORY

13.16.150 SEPARATE BUILDING CONNECTIONS NECESSARY

13.16.160 SERVICE LINE EXTENSION

13.16.180 OWNERSHIP OF SERVICE LINES

13.16.190 CONFORMANCE TO BUILDING AND PLUMBING CODES

13.16.200 COMPACTION

13.16.210 EXCAVATION

13.16.220 INSPECTION

13.16.230 SERVICE LINES

13.16.240 DEPARTMENT TO HAVE FREE ACCESS

13.16.250 INJURING SEWER OR DISCHARGING OIL AND OTHER SUBSTANCES PROHIBITED

13.16.260 MANHOLE COVERS

13.16.270 PROCEDURE FOR DISPOSAL SYSTEM ABANDONMENT

13.16.280 STORM WATERS, ETC., PROHIBITED IN SANITARY SEWERS

[13.16.290 DISCHARGE OF STORM WATER AND OTHER UNPOLLUTED DRAINAGE](#)
[13.16.300 WATERS AND WASTES PROHIBITED IN PUBLIC SEWERS](#)
[13.16.310 GREASE, OIL AND SAND INTERCEPTORS MAY BE REQUIRED; SPECIFICATIONS](#)
[13.16.320 MAINTENANCE OF GREASE, OIL AND SAND INTERCEPTORS](#)
[13.16.330 OXYGEN REQUIREMENT](#)
[13.16.340 MODIFICATION OF WASTEWATER OR EFFLUENT FLOW](#)
[13.16.350 DUMPING OF WASTE BY WASTE HAULERS](#)
[13.16.360 INDUSTRIAL PRETREATMENT; DEFINITIONS](#)
[13.16.370 LIMITATIONS; FEDERAL STANDARDS PREVAIL WHEN](#)
[13.16.380 PRELIMINARY TREATMENT PROVIDED BY DISCHARGER](#)
[13.16.390 COMPLIANCE SCHEDULE](#)
[13.16.400 REPORTING REQUIREMENTS FOR DISCHARGER](#)
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[13.16.420 MONITORING](#)
[13.16.430 CONFIDENTIAL INFORMATION](#)
[13.16.440 PRELIMINARY TREATMENT](#)
[13.16.450 ENFORCEMENT OF INDUSTRIAL PRETREATMENT PROGRAM](#)
[13.16.460 RECOVERY OF COSTS](#)
[13.16.470 PETITION FOR SERVICE OUTSIDE CITY](#)
[13.16.480 EXTENSIONS MAY BE MASTERMETERED](#)
[13.16.490 VIOLATION; PENALTY](#)

13.16.010 SEWER DEPARTMENT AND SYSTEM CREATED

The sewer department is created. It shall comprise all of the property, equipment and personnel necessary to the maintenance and operation of the municipality's sewage collection and disposal system. The department shall administer the operation and maintenance of the municipal sewer system.

13.16.020 SUPERINTENDENT OF THE SEWER DEPARTMENT CREATED

There is created the position of the superintendent of the sewer department.

13.16.030 DUTIES OF THE SUPERINTENDENT

The superintendent of the sewer department shall manage and supervise the municipality's sewer system under the direction of the governing body which from time to time shall by resolution or otherwise prescribe his powers and duties and direct the manner and frequency with which he shall make reports to the mayor relating to the sewer system.

13.16.040 SEWER HOOKUP FEES AND SERVICE RATES

- A. The term "residential users", as used in SMC C of this section, shall include and apply to each dwelling unit within, but not limited to, an apartment, a condominium and any other multiple-family dwelling, as well as to single-family residences.
- A. The connection fees for each user to hook on to the city's sewage system have been previously established by the council and they are incorporated in this section by reference.
- B. The monthly service charge for the use of or the right to use the city's sewage system shall be set, until further resolution by the city council, as follows:

SEWER RATES	
User	Rate
Residential	\$ 21 .75
Business (residential equivalent)	25 .00
Stake centers	30 .50
Churches and seminary	25 .00
Summit School	51 .50
Sunrise School	41 .50
Sky View High School	134 .00
Del Monte Corporation	52 .50
Lower Meat Packing	84 .50
Drive-in restaurants	40 .50
Car wash	40 .50
Medical clinics, chiropractic clinics and dentist offices	35 .00
Business (residential equivalent and regulated)	35 .00

- C. The assessment of the monthly service charge shall commence as of September 1, 1989, shall be assessed monthly thereafter and shall apply to all residents, users or patrons of the sewage system to whom sewer service is available on that date. Said monthly service charge shall be assessed against the remaining residents, users or patrons and against future residents, users or patrons of the sewage system as of the date sewer service is made available to them and shall be so assessed monthly

thereafter.

- D. The patrons of the sewer system to whom sewer service is available as of September 1, 1989, shall be billed for all of the month of September, 1989, on or about October 1, 1989, and shall be billed on a monthly basis thereafter. The remaining or future residents, users or patrons of the sewage system shall be billed on or about the first day of the month, after sewer service is available to them for the monthly service charge relating to the month the sewer service first became available to them and shall be billed on a monthly basis thereafter. All sewer service charges shall be due on the due date specified on the statement from the city and shall be delinquent if not paid on or before the thirtieth day after said due date. Such sewer service charges which are not paid on or before the thirtieth day after the due date shall be subject to a service charge on the amount remaining unpaid from said thirtieth day until paid at the rate of one and one-half percent (1 1/2%) per month which is an annual percentage rate of eighteen percent (18%) per annum or one dollar (\$1.00) per month, whichever is greater.
- E. All sewer connection fees as provided in SMC B of this section shall be due and paid at the time the permit for connection referred to in SMC 13.16.080 through 13.16.120 of this chapter is obtained from the city or by the sixtieth day after the date of the notice from the city to each user or patron of the sewage system that the service is available to them for use, whichever is earlier. Connection fees related to new construction after the date of the ordinance codified herein shall be paid at the time the building permit is issued and as a condition to its issuance. Any connection fees not paid by the due date specified above shall be subject to a service charge on the amount unpaid from such due date until paid at the rate of one and one-half percent (1 1/2%) per month which is an annual percentage rate of eighteen percent (18%) per annum unless exception is approved by the city council.
- F. The Smithfield city council expressly reserves the right to avail itself of any and all remedies allowed by law, and in particular those granted in this chapter, in order to enforce the payment of all fees outlined in this section. This shall be interpreted to mean that the city shall also have the right to terminate water services, after notice, and to otherwise utilize the provisions of SMC 13.16.130 of this chapter in order to enforce the payment of the sewer connection fees set by the city in the event of any delinquency in the payment thereof. The provisions of said SMC 13.16.130 and any other relevant provisions shall apply equally with respect to the nonpayment of service charges and connection fees. In this regard, the turn on fee, after a termination for nonpayment, referred to in SMC 13.16.130D of this chapter is set at fifteen (\$15.00) dollars.

13.16.050 ESTABLISHMENT OF FEES

The rates, penalty fee for delinquency in payment and connection fees for sewer services from the municipal sewer system shall be fixed from time to time by resolution or ordinance of the governing body. The governing body may from time to time enact rules for levying, billing, guaranteeing and collecting charges for sewer services and all other rules necessary for the management and control of the sewer system.

13.16.060 SPECIAL RATES

The governing body may from time to time fix by agreement or resolution special rates conditioned 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.

13.16.070 BOARD OF EQUALIZATION, RATES AND REBATES

The governing body is 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.

13.16.080 PERMITS FOR INSTALLATIONS

It is unlawful for any person to directly or indirectly engage in the laying, repairing, altering or connecting of any drain or sewer pipe connected with or part of the municipal sewer system without first having received a permit from the office of the recorder or the city engineer.

13.16.090 WHEN PERMITS SHALL NOT BE ISSUED

Permits to connect to the municipal sewer system shall not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of the building and plumbing codes of the municipality.

13.16.100 INDUSTRIAL USE PERMITS

Any industrial user of the sewer producing industrial wastes (other than domestic household wastes) will be required to apply for a permit. Such notice shall be given by the Logan City engineer or his delegate and an application for permit on a form supplied by the Logan City engineer must be filed with the Logan City engineer within thirty (30) days after receipt of notice. Within thirty (30) days after the application is received, the Logan City engineer or his delegate shall issue a permit good for not more than one year, which shall contain as a minimum the following information:

- A. Applicable pretreatment standards and/or discharge limits;
- B. A compliance deadline date or effective date of limits;
- C. Reporting requirements as appropriate;
- D. A statement of the effective date, the expiration date and the authority to revoke in the event of noncompliance;
- E. Any person discharging industrial waste into the sewer system without a permit, or in violation of the terms of the permit shall be guilty of a class C misdemeanor.

13.16.110 WASTE HAULER PERMIT

Waste haulers shall not be permitted to dispose of waste in the Smithfield City sewer system. The dumping of concentrated waste shall be at a location designated by Logan City and within thirty (30) days after written notice, any waste hauler shall be required to apply for a permit at the office of the Logan City engineer. Within thirty (30) days after application, the Logan City engineer or his delegate shall issue a permit which shall include the following:

- A. Duration of the permit which shall be not more than one year;
- B. A requirement that the waste hauler submit a manifest form for any waste to be deposited in the Logan City sewer system which shall include the name of the customer, the type of waste and the estimated volume of waste. The waste hauler must certify that the manifest is true, accurate and complete. No waste from oil, sand or grease traps will be accepted for discharge into the sewer system;
- C. A requirement that the waste hauler be subject to a fee of fifteen dollars (\$15.00) for the dumping of a vehicle capacity of not more than one thousand five hundred (1,500) gallons and thirty dollars (\$30.00) for the dumping of any vehicle of a capacity of more than one thousand five hundred (1,500) gallons. The actual contents of the vehicle shall not be determinative of the fee, but the vehicle's capacity shall be determinative.

13.16.120 REVOCATION OF PERMITS

All construction permits for sewer connections or installations shall be issued to the plumber who is to do the work or to the owner of the property, with supervision and inspection by the city engineer or his agents. The city engineer or his agents may at any time revoke a permit because of defective work or because of undue delay in completing the permitted work.

13.16.130 DELINQUENCY; DISCONTINUANCE OF SERVICE

- A. The sewer department, or such other person as the governing body may designate, shall furnish to each user by mail or leave at his place of residence or usual place of business, a written or printed statement stating the sewer service charges assessed against him once each month or at such other regular intervals as the governing body shall direct. The statement shall specify the amount of the bill, the place of payment and the date due.
- B. If any person fails to pay his sewer charges within thirty (30) days of the date due, the recorder or the city engineer shall give the customer notice in writing of the intent to discontinue the service of water to the premises unless the customer pays the bill in full within five (5) days from the date of notice.
- C. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all delinquent sewer charges must have been paid to the municipal treasurer or arrangements made for their payment that are satisfactory to the municipality.
- D. In the event water is turned off for nonpayment of sewer charges, before the water services to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the governing body may have established by resolution or ordinance.
- E. If any person fails to pay his sewer charges within thirty (30) days of the due date, the recorder or the city engineer is authorized to take all action necessary to enforce collection, including, but not limited to, the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for all the amount of the delinquent fees and service charges and all costs of collection, including court costs and reasonable attorney fees.

13.16.140 USE OF SEWER SYSTEM MANDATORY

- A. It is 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 feet (300') of any street, alley or way in which a public sewer is then in existence and used in the city, to construct or permit to be constructed or to use, or to permit to be used, any privy vault, septic tank or cesspool connected with such building. Each owner or other person shall, within sixty (60) days after having been given notice by the city that an accepted public sewer is ready to receive connections, cause such building to be connected with said sewer (except that if such building shall not, at the time such notice is given, have therein any toilet or toilets, the owner or other person having charge thereof or occupying such building shall have a period of 2 years in which to connect it with such public 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 said building is connected or which is used by the occupant thereof. Whenever an accepted public sewer is available to receive connections therewith, the city engineer 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 said public sewer is ready to receive connections therewith and then all plumbing must be connected with such sewer.
- B. Whenever the owner, agent or other person having charge of or occupying any property coming within the scope of this section has been properly notified to make connection with an available public sewer and has not made or caused to be made such connection, or when such connection has been made but the connection charge therefor has not been paid, any water and sewer service to such premises shall immediately be discontinued.

13.16.150 SEPARATE BUILDING CONNECTIONS NECESSARY

A separate and independent building sewer shall be provided for every building; except where an accessory building stands at the rear of a main building and a private sewer cannot be constructed to the accessory building through an adjoining alley, court, yard or driveway. In such case, the building sewer from the front building may be extended to the rear accessory building and the whole considered as one building sewer. Both buildings must be under common ownership and the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

13.16.160 SERVICE LINE EXTENSION

Once the application for sewer service has been made and accepted and the required fees have been paid by the applicant, the city shall extend sewer service to the applicant's property line or one hundred feet (100'), whichever is less, at which point it will be terminated.

13.16.180 OWNERSHIP OF SERVICE LINES

Except in cases where special arrangements have been made by written agreement, all sewer service lines connecting the sewer system to a landowner's or resident's premises shall be deemed to be the property of the property owner or resident even though actual installation may have been performed by others. It shall further be the responsibility of the property owner or resident to maintain the sewer service line from the main collection line to the property or residence in good repair.

13.16.190 CONFORMANCE TO BUILDING AND PLUMBING CODES

The size, slope, alignment, materials of construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF manual of practice no. 9 shall apply.

13.16.200 COMPACTION

At the time of installation of sewer lines or sewer service pipe, and thereafter as may be recommended or required by the city engineer, compaction of all sewer line or sewer service pipe trenches located within city rights of way shall be strictly required. Method of compaction shall be dependent upon the type of soil and location of the trench and shall be at the discretion of the city engineer. Such trenches shall be approved by the city engineer after on site inspection and testing.

13.16.210 EXCAVATION

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the city.

13.16.220 INSPECTION

The applicant for the building sewer permit shall notify the city engineer when the building sewer is ready for inspection and connection to the public sewer. The connection and testing must be made under the supervision of the city engineer or his agent.

13.16.230 SERVICE LINES

- A. **Pipes To Be Kept In Good Repair:** All users of the sewer services shall keep their service pipes, connection and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the city engineer, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.
- B. **Quality Of Service Pipe:** All service and other pipes used in conjunction with the sewer services of the municipality shall be of such material, quality and specifications as the governing board may from time to time by resolution provide and shall be installed at such distances belowground as may be specified by regulations relating to the sewer department. All work, alterations or extensions affecting sewer pipes shall be subject to the acceptance of the sewer superintendent or city engineer, and no connections with sewer mains shall be made without first obtaining a permit therefor from the recorder.
- C. **Old Service Connections:** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city engineer, to meet all requirements of this chapter.
- D. **Cleanouts:** A cleanout consisting of a wye, a four inch (4") pipe to the surface and a plug must be installed at or near the property line and all bends.
- E. **Trial Sewer Survey:** In order to determine the feasibility of connecting a basement or proposed basement to the sanitary sewer, the owner or plumber may make application for a trial sewer survey, the cost of which shall be as established from time to time by resolution of the governing body. The result of a trial sewer survey shall not constitute a permit to connect to the sewer and is merely for information purposes.

13.16.240 DEPARTMENT TO HAVE FREE ACCESS

The city engineer and his agents shall at all ordinary hours have free access to places supplied with sewer services from the municipal system for the purpose of examining the apparatus, ascertaining the sewer service being used and the manner of its use.

13.16.250 INJURING SEWER OR DISCHARGING OIL AND OTHER SUBSTANCES PROHIBITED

It is unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any mud or dirt or any inflammable gas, gasoline, oil or grease of any kind from automobiles, or any calcium carbide or residue therefrom, or any liquid or other material or substance which will evolve an inflammable gas when in contact with water, sewage or fire.

13.16.260 MANHOLE COVERS

It is unlawful for any person to open any sewer manhole, or in any way interfere with the same, without permission from the city engineer or his agent.

13.16.270 PROCEDURE FOR DISPOSAL SYSTEM ABANDONMENT

When a dwelling served by an individual wastewater disposal system is connected to a public sewer, the existing system shall be abandoned and made safe and shall be disconnected from and bypassed with the building sewer.

13.16.280 STORM WATERS, ETC., PROHIBITED IN SANITARY SEWERS

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

13.16.290 DISCHARGE OF STORM WATER AND OTHER UNPOLLUTED DRAINAGE

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the city engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city engineer, to a storm sewer or natural outlet.

13.16.300 WATERS AND WASTES PROHIBITED IN PUBLIC SEWERS

Except as provided in this chapter, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- A. Any liquid or vapor having a temperature heated to a degree and in amounts which will inhibit biological activity in the publicly owned treatment works resulting in interference or which would cause the temperature of the wastewater entering the treatment works to exceed one hundred four degrees (104°);
- B. Any water or wastewater that contains solid or viscous substances in amounts which obstruct flow in sewers or interfere with the wastewater treatment system;
- C. Any gasoline, benzine, naphtha, fuel oil or other flammable or explosive liquid, solid or gas or any other pollutant which might create a fire or explosion hazard in the sewer collection or treatment;
- D. Any garbage that has not been properly shredded;
- E. 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;
- F. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity either singly or by interaction with other pollutants, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create any hazard in the receiving waters of the sewage treatment plant or to exceed the limitations set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the federal water pollution control act;
- G. Any waters or wastes containing suspended solids or other pollutants, including oxygen demanding pollutants, of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
- H. Any noxious or malodorous gas or substance capable of creating a public nuisance;

- I. Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the director of public works in compliance with applicable state or federal regulations;
- J. Any substance which will cause a violation in the discharge permit or receiving water quality standards.

13.16.310 GREASE, OIL AND SAND INTERCEPTORS MAY BE REQUIRED; SPECIFICATIONS

Grease, oil and sand interceptors shall be provided when, in the opinion of the city engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection.

13.16.320 MAINTENANCE OF GREASE, OIL AND SAND INTERCEPTORS

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

13.16.330 OXYGEN REQUIREMENT

The admission into the public sewers of any waters or wastes having a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight or having an average daily flow greater than two percent (2%) of the average daily sewage flow of the city shall be subject to the review and approval of the city engineer.

13.16.340 MODIFICATION OF WASTEWATER OR EFFLUENT FLOW

No discharger shall dilute the wastewater or increase the effluent flow as a means to keep BOD less than three hundred (300) parts per million nor shall a discharger use dilution as a means of compliance with any other regulation of pollutants under this chapter.

13.16.350 DUMPING OF WASTE BY WASTE HAULERS

The dumping of waste into the Smithfield City sewer system by waste haulers is prohibited. All such waste shall be disposed of in the Logan City sewer system at a location designated by the Logan City engineer and there only after a permit has been secured by the haulers.

13.16.360 INDUSTRIAL PRETREATMENT; DEFINITIONS

CATEGORICAL PRETREATMENT STANDARD: Any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 207(b) and (c) of the federal water pollution control act (title 33 USC 1347) which applies to a specific category of industrial users.

REGULATED INDUSTRY: An industrial user directly or indirectly discharging to the city sewer system that satisfies any of the following:

- A. Has a flow of fifty thousand (50,000) gallons or more per average work day;
- B. Has a flow greater than five percent (5%) of the flow carried by the Smithfield sewer system;
- C. Has in its waste a toxic pollutant in toxic amount as defined under section 307(a) of the clean water act of 1977 (federal register dated January 31, 1978); or
- D. If found by the city to have a significant impact on the treatment works or the quality of effluent from the Logan City treatment works.

13.16.370 LIMITATIONS; FEDERAL STANDARDS PREVAIL WHEN

- A. Upon the promulgation of federal categorical pretreatment standards for a particular industrial category, developed pursuant to 40 CFR, section 403.6, the federal standard, if more stringent than limitations imposed in this chapter for resources in that category, shall immediately supersede the limitations imposed in this chapter. The city engineer shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.
- B. Notwithstanding the foregoing federal categorical pretreatment standards, the city reserves the right to change local limits as circumstances may require which limits may be more stringent than the federal standards. Provided, however, that the city engineer shall notify all affected users of any new and more stringent local standards not less than thirty (30) days prior to the effective date of the new local standards.

13.16.380 PRELIMINARY TREATMENT PROVIDED BY DISCHARGER

Where necessary, in the opinion of the engineer, a discharger shall provide, at his expense, such preliminary treatment as may be necessary to assure the elimination of all pollutants or other materials the discharge of which is prohibited by this chapter. If necessary, a spill prevention, containment and control plan shall also be developed. Plans, specifications and other pertinent information relating to the proposed preliminary treatment facilities shall be submitted for the approval of the city engineer, and no construction of such facilities shall be commenced until said approval is obtained in writing.

13.16.390 COMPLIANCE SCHEDULE

- A. Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.
- B. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this chapter, including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and all other acts necessary to achieve compliance with this chapter.
- C. Under no circumstance shall the city permit a time increment for any single step directed toward compliance which exceeds nine (9) months.
- D. Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the city, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the city.

13.16.400 REPORTING REQUIREMENTS FOR DISCHARGER

- A. Compliance Date Report: Within ninety (90) days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this

chapter or ninety (90) days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to this chapter shall submit to the city a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger.

B. Periodic Compliance Reports:

1. Any discharger subject to a pretreatment standard set forth in this chapter, after the compliance date of such pretreatment standard, or, in the case of a new discharger, after commencement of the discharge to the city, shall submit to the city during the months of June and December, unless required more frequently by the city, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards of this chapter. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period required in this section. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility consideration justify, the city may accept reports of average and maximum flows estimated by verifiable techniques. The city, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles or other extenuating factors, may authorize the submission of said reports on months other than those specified in this section.
2. Reports of dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature of concentration, or production and mass where required by the city. The frequency of monitoring by the discharger shall be as prescribed in the applicable pretreatment standard of this chapter.

- C. Analysis Procedure:** All analyses shall be performed in accordance with 40 CFR, part 136 and amendments thereto. Where 40 CFR, part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis may be performed in accordance with the procedures set forth in the EPA publication, "Sampling And Analysis Procedures For Screening Of Industrial Effluents For Priority Pollutants", April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the U.S. EPA or by any other reasonable method approved by the city.

13.16.410 CONTROL MANHOLE

When required by the city engineer, the owner or occupier of any property or building served by a sewer carrying industrial wastes which, in the opinion of the city engineer, needs to be monitored to assure compliance with this chapter, shall install a suitable control manhole in the sewer to facilitate observation, sampling and measurement of the wastes. Such manholes, when required, shall be accessible at all times.

13.16.420 MONITORING

- A. Monitoring Facilities:** Each discharger whose effluent, in the opinion of the city engineer, needs to be pretreated or monitored, shall provide and operate at the discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the treatment works. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger, the city may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger. Sampling procedures shall be in accordance with guidelines provided by the city.
- B. Facilities Maintained In Accordance With Standards:** All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within one hundred twenty (120) days of written request by the city engineer to install such facilities.
- C. Inspection And Sampling:** The city may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the city or its representatives to enter upon the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling or records examination. The city shall have the right to set upon the discharger's property such devices as are necessary to conduct sampling, inspection compliance, monitoring and/or metering operations. At the city engineer's request, at the discharger's expense, the discharger shall do such monitoring and testing, inspection or sampling as the city engineer deems necessary to assure compliance with this chapter. The results of all such activities shall be immediately available to the city.
- D. Published List Of Noncompliant Dischargers:** The city shall annually publish in a local newspaper a list of the dischargers which were not in compliance with applicable pretreatment requirements at least once during the previous twelve (12) months.

13.16.430 CONFIDENTIAL INFORMATION

- A. Information and data furnished to the city with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, process or methods of production entitled to protection as trade secrets or proprietary information of the discharger.**
- B. When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available upon written request to governmental agencies for uses related to this chapter; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.**
- C. Information accepted by the city as confidential shall not be transmitted to any governmental agency until and unless a ten (10) day notification is given to the discharger.**
- D. All dischargers subject to this chapter shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the city pursuant to this chapter shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. If after monitoring, sampling and testing, etc., the city engineer deems it necessary that the discharger pretreat his effluent in order to comply with this chapter, he shall do so at his own expense and according to the compliance schedule established for the discharger after being so instructed by the engineer.**

13.16.440 PRELIMINARY TREATMENT

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation, by the owner or discharger at his own expense.

13.16.450 ENFORCEMENT OF INDUSTRIAL PRETREATMENT PROGRAM

- A. **Emergency Suspension Of Service:** The city may, for good cause shown, suspend the wastewater treatment service to a discharger when it appears to the city that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of person, substantial danger to the environment, interfere with the operation of the treatment plant or violate any pretreatment limits imposed by this chapter. Any discharger notified of the suspension of the city's wastewater treatment service, shall, within a reasonable period of time, as determined by the city, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the city shall commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The city shall reinstate the wastewater treatment service and terminate judicial proceedings pending upon proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth in this subsection.
- B. **Revocation Of Treatment Services:** The city may seek to terminate the wastewater treatment services to any discharger which fails to:
 - 1. Factually report the wastewater constituents and characteristics of its discharge;
 - 2. Report significant changes in wastewater constituents or characteristics;
 - 3. Refuses reasonable access to the discharger's premises by representatives of the city for the purpose of inspection or monitoring; or
 - 4. Violates the conditions of this chapter or any final judicial order entered with respect thereto.
- C. **Notification Of Violation; Administrative Adjustment:** Whenever the city finds that any discharger has engaged in conduct which justifies termination of a wastewater treatment service, the city shall serve notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty (30) days of the receipt of the notice, the discharger shall respond personally and in writing to the city, advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof.
- D. **Show Cause Hearing:** Where the violation of SMC B of this section is not corrected by timely compliance by means of administrative adjustment, the city may order any discharger which causes or allows conduct prohibited by SMC B of this section to show cause before the city or its duly authorized representative, why the proposed service termination should not be taken. A written notice shall be served on the discharger by personal service, certified or registered, return receipt requested, specifying the time and place of a hearing to be held by the city or its designee regarding the violation, the reasons why this enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the city or its designee why the proposed enforcement action should not be taken. The notice of hearing shall be served not less than ten (10) days before the hearing. Service may be made on any agent, officer or authorized representative of a discharger. The proceedings at the hearing shall be considered by the city which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or state law.
- E. **Judicial Proceedings:** Following the entry of any order by the city with respect to the conduct of a discharger contrary to the provisions of this chapter, the attorney for the city may, following the authorization of such action by the city, commence an action for appropriate legal and/or relief in the appropriate court.
- F. **Right Of Appeal:** Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the city on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and state law.
- G. **Falsifying Information:** Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this section or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, shall upon conviction be punished by the imposition of a penalty of not more than three hundred ninety nine dollars (\$399.00) or by imprisonment for not more than six (6) months or by both.

13.16.460 RECOVERY OF COSTS

Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the city's wastewater disposal system, shall be liable to the city for any expenses, loss or damage caused by such violation or discharge. The city shall bill the discharger for the costs incurred by the city for any testing, analysis, cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of this chapter, or other applicable law.

13.16.470 PETITION FOR SERVICE OUTSIDE CITY

Any person located outside the municipal limits of Smithfield City who desires sewer service may make application to the governing body by petition containing:

- A. A description of the proposed extension;
- B. A map showing the location thereof;
- C. An offer to pay the entire expense incurred by the municipality in providing such extension beyond the municipal limits and to advance such expense as shall be verified to by the city engineer;
- D. An acknowledgement that the applicant's request will be limited to one hook up for one home. No other connections will be permitted to be run off the approved hook up;
- E. An acknowledgement that the hookup fee and the monthly charge for sewer service will be at the rate established by the municipality for sewer service outside the municipal limits;
- F. A deposit equal to the minimum charge for two (2) billing periods shall be presented to the city. It is agreed and understood that the municipality may apply the deposit as payment toward past due sewer service bills and on final settlement of the applicant's account, any unused balance of the deposit will be refunded to the applicant upon termination of the service;
- G. A statement whereby the applicant agrees to adhere to all regulations contained within the sewer use ordinance of Smithfield City;
- H. An acknowledgement that if the applicant fails to pay his sewer charges within thirty (30) days of the date due, the recorder or the city engineer shall give the customer notice in writing of the intent to physically discontinue sewer service to the premises unless the customer pays the bill in full within five (5) days from the date of notice. If the sewer service is thereafter discontinued for failure to make payment of the sewer service charges, before the service to the premises shall again be provided, all delinquent sewer charges must have been paid to the municipal treasurer or arrangements made for their payment that are satisfactory to the municipality;
- I. The undersigned agrees to sign an application for sewer service and agrees to pay such sums as required by this chapter and be bound by the terms set forth in said application.

13.16.480 EXTENSIONS MAY BE MASTERMETERED

When an extension serving more than one house or user outside the municipal limits is connected to the municipal sewer system, the city engineer may require a master meter to be installed near the point where the connection is to be made to the municipal line. This installation will be at the expense of those persons being metered. Responsible parties must agree to pay all bills for sewer service through the meter at the applicable rates.

13.16.490 VIOLATION; PENALTY

Any person or entity violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding thirty (30) days. Each day of violation shall be deemed a separate offense.

13.20 WASTEWATER DISPOSAL CODES

13.20.010 INDIVIDUAL WASTEWATER (SEWAGE) DISPOSAL CODE ADOPTED

13.20.020 INDIVIDUAL WASTEWATER REGULATIONS; CODE MODIFIED

13.20.030 SMALL UNDERGROUND WASTEWATER DISPOSAL SYSTEM CODE ADOPTED

13.20.010 INDIVIDUAL WASTEWATER (SEWAGE) DISPOSAL CODE ADOPTED

Part IV, "Individual Wastewater Disposal Systems", of the code of waste disposal regulations, adopted by the Utah division of health and the Utah state committee on water pollution in May 1965, as revised by action of the board in June 1967, and issued and published as a code in book form, three (3) copies of which have been filed for use and examination by the public in the office of the recorder/clerk, and which established rules and regulations relating to the disposal of domestic wastewater discharge from single homes, multiple dwellings containing not more than four (4) individual family units, and commercial installations serving not more than fifty (50) persons per day, is adopted by the municipality as the ordinance relating to individual wastewater disposal systems within the municipality except as such code may be altered or modified by the provisions of this chapter.

13.20.020 INDIVIDUAL WASTEWATER REGULATIONS; CODE MODIFIED

The "Smithfield City Regulations For Individual Wastewater Disposal Systems", is adopted and officially made a part of this chapter by the municipality as a regulation modifying part IV, "Individual Wastewater Disposal Systems", of the Utah code of waste disposal regulations adopted by reference in SMC 12.20.010 of this chapter, and is published as a code in book form, three (3) copies of which have been filed for use and examination by the public in the office of the recorder/clerk of this municipality. In the event of a conflict between the Smithfield City regulations and part IV of the state health department regulations the more restrictive regulations shall prevail.

13.20.030 SMALL UNDERGROUND WASTEWATER DISPOSAL SYSTEM CODE ADOPTED

Part V, "Small Underground Wastewater Disposal Systems", of the code of waste disposal regulations, adopted by the Utah division of health and Utah state committee on water pollution in May 1965, as revised by action of the board June 2, 1967, and June 21, 1967, and issued and published as a code in book form, three (3) copies of which have been filed for use and examination by the public in the office of the recorder/clerk, is adopted by the municipality as the small underground wastewater disposal systems code within the municipality, except as it may be altered or modified by the provisions of this or the preceding chapter. Occupancies in existing buildings may be continued as provided in the uniform building code, except as to those structures which are found to be substandard as defined in the housing code.

13.24 STORM WATER SEWER SYSTEM

13.24.010 PURPOSE OF CHAPTER

13.24.020 DEFINITIONS

13.24.030 POTENTIAL HAZARD DECLARED

13.24.040 STORM WATER SEWER UTILITY CREATED; RESPONSIBILITIES

13.24.050 OWNERSHIP OF CITY STORM WATER FACILITIES AND ASSETS

13.24.060 NO POLLUTED WATERS DISCHARGED TO STORM SEWERS

13.24.070 SYSTEM OF RATES AND CHARGES

13.24.080 BILLING AND COLLECTION

13.24.090 APPEAL OF CHARGES

13.24.010 PURPOSE OF CHAPTER

A. Purpose And Objectives: The purposes and objectives of this chapter are to:

1. Provide and maintain a storm water sewer system for handling storm water runoff;
2. Provide fair, equitable and nondiscriminatory rates and charges for a storm water sewer system and related services which will generate sufficient revenues for operating, improving and maintaining the storm water sewer utility at a level commensurate with storm water sewer management needs. The rates and charges shall be set by considering needed revenues and the amount of impervious surface on developed parcels and the respective storm water runoff characteristics of the parcel, and apply said rates and charges consistently for the same class of customers; and
3. Establish a policy that present and future rates and charges for this service should be fixed with consideration of the difference in cost fairly allocated to the various customers based upon such factors as: the intensity of development of the parcel; the types of development on the parcel; the cost of maintenance, operation, repair and improvements of the various parts of the utility; the quantity and quality of the runoff generated; and other factors which present a reasonable basis for distinction, and which will allow for management of the storm sewer system in a manner that protects the public health, safety and welfare.

B. Method Of Determining Contribution Of Storm Water:

1. Contributions of storm water from nonresidential properties and residential properties larger than fourplexes have been determined through aerial photography and land surface evaluation and measurement of the number of square feet of impervious surface.
2. Contributions of storm water from residential parcels up to and including fourplexes have been determined through a statistically significant sample of impervious areas within these classifications.

13.24.020 DEFINITIONS

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

CITY: Smithfield City Corporation, a municipal corporation of the state of Utah.

COUNCIL: The city council.

CUSTOMER OR PERSON: Any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the state or its departments, institutions, bureaus, agencies; county; city; political subdivision; or any other governmental or legal entity recognized by law.

DEVELOPED PARCEL: Any parcel which has been altered by grading or filling of the ground surface, or construction of any improvement or other impervious surface area thereon.

DWELLING UNIT: A building or other structure or portion thereof, in which: (a) an individual resides as a separate housekeeping unit, or (b) a collective body of persons (doing their own cooking) resides as a separate housekeeping unit in a domestic bond based upon birth, marriage, domestic employment or other family relationship, as distinguished from a boarding house, lodging house, club, fraternity, motel or hotel.

EQUIVALENT RESIDENTIAL UNIT (ERU): A configuration of development, or impervious surfaces on a parcel, contributing runoff to the city's storm water sewer system or which represents the estimated use of the system that is approximately equal to that contributed by a single-family residential parcel. A single-family residential parcel has been determined to contain an average of four thousand seven hundred (4,700) square feet of impervious surface. One ERU is equal to four thousand seven hundred (4,700) square feet of impervious surface area.

IMPERVIOUS SURFACE: That hard surface area of a parcel which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that which would be present under natural conditions. Impervious surfaces may include, but are not limited to: rooftops; concrete or asphalt paving; walkways; patios; driveways; parking lots or storage areas; trafficked gravel; or other surfaces which similarly impede the natural infiltration into the ground or runoff of storm and surface water.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER REGULATIONS: The provisions of the federal clean water act establishing specific permit requirements for the control of storm water discharges.

NONPOLLUTED: When used in connection with water or any other referenced medium, means that such medium shall not have been contaminated with a pollutant, as defined in this chapter.

ON PARCEL MITIGATION OR MITIGATION: Storm water control facilities designed to city standards located on the parcel, which either holds runoff for a short period of time and releases it to the storm water sewer system, or holds water for a considerable length of time and disperses it by evaporation or infiltration into the ground.

PARCEL: The smallest separately segregated unit or plot of land, with a person or persons identified as owner(s); having boundaries, and surface area, which is documented and given a property number by Cache County ("county").

POLLUTION OR POLLUTANT: The manmade or man induced alteration of the chemical, physical, biological and radiological integrity of water, including, but not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

SINGLE-FAMILY RESIDENTIAL PARCEL: Any parcel of land which is improved with a dwelling unit as defined in this section.

STORM WATER: Water produced by storms, surface drainage, snow and ice melt, spring flows, ground water and other water handled by the storm water sewer system.

STORM WATER FACILITIES: Any facility, improvement, development, property or interest therein made, constructed or acquired for purposes of controlling storm water quantity and quality.

STORM WATER SEWER SYSTEM: The city storm water system comprised of storm water facilities, streets and any other features which store, control, treat and/or convey storm water.

STORM WATER SEWER UTILITY OR UTILITY: The utility created through this chapter which operates, maintains, regulates and improves storm water facilities and programs within Smithfield City.

UNDEVELOPED PARCEL: Any parcel which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area which affects the hydraulic properties of the parcel.

13.24.030 POTENTIAL HAZARD DECLARED

The city council finds and declares that absent effective maintenance, operation, regulation and control, existing storm water drainage conditions within the city constitute a potential hazard to the health, safety, welfare and property of the city inhabitants. All manmade storm water facilities and conveyances, and natural storm water drainage within the city's limits, except those included under authorization issued to counties by state law for management of certain storm water runoff, constitutes the city's storm water sewer system.

13.24.040 STORM WATER SEWER UTILITY CREATED; RESPONSIBILITIES

There is created and established a storm water sewer utility to be known as a storm water sewer utility.

13.24.050 OWNERSHIP OF CITY STORM WATER FACILITIES AND ASSETS

Upon establishment of the storm water sewer utility city's storm sewer assets shall be transferred to the utility. The utility shall operate, maintain and improve all city storm sewer facilities used for the conveyance of storm waters, through, under or over lands, watercourses, beginning at a point where storm waters first enter the storm sewer system of the city and ending in each instance at a point where the storm waters exit from the system. Governmentally owned streets, and storm water facilities operated and maintained by, or for, the state or county shall not be deemed storm water facilities.

13.24.060 NO POLLUTED WATERS DISCHARGED TO STORM SEWERS

The only substances dischargeable under this chapter into the city's storm sewer are storm water, surface drainage, subsurface drainage, ground water, roof runoff, cooling water or nonpolluted water. Such waters may be discharged only into storm sewers which have adequate capacity for the accommodation of such waters. Such discharged waters shall comply with the city's storm water quality standards.

13.24.070 SYSTEM OF RATES AND CHARGES

- A. Rates And Charges: There are hereby imposed storm sewer service fee rates and charges on each parcel of real property within the city, except governmentally owned streets and storm water facilities operated and maintained by, or for, the state and county. The charges shall fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of existing and future storm water facilities.
- B. Residential Service Charges: The utility's residential service charges shall be as outlined in the city's latest prevailing fee schedule.
- C. Undeveloped Parcels: Undeveloped parcels shall have no charges assessed against such parcels.
- D. Other Parcels: The charge for all other parcels shall be based upon the total square feet of measured impervious surface divided by four thousand seven hundred (4,700) square feet or one ERU, and rounded to the nearest whole number. The actual total monthly service charge shall be computed by multiplying the total ERUs for a parcel by the established monthly nonresidential ERU charge. In all cases, the calculated nonresidential service charge shall not be less than the established residential service charge.

13.24.080 BILLING AND COLLECTION

- A. **Billing:** The department of public utilities shall cause billings for storm water sewer utility services to be rendered periodically to the person who is the owner of the parcel, or the owner's agent, who has signed for water and sanitary sewer service to the parcel. The amounts to be billed shall be included on the existing utilities bill as a separate line item. A storm water only billing will be sent to those persons who are owners of parcels within the city, but are not currently city utility customers.
- B. **Collection:**
 - 1. **Partial Payment:** In the event partial payment is made on a combined bill, the payment shall be applied to each service on a pro rata basis.
 - 2. **Delinquency:** In the event of delinquency, fees and charges levied in accordance herewith shall be a debt due the city. If this debt is not paid within thirty (30) days after billing, it shall be deemed delinquent and subject to recovery in a civil action and/or said department shall have the right to terminate water and sewer services to the premises. Any uncollected amount due from the person or persons who own the parcel on any inactive, terminated or discontinued account may be transferred to any active account under the same person's or persons' name(s) and, upon failure to pay such bill after at least five (5) days' prior written notice, water and other city services to that account and parcel may be discontinued.
 - 3. **Restoration Of Service:** Water, sewer, garbage and storm sewer service shall not be restored until all charges have been paid in full.
 - 4. **Utility Enterprise Fund:** There is created the only sewer utility enterprise fund. All funds received from such storm sewer service charges shall be placed in the enterprise fund and left separate and apart from all other city funds. The collection, accounting and expenditure of all only storm water sewer utility funds shall be in accordance with existing fiscal policy of the city.

13.24.090 APPEAL OF CHARGES

- A. Any owner or person who considers the city's only charge applied to their parcel to be inaccurate, or who otherwise disagrees with the utility rate determination, may apply to the city engineer for a service charge adjustment. Such a request shall be in writing and state the grounds for such an appeal. The city engineer shall review the case file and determine whether an error was made in the calculation or application of the fee and make an adjustment to the charge, if necessary, to provide for proper application of the city's rates and charges pursuant hereto. In all cases, the decision of the city engineer shall be final unless appealed.
- B. Any appeal under this chapter shall be filed in writing with the city engineer no later than twenty (20) days after said billing. Any subsequent appeal shall be brought within twenty (20) days after the date of the appealed decision.
- C. Appeal of decisions made by the city engineer may be brought before the city council who may reevaluate the issue raised in the appeal. Decisions of the city council shall be final and conclusive.
- D. Nothing in this chapter shall be construed to grant a right to judicial review which does not otherwise exist at law.

13.26 STORM SEWER GENERALLY

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13.26.070 MUD, DIRT AND DEBRIS ON CITY STREETS

13.26.080 DAMAGE TO STORM SEWER SYSTEM OR IRRIGATION LINES

13.26.090 REQUIREMENTS FOR SUMPS

13.26.100 MANHOLE COVERS

13.26.110 DRINKING WATER PROTECTION

13.26.120 NOTICE OF VIOLATION

13.26.130 VIOLATION AND PENALTY

13.26.140 COMPLIANCE WITH FEDERAL AND STATE LAW

13.26.010 DEFINITIONS

The following words and phrases shall be defined as follows for the purpose of this chapter and SMC 13.32 of this title:

BEST MANAGEMENT PRACTICES (BMPs): A wide range of management procedures, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which have 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. A list of sample BMPs can be found in the most current version of the APWA manual of standard specifications.

CATCH BASIN: A drain inlet designed to keep out large or obstructive matter.

CITY MANAGER/ADMINISTRATOR: The city of Smithfield City manager, city administrator or his or her designee.

CLEAN UP: To restore to a condition equal to or better than its preconstruction condition.

CONSTRUCTION ACTIVITY: Activities subject to NPDES construction activity permits. These include construction projects resulting in land disturbances of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

DEBRIS: Any dirt, rock, sand, vegetation, rubbish or litter.

DECHLORINATED WATER: Water with all traces of chlorine removed.

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 manmade 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.

DIRECTOR: The city engineer or public works director of the city of Smithfield or his duly appointed deputy, agent, or representative.

DISTURB: To alter the physical condition, natural terrain or vegetation of land by clearing, grubbing, grading, excavating, filling, building or other construction activity.

DRAIN INLET: A point of entry into a sump, detention basin, or storm drain system.

HAZARDOUS MATERIAL: Any material, including any substance, waste, or 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 CFR part 116 pursuant to section 311 of the clean water act.

ILLICIT CONNECTION: Illicit connection means either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system. Examples include, but are not limited to, any conveyances which allow nonstorm water discharge such as sewage, process wastewater, or wash water to enter the storm drain system, and any connections to the storm drain system from indoor drains or sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
- B. Any drain or conveyance connected to or discharging to the storm drain system, which has not been: 1) documented in plans, maps, or equivalent records submitted to the city, and 2) approved in writing by the city.

ILLICIT DISCHARGE: Any nonstorm water discharge to the stormsewer system. Illicit discharges include both direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm sewer system) and indirect connections (e.g., infiltration 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.

NONSTORM 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 residue, 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 accumulations, that may cause or contribute to pollution; floatables; pesticides, herbicides, 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 resins); and noxious or offensive matter of any kind.

PRETREATMENT: A structure or process that removes sediment, oils and floatables from storm water.

PUBLIC IMPROVEMENT BOND: A security acceptable to the city to ensure proper completion of required public improvements associated with public and private land development.

REDEVELOPMENT: Alterations of a property that change the footprint of a site or building.

STORM DRAIN: A closed conduit for conducting collected storm water.

STORM SEWER SYSTEM: The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, detention basins, curbs, gutters, ditches, manmade channels, sumps, storm drains, and ground water) owned and operated by the city, which is designed and used for collecting 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, that 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.

13.26.020 PURPOSE

The purpose of this chapter and SMC 13.28 of this title is to minimize the pollutants that enter rivers and lakes through storm water runoff. Federal and state mandates require that municipalities such as Smithfield adopt ordinances and policies that meet the requirements of the environmental protection agency's (EPA) "national pollutant discharge elimination system" (NPDES). The ordinance codified herein seeks to meet that purpose through the following objectives:

- A. Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
- B. Minimize increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality;
- C. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable.
- D. Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
- E. Minimize damage to public and private property.

13.26.030 PROHIBITED ACTIVITIES

The following activities are prohibited and unlawful, and shall be considered a nuisance under SMC 8.28 of this code, regardless of whether or not the violator has a storm water construction activity permit:

- A. **Covering Sidewalk:** Covering any portion of a curb, gutter or sidewalk with mud, dirt or debris and failing to remove the mud, dirt or debris before leaving the site. In no case shall the mud, dirt or debris be left overnight.
- B. **Washing Vehicles And Equipment:** Washing any vehicle or equipment in a manner that: 1) leaves concrete, mud, dirt or debris on a public or private street or on any portion of the public right of way, or 2) allows concrete, mud, dirt or debris to enter the storm sewer system.

13.26.040 PROHIBITED OBSTRUCTIONS

- A. **Unlawful Obstructions:** It is unlawful for any person to:
 - 1. Obstruct the flow of water in the storm sewer system.
 - 2. Contribute to the obstruction of the flow of water in the storm sewer system.
 - 3. Cover or obstruct any drain inlet.
- B. **Exceptions:** The following obstructions are exempt from the prohibitions of this section:
 - 1. Street and/or storm sewer improvement projects authorized by the city.
 - 2. Flood control and prevention activities performed by the city.
 - 3. Obstructions approved by the city as part of a site's storm water drainage plan.
- C. Obstructions occurring during cleanup periods established by the city, provided that the materials are placed according to city directions and do not obstruct drain inlets.

13.26.050 PROHIBITED DISCHARGES

- A. **Illicit Discharges:** It is unlawful for any person to cause or allow an illicit discharge to the storm sewer system.
- B. **Exceptions:** The following discharges to the storm sewer system shall not be considered to be illicit discharges and shall be exempt from the prohibitions of this section:
 - 1. Discharges regulated under a valid national pollutant discharge elimination system (NPDES) storm discharge permit, provided that the discharge complies with the terms of the permit.
 - 2. Discharges from water line flushing performed by the city.
 - 3. Discharges from sprinkled landscape irrigation or sprinkled lawn watering.
 - 4. Discharges from noncommercial car washing.
 - 5. Discharges from natural riparian habitat or wetland flows.
 - 6. Discharges from natural ground water flows directly to a piped storm sewer system.
 - 7. Discharges from air conditioning condensation.
 - 8. Discharges from firefighting or emergency management activities.
 - 9. Discharges of dechlorinated water from swimming pools.
 - 10. Discharges from foundation drains, footing drains, or crawl space or basement pumps if the discharges have been approved in writing by the city.
 - 11. Discharges allowed by a city of Smithfield storm sewer connection permit.

13.26.060 PROHIBITED STORAGE AND LITTERING

It is unlawful for any person to maintain, store, keep, deposit or leave any pollutant or hazardous material, or any item containing a pollutant or hazardous material, in a manner that is likely to result in the discharge of the pollutant or hazardous material to the storm sewer system.

13.26.070 MUD, DIRT AND DEBRIS ON CITY STREETS

- A. **Cleanup Required:** Any person or entity that tracks, spills, deposits, discharges or drops any mud, dirt, manure, or other debris on a public or private street or a public right of way within the city must remove the mud, dirt or other debris within four (4) hours of when it is left on the street or right of way or before the end of the workday whichever is less. Failure to do so shall be a violation of this chapter and shall also be considered a nuisance that may be enforced and/or abated pursuant to SMC 8.28 of this code. The requirement to clean mud, dirt, manure, and other debris from streets and rights of way applies regardless of whether or not the responsible parties are acting pursuant to a storm water construction activity permit.
- B. **Responsible Parties:** The following people and entities shall be considered to be responsible parties for the purpose of enforcing this section:
 - 1. Driver: The driver of the vehicle leaving the mud, dirt, manure, or debris; and

2. General Contractor: The general contractor or owner in charge of the job site from which the mud, dirt or debris came.

C. **Possible Remedies:** The city may avail itself of any of the following nonexclusive remedies to enforce this section if the mud, dirt or debris is not removed as required herein:

1. Public Improvement Bond: The city may clean (or may hire an independent contractor to clean) the mud, dirt or debris, and may deduct the cost of the cleanup, plus an administrative charge in an amount set by resolution of the city council, from the public improvement bond posted by the contractor on the job site from which the mud, dirt or debris came. The city may make draws against the security for performance bond as specified in SMC 16.22.010, 17.100.030, and 17.100.040 of this code.
2. Nuisance Abatement: The violation may be treated as a nuisance under SMC 8.28 of this code and enforced by the city's nuisance abatement officer or other city designated representative.
3. Criminal Prosecution: The city may prosecute the violation as a crime pursuant to SMC 13.26.130 of this chapter.

13.26.080 DAMAGE TO STORM SEWER SYSTEM OR IRRIGATION LINES

Any person who damages any portion of the storm sewer system, a city owned irrigation line, or a city maintained irrigation line shall be responsible for repairing the damages. The damages shall be repaired by a licensed contractor bonded to do work in the city and shall be repaired in accordance with the city's construction standards and specifications. It is unlawful to remove or alter any portion of the storm sewer system without permission from the director.

13.26.090 REQUIREMENTS FOR SUMPS

It is unlawful for any person to construct a sump in the city unless: a) the sump has been approved by the city, b) the sump is designed to separate sediments, oil and grease, and floatables from the storm water, and c) the sump complies with applicable city of Smithfield construction standards and specifications.

13.26.100 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 director.

13.26.110 DRINKING WATER PROTECTION

All storm water and nonstorm water discharges shall comply with the city's drinking water source protection ordinance.

13.26.120 NOTICE OF VIOLATION

Whenever the city finds that a person has violated a prohibition or failed to comply with a requirement of this chapter, the city will order compliance by written notice of violation to the responsible person. 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 discharges, practices, or operations shall cease and desist;
- D. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- E. Payment to cover administrative, remediation, monitoring, analyses, and reporting costs; and
- F. The implementation of source control or treatment BMPs. 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: 1) the violator has committed the same violation in the past, or 2) the violation, in the opinion of the city, creates a serious risk to persons, the environment or property, or 3) the city deems the violation to constitute an emergency.

13.26.130 VIOLATION AND PENALTY

- A. The violation of any provision of this chapter is a class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.
- B. If, as the result of the violation of any provision of this chapter, 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 by the violating party and shall be in addition to any criminal or civil fines and/or penalties.
- C. Violators of this chapter may also be subject to prosecution, fines and penalties from the state of Utah and the United States EPA.

13.26.140 COMPLIANCE WITH FEDERAL AND STATE LAW

Nothing in this chapter shall be interpreted to relieve any person from an obligation to comply with an applicable federal, state or local law relating to storm water discharges or drinking water protection.

13.28 STORM WATER MANAGEMENT

13.28.010 STORM WATER MANAGEMENT PERMIT

13.28.020 EASEMENTS

13.28.030 AUTHORITY TO INSPECT

13.28.040 REQUIREMENTS TO MONITOR AND ANALYZE

13.28.010 STORM WATER MANAGEMENT PERMIT

- A. **Permit Required:** No person, company, or entity shall construct or cause to be constructed any building, facility, structure or other improvement on any parcel of land without first obtaining a storm water management permit from the city.
- B. **Construction And Redevelopment:** Without affecting the generality of SMC A of this section, any person beginning any type of construction requiring a building permit shall obtain a storm water management permit before commencing construction.
- C. **Exempt Construction:** The following improvements are exempt from the requirement to obtain a storm water management permit:
 1. Detached single-family residence or accessory building, provided that the runoff from the residence 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 connecting to the storm sewer system

must obtain a storm water management permit.

2. Connections to the storm sewer system made by the city.

D. **Application:** The applicant for a storm water management permit shall submit the following to the city:

1. **Application Form:** A completed application form. If the applicant proposes to obtain the permit in conjunction with another development activity requiring city approval (e.g., building permit, subdivision plat, site plan, or conditional use permit), the application for the storm water management permit will be included as part of the application form for the other development activity. If the applicant proposes to obtain the permit independent of any other city approval, the applicant shall apply for the permit on a separate form prepared by the city. Application forms will be available at the city office.
2. **BMP Plan:** A best management practices (BMP) plan.
 - a. **Requirements:** The BMP plan shall designate specific BMPs that the applicant will use to regulate, control and facilitate storm water discharges from the site. All BMP plans shall provide for pretreatment of storm water unless the applicant demonstrates to the satisfaction of the city that pretreatment is not necessary because of: 1) lack of pollutants in the storm water from the site, or 2) insufficient quantity of storm water from the site.
 - b. **Purpose Of BMPs:** The BMPs shall be designed to ensure that the quality and quantity of storm water discharged to the city's storm sewer system meets the requirements of federal, state and local laws and regulations and the city's NPDES permit, and will not exceed the designed capacity of the storm sewer system or jeopardize the integrity of the storm sewer system.
 - c. **Acceptable BMPs:** BMPs may be structural and/or nonstructural, depending on the needs of the site. The applicant may propose BMPs designed specifically for a given site, or may propose BMPs that have been preapproved by the city. The city shall establish a menu of preapproved BMPs by administrative policy. The policy may designate specified areas of the city where certain types of BMPs may or may not be used.
 - d. **City Approval Of BMP Plan:** The applicant's BMP plan must be approved by the city. The BMP plan will be reviewed as part of the storm water management permit review process described below.
3. **Maintenance Plan:** A plan outlining how the applicant will maintain the storm water improvements listed in the application.
4. **Plans With Engineer's Stamp:** Plans showing permanent storm water improvements to be made on the site. These plans shall be submitted with an engineer's stamp.
5. **Fee:** A fee in an amount established in the most recently adopted prevailing fee schedule.

E. **Review Of Application:** The storm water management permit application shall be reviewed by either the city engineer, the city public works director (CE/PWD), or their designee and either approved, approved with conditions, or denied.

1. **Factors:** When deciding whether to approve, conditionally approve, or deny a storm water management permit application, the CE/PWD shall consider the following factors:
 - a. Whether the application complies with applicable city ordinances and policies.
 - b. Whether the application complies with the city of Smithfield storm drainage master plan.
 - c. Whether the application includes an effective BMP plan. The BMP plan shall be considered effective if: 1) it complies with the city's menu of preapproved BMPs, or 2) it ensures that the quality and quantity of storm water discharged to the city's storm sewer system meets the requirements of federal, state and local laws and regulations and the city's NPDES permit, and will not exceed the designed capacity of the storm sewer system or jeopardize the integrity of the storm sewer system.
 - d. Whether the proposed development introduces pollutants into the storm drain system.
 - e. Whether the proposed development affects the integrity of the storm sewer system infrastructure.
 - f. Whether the proposed development endangers the city's drinking water.
 - g. Whether the applicant has submitted a maintenance plan ensuring the proper maintenance and upkeep of the applicant's on site storm water improvements.
 - h. Whether written permission to discharge to a canal has been secured from the local canal company with jurisdiction in cases where discharge will be made to a canal.
2. **Appeals:** Either the permit applicant or the city may appeal the CE/PWD's decision to the city manager/administrator. The appeal shall be made according to procedures established by the city manager/administrator.

F. **As Built:** Any person connecting to the storm sewer system shall provide the city's storm water utility with "as built" plans showing the details and the location of the connection. The plans shall be in a format that is acceptable to the city.

G. **Failure To Comply With Permit:** Failure to construct or maintain storm water improvements in accordance with an approved storm water management permit (including the BMP plan and/or the maintenance plan) shall be a violation of this chapter.

13.28.020 EASEMENTS

The director may enter all private properties through which the city holds an easement for the purposes of inspecting, observing, measuring, sampling, 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. All entry and subsequent work, if any, on an easement, shall be completed according to any special terms of the easement.

13.28.030 AUTHORITY TO INSPECT

Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever the city has cause to believe that there exists, or potentially exists, a condition which constitutes a violation of this chapter, 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. 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.

13.28.040 REQUIREMENTS 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 nonstorm 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 or operator of the site to provide, at their own expense, monitoring and analyses required by the city to determine compliance with this chapter.

13.32 STORM WATER CONSTRUCTION ACTIVITY PERMIT

13.32.010 PURPOSE AND INTENT

13.32.020 REQUIRED

13.32.030 APPLICATION

13.32.040 PROPER OPERATION AND MAINTENANCE

13.32.050 INSPECTION AND ENTRY

13.32.060 REVOCATION OR SUSPENSION

13.32.070 APPEALS

13.32.080 VIOLATIONS AND ENFORCEMENT

13.32.090 COMPLIANCE WITH FEDERAL AND STATE LAW

13.32.010 PURPOSE AND INTENT

The purpose of this chapter 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.

13.32.020 REQUIRED

- A. **Permit Required:** A storm water construction activity permit is required before any person or entity may landscape, 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 parcel of property located in Smithfield City. If five (5) acres or more of land surface area is disturbed, a notice of intent (NOI) must be submitted to the state division of water quality. A copy of the NOI shall be submitted to the city with the application.
- B. **Exemptions:** The following activities are exempt from the permit requirements of this chapter:
 1. Actions by a public utility, the city, or any other governmental entity to remove or alleviate an emergency condition, including the restoration of utility service or the reopening of a public thoroughfare to traffic;
 2. Actions by any other person when the city determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition;
 3. Construction activities disturbing less than one acre of land surface area except when the construction activity is part of a larger common plan of development disturbing more than one acre;
 4. Residential landscaping activities disturbing less than one acre of land surface area;
 5. Residential gardening;
 6. Bona fide agricultural and farming operations, provided that the agricultural and farming operations constitute the principal use of the parcel and provided that such use of the parcel does not conflict with the city's zoning ordinance;
 7. City of Smithfield capital improvement projects, provided that storm runoff control measures are included in the bid specifications and plans for the improvement project.

13.32.030 APPLICATION

Any person or entity desiring a storm water construction activity permit must first file an application with the city.

- A. **Application Form:** The application shall be submitted on a form approved by the city. If the applicant proposes to obtain the permit in conjunction with another development activity requiring city approval (e.g., building permit, subdivision plat, site plan, or conditional use permit), the application for the storm water construction activity permit will be included as part of the application form for the other development activity. If the applicant proposes to obtain the permit independent of any other city approval, the applicant shall apply for the permit on a separate form prepared by the city. Application forms will be available at the city office.
- B. **Storm Water Pollution Prevention Plan:** The applicant shall submit a storm water pollution prevention plan with the application. 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 control measures 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 process that the measures will be implemented for each major activity identified pursuant to SMC B1 of this section. The plan shall also state the name, address and phone number of the person or entity responsible for implementation of each control measure.
 3. **Control Measures:** Control measures meeting the following goals and criteria:
 - a. **Prevent Or Minimize Discharge:** The proposed control measures 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.
 - b. **Prevent Or Minimize Construction Debris:** The proposed control measures 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.
 - c. **Use Of BMPs:** The proposed control measures shall include 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 grasses and permanent vegetative cover, use of straw mulch as a 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 soil retaining systems, and gabions.
 - d. **Stabilize Site:** The proposed control measures 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 initiated 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 that has temporarily or permanently ceased, except under the following circumstances:

- (1) 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 initiated as soon as practicable as determined by the city; or
- (2) If construction activity on a portion of the site is temporarily ceased, and earth disturbing will resume within twenty one (21) days, temporary stabilization measures need not be initiated on that portion of the site.

e. **Minimize Risk Of Discharge Of Other Materials:** The proposed control measures 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 implementation of storage practices to minimize exposure of the material to storm water as well as spill prevention and response.

C. **Timing For Filing Application:** The applicant shall file the application on or before the following dates:

1. **Subdivision:** The date that the applicant submits the final subdivision plat application if the applicant proposes to develop a subdivision.
2. **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.
3. **Conditional Use Permit:** The date that the applicant submits a conditional use permit application if the applicant proposes to develop a conditional use.
4. **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.
5. **Other:** At least two (2) weeks before the developer intends to perform any type of work not listed above that would require a storm water construction activity permit pursuant to this chapter.

If an applicant's development comes under more than one of the categories listed above, then 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.

D. **Fee:** The applicant for a storm water construction activity permit shall pay a fee in an amount established in the most recently adopted prevailing fee schedule of the city.

E. **Application Approval:** The city engineer/public works director (CE/PWD) or designee shall approve the application and grant the permit if the application is complete and the storm water pollution prevention plan meets the requirements of this chapter. The CE/PWD 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 SMC B of this section. Conditions the CE/PWD 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.

F. **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:

1. **Subdivisions:** For permits associated with a subdivision plat approval:

- a. The permittee must complete all required subdivision improvements; and
- b. 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 been issued for each lot in the subdivision not having a final occupancy permit, or
- (3) The property has been revegetated or landscaped in a manner that eliminates erosion and sediment discharge or that brings the property back to its natural state.

c. **Ste 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.

d. **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.

e. **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.

No storm water construction 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. The city shall accept the notice if the permittee has met the requirements of the permit and this chapter. The permittee shall keep and maintain all permit required improvements on the site until the city accepts the notice.

G. **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 in 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 SMC B of this section.

13.32.040 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 the plan. The erosion and sediment control measures shall be properly installed and maintained in accordance with the permit, the manufacturers' specifications, and good engineering practices. The permittee shall maintain such measures on the site until the city accepts the termination of the permit pursuant to SMC 13.32.030F of this chapter.

13.32.050 INSPECTION AND ENTRY

The permittee shall allow any authorized employees and representatives of the city, representatives of the state of Utah division of water quality, and representatives of the EPA, to enter the site to which a permit applies at any time and to inspect the erosion and sediment control measures maintained by the permittee. The permittee shall also allow inspection of any records pertaining to the conditions of the permit.

13.32.060 REVOCATION OR SUSPENSION

- A. **Revocation Or Suspension:** A storm water construction activity permit may be revoked or suspended by the director upon the occurrence of any one of the following events:
1. Failure of a permittee to comply with the plan or any condition of the permit; or
 2. Failure of a permittee to comply with any provision of this chapter or any other applicable law, ordinance, rule or regulation related to storm water; or
 3. A determination by the director that the erosion and sediment control measures implemented by a permittee 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 storm water.
- B. **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 revocation or suspension of the permit. The notice shall allow the 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 in the notice during the time specified in the notice, the CE/PWD may suspend or revoke the permit by mailing or delivering written notice of the suspension or revocation to the permittee. The permittee may appeal a suspension or revocation of the permit pursuant to the appeal procedure set forth in SMC 13.32.070 of this chapter.
- C. **Exceptional Circumstances:** For purposes of this section, "exceptional circumstances" include, but are not limited to, situations which involve a risk of injury to persons, 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 alleviating said circumstances.
- D. **Stop Work Order:** A stop work order may be issued upon the revocation or suspension of a permit, upon discovery of work in violation of or not in accordance with a permit, or upon the discovery of work being conducted without a required permit. The stop work order may be issued by designated inspectors of the city. 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.
- E. **Reinstatement:** A storm water construction activity permit may be reinstated or reissued upon compliance with all provisions of this chapter and all permit conditions, or in the case of a suspension for reasons provided in SMC A of this section, upon the filing of an amended storm water pollution prevention plan which is designed to correct the deficiencies of the original plan.

13.32.070 APPEALS

- A. **Notice Of Appeal:** 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 chapter. The party desiring to appeal shall file a notice of appeal at the city manager/administrator's office within ten (10) days of the decision or directive being appealed. The notice of appeal shall contain the following information:
1. The appellant's name, address and daytime telephone number;
 2. A short statement describing the basis for the appeal; and
 3. The relief sought by the appellant.
- B. **Hearing:** Upon receipt of the notice of appeal, the city manager/administrator shall set a date for an informal hearing to consider the appeal. The informal hearing shall be conducted in accordance with policies established by the city manager/administrator. The city manager/administrator shall uphold the decision or directive being appealed unless the city manager/administrator finds that there has been an error in the interpretation or implementation of this chapter. The city manager/administrator shall render a decision on the appeal within ten (10) days of the informal hearing with the appellant. The city manager/administrator shall have authority to affirm, reverse or modify any decision or directive appealed pursuant to this section.

13.32.080 VIOLATIONS AND ENFORCEMENT

- A. The violation of any of the provisions of this chapter shall be a class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.
- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, under the authority of the Utah water quality act, title 19, chapter 5 of the Utah code.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, 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 chapter. The city shall have the right to have such measures installed or maintained by 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. The city may assess said charges against the bond posted by the contractor and/or property owner.
- D. Violators of this chapter may also be subject to prosecution, fines and penalties from the state of Utah and the United States EPA.

13.32.090 COMPLIANCE WITH FEDERAL AND STATE LAW

Nothing contained in this chapter is intended to relieve any person or entity from any obligation to comply with applicable federal and state laws and regulations pertaining to clean water and/or storm water runoff.

15 BUILDINGS AND CONSTRUCTION

15.04 BUILDING CODE

15.08 BUILDING PERMITS

15.12 ELECTRICAL CODE

15.16 PLUMBING CODE

15.20 MECHANICAL AND FUEL GAS CODES

15.32 ENERGY CONSERVATION CODE

15.36 ABATEMENT OF DANGEROUS BUILDINGS

15.40 FLOOD DAMAGE PREVENTION

15.44 TENANT/LANDLORD RESPONSIBILITIES

15.04 BUILDING CODE

15.04.010 ADOPTION OF BUILDING AND RESIDENTIAL CODES

15.04.010 ADOPTION OF BUILDING AND RESIDENTIAL CODES

The most current versions of the international building code and the international residential code, published by the International Code Council, Inc., and adopted by the state of Utah and printed as a code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the building and residential codes of this municipality.

15.08 BUILDING PERMITS

15.08.010 BUILDING PERMITS; ISSUANCE

15.08.020 PERMIT REQUIRED

15.08.030 APPLICATION FOR PERMIT

15.08.040 APPROVAL OF PLAN

15.08.050 VARIATIONS OF PLAN PROHIBITED

15.08.060 FEE SCHEDULE

15.08.010 BUILDING PERMITS; ISSUANCE

- A. The building inspector shall not issue any building permit for any building, construction or repair of any building unless such fully conforms to all zoning regulations or ordinances of this municipality in effect at the time of application.

15.08.020 PERMIT REQUIRED

It shall be a class C misdemeanor for any homeowner and a class B misdemeanor for any person who receives payment or anything of value to construct or alter any building or structure without first securing the permit required by this chapter.

15.08.030 APPLICATION FOR PERMIT

A building permit shall be secured from the recorder/clerk on written application accompanied by plans and specifications in duplicate which must state the specific nature of the construction or alterations to be made. The plan must be verified by the person who will perform or be in charge of the construction or alteration.

15.08.040 APPROVAL OF PLAN

The application and plans shall be forwarded from the recorder/clerk to the building inspector, who shall review the plan to determine whether the proposed construction or alteration conforms to the building codes and ordinances of this municipality. The building inspector shall return the plans to the recorder/clerk within ten (10) days with the statement "approved" if the plans do conform or "disapproved" if the plans do not conform. If the plans are disapproved, the reasons therefor shall be annexed to the plans. On receipt of an approved plan, the recorder/clerk shall issue a permit to the applicant together with one set of the approved plan. One set of the plans shall be retained by the building inspector. The building inspector may revoke at any time a permit which has been issued for any building constructed or being constructed or which would be or result, if constructed, in a violation of any ordinance of this municipality.

15.08.050 VARIATIONS OF PLAN PROHIBITED

No material variation from the approved plan shall be allowed unless such variations shall first have been approved in writing by the building inspector.

15.08.060 FEE SCHEDULE

Upon application for a permit, the city shall collect a fee as set forth in the most current version of the prevailing fee schedule adopted by resolution of the city council.

15.12 ELECTRICAL CODE

15.12.010 ELECTRICAL CODE; ADOPTION

15.12.020 ELECTRICAL INSPECTION

15.12.030 PERMITS AND INSPECTIONS

15.12.040 PERMIT FEES

15.12.050 ELECTRICAL DISTURBANCES

15.12.060 ELECTRICAL INSTALLATIONS; BUSINESS LICENSE REQUIRED

15.12.070 NOTIFICATION

15.12.080 INSPECTION

15.12.090 UNLAWFUL INSTALLATION; DISCONNECTION

15.12.100 NOTIFICATION TO INSPECT

15.12.010 ELECTRICAL CODE; ADOPTION

The most current version of the national electrical code published by the National Fire Protection Association, and adopted by the state of Utah and printed as a code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the electrical code of this municipality.

15.12.020 ELECTRICAL INSPECTION

The building inspector shall perform all functions of electrical inspection and shall, among other things, inspect and supervise the construction, installation and repairs of all electric light and power wiring, fixtures, appliances or apparatus installed within the limits of the municipality and shall require compliance with the provisions of the electrical code. Wiring, fixtures and apparatus heretofore installed need not necessarily be made to conform strictly to all the provisions of the electrical code. The building official shall require the correction of such defects as he deems actually dangerous to life or property. Those same enforcement standards established in the international building code shall be followed by the building inspector for all electrical work.

15.12.030 PERMITS AND INSPECTIONS

No alterations or additions shall be made in existing wiring, nor shall any wiring or any apparatus which generates, transmits, transforms or utilizes any electricity be installed without first obtaining a permit therefor except minor repair work such as repairing flush and snap switches, replacing fuses, changing lampsockets and receptacles, taping bare joints and repairing drop cords. Applications for such permit describing such work shall be made in writing and shall conform as far as practicable to the requirement set forth in SMC 15.08.030 of this title. This section shall not apply to installations in powerhouses and substations belonging to electric light companies. No permit shall be issued to any applicant for a permit during the time that he shall fail to correct any defective electrical installations after he has been duly notified to correct such defective work by the building inspector.

15.12.040 PERMIT FEES

The electrical permit fees applicable in this municipality shall be as set forth in the most current version of the prevailing fee schedule adopted by resolution of the city council.

15.12.050 ELECTRICAL DISTURBANCES

- A. Electrical installations for signs, equipment or other facilities which create electrical disturbances that cause interference with normal radio or television reception beyond the immediate vicinity of such electrical installations are declared to be a nuisance. The owners or operators thereof shall so install and maintain such installations as to avoid or eliminate such interference, using all known means and devices for such purpose, such as proper grounding, connections, condensers, resistors and live chokes.
- B. The building official shall withhold or withdraw approval of any electrical installation causing the above disturbance, and is authorized to take all steps necessary for the abatement of such conditions.

15.12.060 ELECTRICAL INSTALLATIONS; BUSINESS LICENSE REQUIRED

No person shall engage in the installation, alteration, repair or construction of any electrical work, wiring, fixtures, appliances or equipment inside or outside of any building, except work done for or on the property of the municipality, without first securing a business license and paying the fee therefor as provided in SMC 15.12.040 of this chapter.

15.12.070 NOTIFICATION

It is unlawful for any person to do or cause to be done any electrical wiring or other electrical installation in the building or structure within the municipality without first notifying the building inspector of the kind and nature of such electric wiring or other electrical installation and the location of the building or structure in which the same is to be installed.

15.12.080 INSPECTION

All electric wiring or other electrical installations shall be subject to supervision and inspection by the building inspector. It is unlawful for any person to do or cause to be done any electrical wiring or electrical installations without first obtaining the permit required by SMC 15.12.030 of this chapter.

15.12.090 UNLAWFUL INSTALLATION; DISCONNECTION

- A. If the building inspector shall find any part of any electric light or power wiring, appliances, apparatus or fixtures in or upon any building in the municipality to have been installed without permit, or installed not in accordance with the provisions of the electrical code or to be dangerous to life or property, the inspector shall have the right and power to disconnect such defective work, fixtures, appliances or apparatus and place a seal upon the same, and shall at the same time give written notice of such disconnection to the owner or occupant of the building.
- B. After such disconnected wiring, fixtures, appliances or apparatus have been put in the condition required by this chapter, the seal so placed shall be removed by order of the inspector.

15.12.100 NOTIFICATION TO INSPECT

- A. Upon completion of the installation of any electrical wiring, fixtures, appliances or apparatus in or on any building, it shall be the duty of the person doing the work to notify the building inspector who shall cause the same to be inspected and, if approved, to issue a certificate of inspection which shall contain the date of such inspection and a statement that the installation is approved.
- B. It is unlawful for any person to turn on or connect the current with such installation until such certificate shall be issued and it is also unlawful to make any change, alteration or extension in or to the installation of any electrical wiring, fixtures, appliances or apparatus in or on any building after inspection without notifying the municipal wiring inspector and securing a permit to do so.
- C. The requirement of permits, inspection and supervision shall not apply to minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords, and wiring for appliances and devices operating at less than twenty five (25) volts.

15.16 PLUMBING CODE

15.16.010 PLUMBING CODE; ADOPTION

15.16.020 APPLICATION AND SCOPE OF CHAPTER

15.16.030 PLUMBING INSPECTOR CREATED; DUTIES

15.16.040 ALLOWANCE FOR EXCEPTION TO CHAPTER

15.16.050 RIGHT OF ENTRY GRANTED

15.16.060 POWER TO CONDEMN GRANTED

15.16.070 INTEREST IN SALE OR INSTALLATION OF EQUIPMENT PROHIBITED

15.16.080 PERMIT REQUIRED

15.16.090 PERMIT FEES

15.16.100 REVOCATION OF PERMIT

15.16.110 EXPIRATION OF PERMIT

15.16.120 DENIAL OF PERMIT

15.16.130 PERMIT NOT REQUIRED WHEN

15.16.140 HOMEOWNER PERMIT

15.16.150 REFUSAL TO COMPLY WITH ORDER OF INSPECTOR

15.16.160 VIOLATION; PENALTY

15.16.010 PLUMBING CODE; ADOPTION

The most current version of the international plumbing code, published by the International Code Council, Inc., and adopted by the state of Utah and printed as a code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the plumbing code of this municipality.

15.16.020 APPLICATION AND SCOPE OF CHAPTER

The provisions of this chapter shall apply to, but not be limited to, all new construction, relocated buildings and to any installation, alteration, repair or reconstruction of a plumbing system within the municipality except as otherwise provided for in this chapter.

15.16.030 PLUMBING INSPECTOR CREATED; DUTIES

- A. There is created the position of plumbing inspector.
- B. The plumbing inspector shall issue permits to properly licensed, bonded and registered persons. Licensing should be for work to be done within the scope of this chapter. The plumbing inspector:
 1. Shall order changes in workmanship and/or materials essential to enforce compliance with all provisions of the plumbing code;
 2. Shall investigate any construction or work regulated by this chapter and issue such notices and orders as are necessary to prevent or correct dangerous or unsanitary conditions;
 3. May recommend the revocation of any license to the state department of business regulation for cause, and report to the department of business regulation all violations of this chapter by journeymen, apprentices or contractors.

15.16.040 ALLOWANCE FOR EXCEPTION TO CHAPTER

Where structural conditions impose extreme difficulty in fully complying with the plumbing regulations of this chapter, any aggrieved party may apply in writing to the plumbing inspector for special permission to deviate from the regulations. If in the judgment of the plumbing inspector such deviation is reasonable and does not create an unsanitary or unsafe condition, he shall recommend to the governing body that the request for deviation be approved or disapproved, or that approval is subject to such conditions as the governing body may require. The governing body, on review, may approve or disapprove the application or vary the conditions on which approval is granted.

15.16.050 RIGHT OF ENTRY GRANTED

The plumbing inspector shall have the right of entry within reasonable hours to any building or premises for the purpose of inspection or to investigate any work or conditions governed by this chapter.

15.16.060 POWER TO CONDEMN GRANTED

The plumbing inspector is empowered to condemn and order repaired, removed, replaced or changed any plumbing found in any unsanitary condition or not in accordance with this chapter. Failure to comply with the order within a reasonable time is an infraction.

15.16.070 INTEREST IN SALE OR INSTALLATION OF EQUIPMENT PROHIBITED

The plumbing inspector and his assistants shall not in any way engage in the sale or installation of plumbing equipment upon which they are required to make inspection under this chapter.

15.16.080 PERMIT REQUIRED

No plumbing shall be installed, nor additions or alterations made in existing plumbing, except as provided in SMC 15.16.130 of this chapter without first obtaining a permit. Application for such permits shall be in writing to the recorder/clerk and shall describe the nature of the work to be done and affirm that the plumbing will conform to the plumbing code. No permit shall be issued to any applicant during the time that he shall fail to correct any defective plumbing installed by him after he has been notified in writing by the plumbing inspector of the defective work.

15.16.090 PERMIT FEES

Upon application for a permit, the city shall collect a fee as set forth in the most current version of the prevailing fee schedule adopted by resolution of the city council.

15.16.100 REVOCATION OF PERMIT

The plumbing inspector may revoke any permit when the person to whom the permit is issued fails, neglects or refuses to do the work thereunder in conformance with this chapter, or when the permit is issued in error.

15.16.110 EXPIRATION OF PERMIT

Every permit issued by the plumbing inspector shall expire and become null and void if the work authorized by such permit is not commenced within sixty (60) days from the date such permit is issued, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty (120) days or more.

15.16.120 DENIAL OF PERMIT

The plumbing inspector may refuse to issue permits for any plumbing work to any person who has had a permit revoked in accordance with this chapter during such time as such person fails to perform plumbing work in conformance with this chapter.

15.16.130 PERMIT NOT REQUIRED WHEN

- A. Repairs which involve only the working parts of a faucet or valve, the clearance of stoppages, the repairing of leaks or the replacement of defective faucets or valves may be made without a permit provided that the permits shall be procured to replace fixtures, traps, soil, waste and vent pipes unless waived by the plumbing inspector.
- B. Any person regularly employed by an owner or lessee of property, or his agents, for the sole purpose of operating and maintaining such property and to make minor repairs thereof, and any owner or lessee of property shall be exempt from the provisions of this chapter when doing work for which permits are not required.

15.16.140 HOMEOWNER PERMIT

Any permit required by this chapter may be issued to any person to do any plumbing or drainage work regulated by this chapter in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters and that the same are occupied by or designed to be occupied by the owner, and further provided that the owner shall furnish the plumbing inspector with a complete layout drawing of the proposed work, satisfies the plumbing inspector that he has a working knowledge of the requirements contained in this chapter, pays the necessary fees and calls for all inspections required by this chapter.

15.16.150 REFUSAL TO COMPLY WITH ORDER OF INSPECTOR

It is unlawful for any owner, agent or occupant of any building or premises to fail, neglect or refuse to repair, remove, replace or change within ten (10) days after written notice to do so from the plumbing inspector, any plumbing condemned by such inspector, provided that this section shall not apply to any occupant not responsible for the installation or repair of the condemned plumbing.

15.16.160 VIOLATION; PENALTY

- A. The violation of any provision of this chapter by any homeowner, building owner or manager of any building, apartment, hotel, motel or other structure shall be an infraction.
- B. The violation of any provision of this chapter by any person who receives payment or anything of value for performing such work shall be a class B misdemeanor.

15.20 MECHANICAL AND FUEL GAS CODES

15.20.010 MECHANICAL CODE AND FUEL GAS CODE; ADOPTION

15.20.020 PERMIT FEES

15.20.030 VIOLATIONS DECLARED NUISANCE

15.20.010 MECHANICAL CODE AND FUEL GAS CODE; ADOPTION

The most current versions of the international mechanical code and the international fuel gas code, published by the International Code Council, Inc., and adopted by the state of Utah and printed as a code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the mechanical code and the fuel gas code of this municipality.

15.20.020 PERMIT FEES

Upon application for a permit, the city shall collect a fee as set forth in the most current version of the prevailing fee schedule adopted by resolution of the city council.

15.20.030 VIOLATIONS DECLARED NUISANCE

Violation of the fuel gas code is declared a nuisance and shall be abated in the manner provided in SMC 8.28 of this code, provided that conditions which present an immediate danger to life may be abated by causing the gas to be immediately turned off.

15.32 ENERGY CONSERVATION CODE

15.32.010 ADOPTION

15.32.020 ENFORCEMENT AND PENALTY

15.32.010 ADOPTION

The most current version of the international energy conservation code, published by the International Code Council, Inc., and adopted by the state of Utah and printed as a

code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the energy code of this municipality.

15.32.020 ENFORCEMENT AND PENALTY

It is unlawful for any person, firm or corporation to perform any act prohibited by this chapter or to fail or refuse to perform any act commanded in this chapter or to aid or abet therein or to fail or refuse to comply with any valid order issued by the building inspector or his agents pursuant to the provisions of this chapter. No permits shall be issued to any applicant during the time he shall fail to correct any defective work or noncomplying installation of equipment after written notice by the building inspector or his agents. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and any such person convicted of violating any provision of this chapter shall be punished by a fine in any sum not exceeding two hundred ninety nine dollars (\$299.00), or by imprisonment for a period not longer than six (6) months, or by both such fine and imprisonment, and each day that any violation of this chapter is permitted to continue shall constitute a separate offense.

15.36 ABATEMENT OF DANGEROUS BUILDINGS

15.36.010 ADOPTION OF A CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

15.36.020 APPLICATION

15.36.030 ALTERATIONS, ADDITIONS AND REPAIRS

15.36.010 ADOPTION OF A CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

The uniform code for the abatement of dangerous buildings, 1997 edition, and any appendices thereof, published by the International Conference of Building Officials and printed as a code in book form, three (3) copies of which are on file at the office of the city recorder, 69 North Main, Smithfield, Utah, and any amendments to said code adopted by the state of Utah, is approved and adopted as the abatement of dangerous buildings code of this municipality.

15.36.020 APPLICATION

The provisions of the abatement of dangerous buildings code shall apply to all dangerous buildings as therein defined, which now exist or which may exist or hereafter be constructed in this municipality.

15.36.030 ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of the abatement of dangerous buildings code shall be subject to the provisions of subsections (a), (b), (c), (d), (e) and (i) of section 104 of the uniform building code.

15.40 FLOOD DAMAGE PREVENTION

15.40.010 FINDINGS OF FACT

15.40.020 STATEMENT OF PURPOSE

15.40.030 METHODS OF REDUCING FLOOD LOSSES

15.40.040 DEFINITIONS

15.40.050 GENERAL PROVISIONS

15.40.060 ADMINISTRATION

15.40.070 PROVISIONS FOR FLOOD HAZARD REDUCTION

15.40.080 PENALTIES FOR NONCOMPLIANCE

15.40.010 FINDINGS OF FACT

- A. The flood hazard areas of Smithfield 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 caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

15.40.020 STATEMENT OF PURPOSE

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- G. Ensure that potential buyers are notified that property is in a flood area.

15.40.030 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this chapter uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

15.40.040 DEFINITIONS

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

AREA OF SHALLOW FLOODING: A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (3') 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.

AREA OF SPECIAL FLOOD HAZARD - RELATED EROSION HAZARD: The land within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, OR V1-30, VE, OR V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special hazard".

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE): The water surface elevation of the one percent (1%) annual chance of flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

BUILDING: See definition of Structure.

DEVELOPMENT: Any manmade 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.

EROSIONS: The process of the gradual wearing away of land masses. This peril is not per se covered under the program.

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".

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.

EXISTING STRUCTURES: See definition of Existing Construction.

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).

FLOOD ELEVATION DETERMINATION: A determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY OR FLOOD ELEVATION STUDY: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.
- C. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in SMC B of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in SMC A of this definition.

FLOOD PROOFING: Any combination of structural and nonstructural 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.

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.

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.

FLOODPLAIN OR FLOOD PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of Flood Or Flooding).

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.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on federal, state and local floodplain maps.

FREEBOARD: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

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 shipbuilding and ship repair facilities, but does not include long term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is:

- A. Listed individually in the national register of historic places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the secretary of the interior; or
 2. Directly by the secretary of the interior in states without approved programs.

LEVEE: A manmade 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.

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.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the national flood insurance program regulations.

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".

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MAP: The flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM) for a community issued by the agency.

MEAN SEA LEVEL: For purposes of the national flood insurance program, the national geodetic vertical datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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.

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.

RECREATIONAL VEHICLE: A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA: See definition of Area Of Special Flood Hazard - Related Erosion Hazard.

SPECIAL HAZARD AREA: An area having special flood, mudslide (i.e., mudflow), or flood related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, E, M, or E.

START OF CONSTRUCTION: 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 one hundred eighty (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.

STRUCTURE: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure for insurance purposes means:

- A. A building with two (2) or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
 - B. A manufactured home ("a manufactured home", also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
 - C. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.
- For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in SMC C of this definition, or a gas or liquid storage tank.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE: A grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship.

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 SMC 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.

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.

15.40.050 GENERAL PROVISIONS

- A. Lands To Which This Chapter Applies: This chapter shall apply to all areas of special flood hazard within the jurisdiction of Smithfield City.
- B. Basis For Establishing The Areas Of Special Flood Hazard: The areas of special flood hazard identified by the federal emergency management agency in a scientific and engineering report entitled, "The Flood Insurance Study For Cache County", dated May, 24, 2011, with accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. Smithfield City automatically adopts all FEMA effective flood insurance rate maps and all FEMA effective flood insurance studies.
- C. Establishment Of Development Permit: Development permit shall be required to ensure conformance with the provisions of this chapter.
- D. Compliance: No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
- E. Abrogation And Greater Restrictions: This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another chapter, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. Interpretation: In the interpretation and application of this chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- G. Warning And Disclaimer Of Liability: The degree of flood protection required by this chapter 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 manmade or natural causes. This chapter 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 chapter shall not create liability on the part of Smithfield City or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

15.40.060 ADMINISTRATION

- A. Designation Of The Floodplain Administrator: The Smithfield City building inspector is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (national flood insurance program regulations) pertaining to floodplain management.

B. Duties And Responsibilities: 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 chapter.
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 chapter.
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 USC 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 state water engineer, 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 SMC 15.40.050B of this chapter, 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 SMC 15.40.070 of this chapter.
9. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community.

C. Permit Procedures:

1. 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:
 - a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of SMC 15.40.070B2 of this chapter;
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - e. Maintain a record of all such information in accordance with SMC B1 of this section.
2. Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. 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;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - j. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures:

1. The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this chapter.
2. 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 chapter.
3. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
4. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency and the state office of emergency management upon issuing a variance.
5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($1/2$) 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 SMC C2 of this section have been fully considered. As the lot size increases beyond the one-half ($1/2$) acre, the technical justification required for issuing the variance increases.
6. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (SMC 15.40.020 of this chapter).
7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8. 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.
9. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - (1) Showing a good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) 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;

(4) Any applicant 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.

10. 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:
 - a. The criteria outlined in SMC D1 through D9 of this section are met, and
 - b. 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.

15.40.070 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards: In all areas of special flood hazards, the following provision 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 floodwaters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
7. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Standards: In all areas of special flood hazards where base flood elevation data has been provided as set forth in SMC 15.40.050B or 15.40.060B8 of this chapter, or SMC C3 of this section, 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 one foot (1') 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 SMC 15.40.060C1a of this chapter, 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 one foot (1') above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are 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.

C. Standards For Subdivision Proposals:

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with SMC 15.40.010, 15.40.020, and 15.40.030 of this chapter.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of SMC 15.40.050C and 15.40.060C of this chapter and the provisions of this section.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to SMC 15.40.050B or 15.40.060B8 of this chapter located in special flood hazard areas.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. 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.

15.40.080 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

15.44 TENANT/LANDLORD RESPONSIBILITIES

15.44.010 PURPOSE

15.44.020 EXCLUSIONS FROM APPLICATION OF CHAPTER

15.44.030 IDENTIFICATION OF OWNER AND AGENTS

15.44.040 PROPERTY OWNER TO DELIVER POSSESSION OF DWELLING UNIT

15.44.050 PROPERTY OWNER TO MAINTAIN THE PREMISES AND EACH DWELLING UNIT

15.44.060 TENANT TO MAINTAIN DWELLING UNIT

15.44.070 RULES AND REGULATIONS

15.44.080 ACCESS

15.44.090 PROPERTY OWNER AND TENANT REMEDIES FOR ABUSE OF ACCESS

15.44.100 FAILURE TO DELIVER POSSESSION

15.44.110 REPAIR OF SPECIFIED FAILURES

15.44.120 TENANT REPAIR AND DEDUCT

15.44.130 RETALIATORY CONDUCT PROHIBITED

15.44.010 PURPOSE

It is the purpose of this chapter to establish for Smithfield City, standards and rules which tenants and landlords shall follow to ensure safe and fit housing.

15.44.020 EXCLUSIONS FROM APPLICATION OF CHAPTER

The following arrangements are not governed by this chapter:

- A. Residence at a detention, medical, geriatric, educational, counseling, or religious institution;
- B. Occupancy under a contract of sale of a dwelling unit if the occupant is the purchaser;
- C. Occupancy by a member of a fraternal or social organization in a building operated for the benefit of the organization;
- D. Transient occupancy in a hotel or motel (or lodgings subject to Utah Code Annotated section 59-12-301), except that single room occupancy units ("SRO") shall be governed by this chapter. SRO means an existing housing unit with one combined sleeping and living room of at least seventy (70) square feet, but of not more than two hundred twenty (220) square feet, where the usual tenancy or occupancy of the same unit by the same person or persons is for a period of longer than one week. Such units may include a kitchen and a private bath; and
- E. Occupancy by an owner of a condominium unit.

15.44.030 IDENTIFICATION OF OWNER AND AGENTS

- A. A property owner or any person authorized to enter into an oral or written rental agreement on the property owner's behalf shall disclose to the tenant, in writing, at or before the commencement of the tenancy, the name, address, and telephone number of:
 - 1. The owner or person authorized to manage the premises; and
 - 2. A local person authorized to act for and on behalf of the owner for the purpose of receiving notices and demands and performing the property owner's obligations under this chapter and the rental agreement if the owner or manager resides outside Cache County.
- B. A person who enters into a rental agreement and fails to comply with the requirements of this section becomes an agent of the property owner for the purposes of:
 - 1. Receipt of notices under this chapter; and
 - 2. Performing the obligations of the property owner under this chapter and under the rental agreement.
- C. The information required to be furnished by this section shall be kept current. This section is enforceable against any successor property owner, owner, or manager.
- D. Every rental property with more than one unit rented without a written agreement shall have a notice posted in a conspicuous place with the name, address, and telephone number of the owner or manager and local agent as required by SMC A of this section.

15.44.040 PROPERTY OWNER TO DELIVER POSSESSION OF DWELLING UNIT

- A. At the commencement of any rental of a unit, the property owner shall provide to the tenant:
 - 1. A written summary of this chapter and the state law dealing with residential renter's deposits (UCA section 57-17-I et seq.). The city shall prepare and make available a written summary of this ordinance and the state law that fairly sets forth its material provisions;
 - 2. An inventory of the condition of the premises and all appliances and furnishings;
 - 3. A copy of the lease or rental agreement and rules and regulations, if written;
 - 4. Any current notice by any utility provider to the property owner to terminate water, gas, electrical, or other utility service to the dwelling unit; the proposed date of termination; and any current uncorrected deficiency list or notice from any government entity.
- B. By explicit written agreement, a property owner and a tenant may establish a procedure whereby the tenant notifies the property owner of needed repairs, makes those repairs, and defines how the repairs will be paid.
- C. A property owner may allocate any duties to the tenant by explicit written agreement. Such agreement must be clear and specific and boxed, in bold type, or underlined. If the property owner fails to deliver possession of the dwelling unit to the tenant as promised in the rental agreement, rent abates until possession is delivered, and the tenant may terminate the rental agreement by written notice to the property owner and recover all prepaid rent and security deposits.

15.44.050 PROPERTY OWNER TO MAINTAIN THE PREMISES AND EACH DWELLING UNIT

A property owner shall:

- A. Comply with the requirements of applicable building, housing and health codes and city ordinances and not rent the premises unless they are safe, sanitary and fit for human occupancy;
- B. Maintain the structural integrity of the building;
- C. Maintain floors in safe condition;
- D. Provide exits, emergency egress, light, and ventilation in compliance with applicable codes;
- E. Maintain stairways, porches, walkways, and fire escapes in sound condition;
- F. Provide smoke detectors and fire extinguishers as required by the Smithfield City fire department;
- G. Provide operable sinks, toilets, tubs, and/or showers;
- H. Provide heating facilities as required by code;
- I. Provide running water;
- J. In common areas provide adequate hall and stairway lighting;
- K. Maintain floors, walls, and ceilings in good condition;
- L. Supply window screens where required;

- M. Maintain the foundation, masonry, chimneys, water heater, and furnace in good working condition;
- N. Prevent the accumulation of stagnant water;
- O. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances supplied by the property owner as required by applicable codes;
- P. Supply electricity and hot water at all times, and heat during at least the months of October through April and as weather conditions might otherwise reasonably warrant, except where the dwelling unit is so constructed that electricity, heat, or hot water is within the exclusive control of the tenant and supplied by a direct public utility connection;
- Q. Assist tenant in maintaining premises free of insects and rodents, and assist tenant with pest control measures when necessary;
- R. Not unreasonably interrupt or disconnect utility service;
- S. Provide standard functioning lock set to exterior doors and furnish keys to tenants as required by applicable codes. Additional security may be provided by tenant with owner's written consent;
- T. Maintain the dwelling unit in a reasonably insulated and weather tight condition as required by applicable codes;
- U. Provide for and protect each tenant's peaceful enjoyment of the premises;
- V. Ensure that repairs, decorations, alterations, or improvements or exhibiting the dwelling unit shall not unreasonably interfere with the tenant's right to quiet enjoyment of the premises;
- W. Provide a mailbox;
- X. Provide separate meters for each tenant for gas and electricity or include charges for utility services in the rent; and
- Y. Provide appropriate garbage receptacles for timely removal as provided by the city.

15.44.060 TENANT TO MAINTAIN DWELLING UNIT

A tenant shall:

- A. Comply with all appropriate requirements of the rental agreement and applicable provisions of building, housing, and health codes;
- B. Maintain the premises occupied in a clean and safe condition and not unreasonably burden any common area;
- C. Dispose of all garbage and other waste in a clean and safe manner;
- D. Maintain all plumbing fixtures in as sanitary a condition as the fixtures permit and avoid obstructing sinks, toilets, tubs, showers, and other plumbing drains;
- E. Use all electrical, plumbing sanitary, heating and other facilities and appliances in a reasonable manner;
- F. Not destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so;
- G. Promptly inform the property owner or his agent of any defective conditions or problems at the premises;
- H. Not interfere with the peaceful enjoyment of the residential rental unit of another renter or adjacent property owner;
- I. Upon vacating, restore the premises to their initial condition except for reasonable wear and tear or conditions deemed the responsibility of the property owner;
- J. Be current on all payments required by the rental agreement and this chapter;
- K. Not increase the number of occupants above that specified in the rental agreement without written permission of the owners;
- L. Not modify or paint the premises without the express written permission of the property owner/agent;
- M. Dispose of oil, car batteries, and other hazardous waste materials away from the rental premises and in a manner prescribed by federal and local laws; and
- N. Not require the owner to correct or remedy any condition caused by the renter, the renter's family, or the renter's guests or invitees by inappropriate use of the property during the rental term or any extension of it.

15.44.070 RULES AND REGULATIONS

A property owner may adopt rules or regulations concerning the tenant's use and occupancy of the premises, which become a part of the rental agreement, if they apply to all tenants in the premises in a nondiscriminatory manner; do not conflict with the lease, state law, or city ordinance; and are provided to the tenant before the tenant enters into the rental agreement. Rules, regulations, or lease terms can, by agreement between the parties, be more favorable to the tenant than allowed by state law or city ordinance, but cannot be more restrictive. Rules may be modified from time to time by the property owner. However, no rule adopted after the commencement of any rental agreement shall substantially modify the existing terms, conditions, or rules without written consent of the tenant.

15.44.080 ACCESS

- A. A tenant shall not unreasonably withhold consent to the property owner to enter into the dwelling unit in order to make necessary or agreed inspections, repairs, decorations, alterations, or improvements; or to exhibit the dwelling unit to prospective purchasers, tenants, or work people.
- B. A property owner may enter the dwelling unit without consent of the tenant only in cases of emergency.
- C. Except in cases of emergency, the property owner shall give the tenant at least twenty four (24) hours notice of plans to enter, and may enter only between eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. unless otherwise agreed to by tenant.
- D. A property owner has no other right of access except:
 - 1. Pursuant to court order;
 - 2. To make repairs requested by the tenant pursuant to SMC 15.44.110 and 15.44.120 of this chapter; or
 - 3. If the tenant has abandoned the premises as defined in Utah Code Annotated section 78-36-12(3), or any successor provision.

15.44.090 PROPERTY OWNER AND TENANT REMEDIES FOR ABUSE OF ACCESS

- A. If the tenant refuses to allow lawful access, the property owner may obtain injunctive relief to compel access or may terminate the rental agreement and commence an eviction action. In either case, the property owner may recover actual damages and reasonable attorney fees.
- B. If the property owner makes an unlawful entry or makes repeated unreasonable demands for entry which harass the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement and vacate the premises. In either case, the tenant may recover the actual damages and reasonable attorney fees.

15.44.100 FAILURE TO DELIVER POSSESSION

If the property owner fails to deliver possession of the dwelling unit to the tenant as promised in the rental agreement, rent abates until possession is delivered. Alternatively, the tenant may terminate the rental agreement by written notice of the property owner and recover all prepaid rent and security deposits.

15.44.110 REPAIR OF SPECIFIED FAILURES

In the event of the failures specified below, the property owner shall take reasonable steps to begin repairing the failures, within the following specified time periods after receipt of appropriate written notice of the failure delivered to the person identified in SMC 15.44.030A2 of this chapter and complete the repairs with reasonable diligence.

- A. Inoperable toilet: Twenty four (24) hours;
- B. Tub, shower, or kitchen and bathroom sink with inoperable drain or no hot or cold water: Forty eight (48) hours;
- C. Inoperable refrigerator or cooking range or stove: Forty eight (48) hours;
- D. Nonfunctioning heating (during a period where heat is reasonably necessary) or electrical system: Twenty four (24) hours;
- E. Inoperable electric fixture: Seventy two (72) hours;
- F. Broken exterior door or inoperable or missing exterior door lock: Forty eight (48) hours;
- G. Broken window with missing glass: Ninety six (96) hours;
- H. Inoperable exterior lighting: Ninety six (96) hours;
- I. Broken stair or balustrade: Twenty four (24) hours;
- J. Inoperable or missing smoke detector required by code: Twenty four (24) hours;
- K. Inoperable required fire sprinkler system (if smoke detectors are not present or operating): Twenty four (24) hours;
- L. Inoperable required fire sprinkler system (if smoke detectors are installed and operable): Ninety six (96) hours;
- M. Broken or leaking water pipes causing an imminent threat to life, safety, or health: Twenty four (24) hours;
- N. Other broken or leaking water pipes: Seventy two (72) hours;
- O. Disconnection of electrical, water or natural gas service caused by property owner: Twenty four (24) hours.
- P. The tenant shall grant the property owner reasonable access to perform the repairs required in this section.

15.44.120 TENANT REPAIR AND DEDUCT

If the property owner fails to take reasonable steps to begin making the repairs required by SMC 15.44.110 of this chapter within the specified times, and the tenant is current on all rent and other payments to the property owner, the tenant may cause the repairs to be made subject to the following provisions:

- A. Tenant Caused Damages: The repair and deduct provisions of this section shall not be applicable to any damages caused or repairs necessitated by actions of the tenant or the tenant's invited guests or other occupants of the dwelling unit.
- B. Critical Repairs: If the repairs involve an inoperable toilet; lack of heat during a period for which heat is required; broken or leaking water pipes posing an immediate threat to life, safety, or health; a complete lack of running water; or disconnected gas, electric, or water service, the tenant may, upon the expiration of the notice period specified in SMC 15.44.110 of this chapter, cause the necessary repairs to be made.
 - 1. In making such repairs, the tenant must use a licensed contractor if such a licensed contractor is required by applicable building or housing codes.
 - 2. If a licensed contractor is required for the work, the tenant shall contract for the work to be done by the lowest bidder.
- C. Noncritical Repairs: If the required repairs are not critical repairs subject to the provisions of SMC B of this section, the tenant, after expiration of the notice time required by SMC 15.44.110 of this chapter, shall give the property owner or property owner's agent identified in SMC 15.44.030A2 of this chapter a second written notice of intent to repair and deduct. This second notice shall be either delivered and served personally upon the property owner or agent or sent by both certified and regular mail.
 - 1. The second notice shall state the nature of the problem, the date the tenant sent the first notice required by SMC 15.44.110 of this chapter, and the intention of the tenant to cause the repairs to be done and to deduct the cost from the rent if the property owner does not make the repairs.
 - 2. The property owner shall begin making the required repairs within forty eight (48) hours (excluding holidays and weekends) after the hand delivery of the second notice, or by the end of the second calendar day after the date of mailing of the second notice, and complete the repairs with reasonable diligence.
 - 3. If the property owner has not begun the required repairs within the time specified in SMC C2 of this section, the tenant may cause the repairs to be made.
 - 4. In making such repairs, the tenant must use a licensed contractor if such a licensed contractor is required by applicable building or housing codes for the work. The tenant shall obtain two (2) written bids for the work, and shall contract for the work at the low bidder.
 - 5. If a licensed contractor not required for the work, the tenant may do the work on his or her own, or contract for the work to be done at a reasonable cost.
- D. Deductible Amount: For any repairs made pursuant to this section, the tenant may deduct from future rent the actual and reasonable cost of the repairs performed up to a maximum deduction of four hundred dollars (\$400.00) per repair; provided, however, the tenant shall furnish all original bids and paid receipts to the property owner. The maximum deduction for any one month shall not exceed four hundred dollars (\$400.00), regardless of the number or cost of repairs.
- E. Nontermination: The property owner may not terminate the tenant's tenancy for the tenant's deduction of rent for repairs made pursuant to this section, nor may the property owner terminate the tenancy until the tenant's costs for repairs made under this section (not to exceed \$400.00 per repair) have been offset by deducted rent.

15.44.130 RETALIATORY CONDUCT PROHIBITED

- A. Except as provided in this section and Utah Code Annotated section 57-224, a property owner may not terminate a rental agreement or bring or threaten to bring an eviction action because the tenant has in good faith:
 - 1. Complained of code violations at the premises to a government agency, elected representative, or public official charged with responsibility for enforcement of a building, housing, health, or similar code;
 - 2. Complained of a building, housing, health, or similar code violation or an illegal property owner practice to a community organization or the news media;
 - 3. Sought the assistance of a community organization or the news media to remedy code violation or illegal property owner practice;
 - 4. Requested that the property owner make repairs to the premises as required by this chapter, a building or health code, other regulation, or the residential rental agreement;
 - 5. Become a member of a tenant's union or similar organization;
 - 6. Testified in any court or administrative proceeding concerning the condition of the premises; or
 - 7. Exercised any right or remedy provided by law.
- B. If the property owner or tenant violates any provision of this section, the property owner or tenant may recover the greater of one hundred dollars (\$100.00) or actual damages, and reasonable attorney fees.

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16.04.010 GENERAL PURPOSE OF TITLE

This title shall be known and designated as a subdivision ordinance. The purpose and intent of this title is to regulate the platting and recording of subdivisions of land in Smithfield. This title is designed to inform the subdivider and public of the requirements and conditions necessary to obtain approval of a subdivision. All requirements, where possible, are expressly delineated in this title or other applicable ordinances. There are some aspects which do not lend themselves to being easily articulated, and so this title allows the planning commission and city council to impose reasonable conditions upon a subdivider in addition to those expressly required, so long as such conditions do not conflict with any requirements set forth in this title or other applicable ordinances.

16.04.020 INTERPRETATION

In their interpretation and application, the provisions of this title shall be considered as minimum requirements for the purposes set forth. Where the provisions of this title impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this title shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this title, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

16.04.030 DEFINITIONS

The following terms used in this title shall have the respective meanings set forth in this section:

ALLEY: A public way which affords a secondary means of access to abutting property and not intended for general traffic circulation.

APPLICANT: The owner of land proposed to be subdivided or such owner's duly authorized agent. Any agent must have written authorization from the owner.

BENCH MARK: A mark affixed to a permanent or semipermanent object along a line of survey to furnish a datum level.

BLOCK: The land surrounded by streets and other rights of way other than an alley or land which is designated as a block on any recorded subdivision plat.

CITY: Smithfield City.

CITY COUNCIL: The city council of Smithfield City.

CONCEPT PLAN: A sketch or concept drawing submitted prior to the preliminary plat or in lieu of a preliminary plat for minor subdivisions of four (4) to nine (9) lots to enable the subdivider to reach a general understanding with the planning commission regarding the subdivision of property and to review guidelines pertaining to subdivision requirements of the city.

CULINARY WATER AUTHORITY: The Smithfield City engineer.

DEVELOPER: As the case may be, either: a) an applicant for subdivision approval, or b) the owner of any right, title, or interest in real property for which subdivision approval is sought, may be used interchangeably with "subdivider".

EASEMENT: The quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.

FINAL PLAT: A map or chart of a subdivision which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified and which can be placed on record in the office of the county recorder.

FLOOD, 100-YEAR: A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

FLOOD, 10-YEAR: A flood having a ten percent (10%) chance of being equaled or exceeded in any given year.

FLOODPLAIN, 100-YEAR: That area adjacent to a drainage channel which may be inundated by a 100-year flood as designated on the most recent flood insurance rate

map prepared by the federal emergency management agency (FEMA). This floodplain may also be determined following a physical survey by an individual qualified and licensed to do so. Such determination shall be approved by FEMA.

GENERAL PLAN: The comprehensive, long range general plan of proposed future development of land in the city, as provided in chapter 9 of title 10 of the Utah Code Annotated, 1953, as amended.

INTRABLOCK LOT: A lot located within the interior of a block platted as part of the original townsite of Smithfield. The original townsite being located between 450 North and 450 South and 300 East and 450 West.

LOT: A portion of a subdivision or parcel of land intended as a unit for building development or transfer of ownership.

LOT WIDTH: The width of the lot measured along the minimum building setback line.

MAJOR SUBDIVISION: A subdivision of ten (10) or more lots which meets the provisions of SMC 16.07 of this title or nine (9) or fewer lots that do not meet the provisions of SMC 16.06 of this title.

MASTER STREET PLAN: That portion of the general plan which defines the future alignments of major streets and their right of way, including maps or reports or both, which have been approved by the planning commission and city council as provided in chapter 9 of title 10 of the Utah Code Annotated, 1953, as amended.

MINOR SUBDIVISION: A subdivision of not more than nine (9) lots and which meets the provisions of SMC 16.06 of this title.

NATURAL DRAINAGE COURSE: Any natural watercourse which is open for the continuous or potential flow of water in a definite direction or course.

OWNER: Includes the plural as well as the singular, and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation or any combination thereof.

PARCEL OF LAND: A contiguous quantity of land, in the possession of, or owned by, or recorded as the property of, the same claimant or person and bearing one county tax number.

PARK STRIP: The strip of land located within the public right of way between the sidewalk and the curb and gutter.

PLANNED UNIT DEVELOPMENT: A development designed pursuant to SMC 17.88 of this code.

PLANNING ADMINISTRATOR: The person appointed by the city to perform duties and responsibilities of planning administrator as defined in the zoning ordinance.

PLANNING COMMISSION: The Smithfield planning commission, unless another planning commission is specifically named.

PRELIMINARY APPROVAL: An approval, with or without alterations, given to a preliminary plat by the planning commission and provides the necessary authority to proceed with the preparation and presentation of the final plat.

PRELIMINARY PLAT: A map or plan of a proposed land division or subdivision prepared in accordance with this title.

PROTECTION STRIP: A strip of land bordering a subdivision, or a street within a subdivision, which serves to bar access of adjacent property owners to required street improvements installed within the subdivision until such time as the adjacent owners share in the cost of such improvements.

PUBLIC IMPROVEMENTS: Work objectives, devices, facilities or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, secondary irrigation system, streets, trees, street signs, streetlights, traffic control or safety devices, fire hydrants and such other facilities or construction required by this ordinance.

SANITARY SEWER AUTHORITY: The Smithfield City engineer.

SECONDARY WATER SYSTEM: Any system which is designed and intended to provide, transport, store, distribute, divert, clean, filter and measure water from a stream or other source for watering of crops, lawns, shrubberies, flowers and other nonculinary uses.

STREETS:

Arterial: A street which serves or is intended to serve as a major trafficway providing through traffic movement in the most efficient manner.

Collector: An intermediate street which is intended to serve both through and land access functions equally.

Cul-De-Sac: A minor street of limited length which terminates in a turnaround of a minimum radius. Provides minimum access to abutting properties only.

Local: A minor street which provides access to abutting properties.

Major Collector: A street, similar to a collector street except it carries a greater through traffic load.

Private: A thoroughfare within a subdivision or planned unit development which has been reserved by dedication unto the subdivider or lot owners to be used as a private access to serve the lots platted within the subdivision and complying with an approved street cross section and maintained by the subdivider or other private agency.

SUBDIVIDER: Any person who: a) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who b) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop or advertises for sale, lease or development, any interest, lot, parcel, site, unit, or plat in a subdivision, or, who c) engages directly, or through an agent, in the business of selling, leasing, developing or offering for sale, lease, or development of a subdivision, or who d) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing, and may be used interchangeably with developer.

SUBDIVISION:

- A. Any land that is divided, resubdivided, or proposed to be divided into two (2) or more lots, parcels, sites, units, other divisions of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms, and conditions.
- B. Subdivision includes:
 - 1. The division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and
 - 2. Divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

16.04.040 GENERAL CONSIDERATIONS

- A. The general plan will serve as an advisory guide regarding the use and future development of all land within the corporate boundaries of the city. The size and design of lots, the nature of utilities, the design and improvements of streets, the type and intensity of land use, and the provisions for any facilities in any subdivision shall be evaluated against the land uses shown and the standards established in the general plan, the zoning ordinance, and other applicable ordinances.
- B. Trees, native land cover, natural watercourses, and topography shall be preserved where possible. Subdivisions shall be so designed as to prevent excessive grading and scarring of the landscape. The design of new subdivisions shall consider, and relate to, existing street widths, alignments and names unless determined otherwise by the city.
- C. Community facilities, such as parks, recreation areas, and transportation facilities shall be provided in the subdivision in accordance with this title, and other applicable ordinances, and shall be evaluated against the standards outlined in the general plan. This title establishes procedures for the referral of information on proposed subdivisions to interested boards, bureaus, and other governmental agencies and utility companies, both private and public, so that the extension of community facilities and utilities may be accomplished in an orderly manner, coordinated with the development of this subdivision. In order to facilitate the acquisition of land areas required to implement this policy, the subdivider may be required to provide for, grant easements over or otherwise reserve land for schools, parks, playgrounds, public ways, utility easements and other public purposes.

16.04.050 GENERAL RESPONSIBILITIES

- A. The subdivider shall prepare concept plans and plats consistent with the standards contained herein and shall pay for the design, construction and inspection of the public improvements required. The city shall process said plans and plats in accordance with the regulations set forth herein. The subdivider shall not alter the terrain or remove any vegetation from the proposed subdivision site or engage in any site development until the subdivider has obtained the necessary approvals as outlined herein.
- B. The city engineer shall review the plans and plats for design; for conformity to the general plan and to the land use ordinance; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.
- C. Plats and/or plans of proposed subdivisions may be referred by the city engineer to any city departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The city engineer is responsible for coordinating any comments received from the public and private entities and shall decide which agencies to refer proposed subdivision plats and plans to.
- D. The city engineer shall review for compliance the engineering plans and specifications for the city required improvements for the subdivision and whether the proposed city required improvements are consistent with this title and other applicable ordinances and shall be responsible for inspecting the city required improvements.
- E. The city public works department may review and make comments on the engineering plans and specifications for the city required improvements for the city engineer. The public works coordinator may assist the city engineer in performing inspections.
- F. The planning commission shall act as an advisory agency to the city council. It is charged with making investigations, reports and recommendations on proposed subdivisions as to their conformance to the general plan and land use ordinance, and other pertinent documents. After reviewing the final plat and the applicable requirements, the planning commission may recommend approval, approval with conditions, or disapproval of the final plat to the city council.
- G. The city attorney shall verify that the security provided by the subdivider is acceptable, that the subdivider dedicating land for use of the public is the owner of record, that the land is free and clear of unacceptable encumbrances according to the title report submitted by the subdivider, and may review matters of title such as easements and restrictive covenants.
- H. The city council has final jurisdiction in the approval of subdivision plats, the establishment of requirements and design standards for public improvements, and the acceptance of lands that may be proposed for dedication to the city.

16.04.060 COMPLIANCE REQUIRED

- A. It shall be unlawful for any person to subdivide any tract or parcel of land which is located wholly or in part in the city except in compliance with this title. No final plat of any subdivision shall be recorded until it has been submitted and approved as herein. A plat shall not be approved if such plat is in conflict with any provision of the master street plan, land use ordinance, this title, or any other state law or city ordinance.
- B. Land shall not be transferred, sold, or offered for sale, nor shall a building permit be issued for a structure thereon, until a final plat or drawing of a subdivision shall have been recorded in accordance with this title and any applicable provisions of state law, and until the improvements required in connection with the subdivision have been guaranteed as provided herein. Building permits shall not be issued without written approval of all public agencies involved. No building depending on public water, sewer, energy facilities, or fire protection shall be permitted to be occupied until such facilities are fully provided and operational.
- C. All lots, plots or tracts of land located within a subdivision shall be subject to this title whether the tract is owned by the subdivider or a subsequent purchaser, transferee, devisee, or contract purchaser of the land or any other person.
- D. Except as otherwise provided, it shall be unlawful for any person to receive a building permit for a lot within a subdivision until water, sewer, storm drainage and all other required underground utilities within the subdivision are installed, inspected and approved by the city, all curb and gutter is installed, and all streets in the subdivision are rough graded.
- E. A building permit may be issued for a lot within a subdivision prior to installation of all water, sewer and required utilities and rough grading of all streets within the subdivision upon a finding of all of the following conditions by the building official:
 - 1. The lot fronts onto an already existing hard surfaced street;
 - 2. The main lines for utilities which will service the lot are located within the already existing and improved street;
 - 3. There is adequate fire flow protection and existing fire hydrants and fire protection devices for the lot as required by the uniform fire code, as adopted by the city, and other relevant city ordinances;
 - 4. There is adequate access to the lot for emergency utility vehicles;
 - 5. The issuance of the building permit will not threaten public health, safety and welfare;

6. Issuance of the permit will not result in the waiver of any other requirements or performance guarantees for the subdivision.

F. It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable which improvements shall include paved streets. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed.

16.04.070 REQUIRED CERTIFICATES, PERMITS AND REVIEWS

A. **Application:** Applications for each of the separate stages of subdivision approval (concept plan, preliminary plat, and final plat) shall be made to the city's planning department. Applications shall be made on the respective forms provided and shall be accompanied by the proper fee and by the documents and information required by this chapter.

B. **Approval:** Action on that application for a stage of a subdivision approval shall be completed in a timely manner after the date of submittal of all required information and items to the planning department.

16.04.080 FEES

Any and all persons requesting approval on a subdivision concept plan, preliminary plat, final plat, minor subdivision, and plans and specifications for the construction of improvements shall first have paid all fees according to the most current prevailing fee schedule adopted by resolution of the Smithfield City council. Said fee schedule is an office checking and field engineering fee to be payable to the city at the time of each of the above named submittals. In the event the original submittal is not approved and a second, third, etc., submittal is required, a fee shall be paid to the city on an hourly basis for time incurred in checking and approving said submittal.

In addition to the above, a retainer fee for construction inspection, based on the most current prevailing fee schedule adopted by resolution of the Smithfield City council shall be payable to the city prior to any construction on subdivision improvements. Costs for any necessary testing, shall be paid by the developer, not the city. Cost for any required materials testing shall be paid directly by the developer or shall be reimbursed by the developer if payment is advanced by the city. Any failure by a developer to make timely payment as required shall be grounds for the withholding of a building permit by the city for any subdivision of the developer within the city.

16.05 CONCEPT PLAN

16.05.010 PURPOSE

16.05.020 APPLICATION AND FEES

16.05.030 CONCEPT PLAN SUBMITTAL

16.05.040 SUBDIVISION TECHNICAL REVIEW COMMITTEE (STRC)

16.05.010 PURPOSE

A concept plan shall be required of all subdividers. This provides the subdivider with an opportunity to consult with and receive assistance from the city regarding the regulations and design requirements applicable to the subdivision of property.

16.05.020 APPLICATION AND FEES

The applicant or applicant's duly authorized agent shall submit an application to the planning department for subdivision concept plan approval and at the same time, the applicant shall pay an application fee as provided in the most recent prevailing fee schedule.

16.05.030 CONCEPT PLAN SUBMITTAL

The subdivider shall submit two (2) 11"x17" and one (1) electronic version of the proposed subdivision concept plan to the planning department and schedule to meet with the Subdivision Technical Review Committee. The proposed concept plan shall include the following items:

- A. The proposed name of the subdivision;
- B. A vicinity plan showing significant natural and manmade features on the site and within five hundred feet (500') of any portion of it;
- C. The property boundaries of the proposed subdivision;
- D. The names of adjacent property owners;
- E. Existing and proposed street layout;
- F. Location and size of water, sewer, storm water and irrigation utilities;
- G. Proposed lot layout including typical lot size;
- H. North arrow;
- I. Minimum scale one inch equals one hundred feet (1" = 100').

16.05.040 SUBDIVISION TECHNICAL REVIEW COMMITTEE (STRC)

Process:

The city hosts a subdivision technical review committee (STRC) meeting on a periodic basis. In order for a concept plan to be scheduled for a particular STRC meeting, a complete concept application must be received and accepted by the city prior to a date approximately one month prior to the STRC meeting at which the applicant desires the project to be discussed. The community development department maintains this schedule.

Meeting with Representatives:

The applicant is provided an opportunity to meet with representatives from all applicable utilities and other interested governmental agencies to receive comments regarding the concept application. At this meeting the applicant will also receive written comments from the city, detailing the extent to which the plans are required to be revised. Once revised and approved by the STRC, the concept or preliminary plan will be forwarded to the planning commission for their consideration. Extensive revisions caused by the STRC comments or by voluntary action of the applicant, may require additional STRC meetings.

Timetables:

Concept plan processing, project timetables, including monthly concept plan application deadlines, STRC meeting dates, required resubmittal dates and planning commission meeting dates are established and maintained by the Planning and Zoning department.

Note: Upon approval by the STRC the next step will be to go before the Planning Commission for review.

Amended by Ord. 2015-014 on 9/9/2015

16.06 MINOR SUBDIVISIONS

16.06.010 GENERAL PURPOSE

16.06.020 APPLICABILITY

16.06.030 REQUIRED CONDITIONS AND IMPROVEMENTS

16.06.040 PROCEDURE

16.06.050 APPROVAL OF THE MINOR SUBDIVISION

16.06.060 DISAPPROVAL BY THE CITY COUNCIL

16.06.070 REQUIRED IMPROVEMENTS

16.06.080 RECORDING OF PLAT OR FILING OF RECORD SURVEY

16.06.010 GENERAL PURPOSE

The intent of the minor subdivision process is to allow for small subdivisions to be processed as quickly as possible. In this process, the concept plan, preliminary and final plats required of major subdivisions, are either eliminated, simplified or combined.

16.06.020 APPLICABILITY

The procedures set forth in this chapter shall govern the processing of, and the requirements pertaining to, minor subdivisions, and shall take precedence over any other provisions of this title to the contrary.

16.06.030 REQUIRED CONDITIONS AND IMPROVEMENTS

The following requirements shall be imposed as a condition of approval of a minor subdivision:

- A. Not more than nine (9) parcels shall be created in the minor subdivision;
- B. The area to be subdivided should be immediately adjacent to existing streets and utilities, and there shall be no dedication of any land for street rights of way or other public purposes required except for widening of existing rights of way to meet the minimum right of way widths required by the general plan or this title which may be conveyed by metes and bounds;
- C. The minor subdivision shall conform to the general character of the surrounding area. New lot lines shall conform to the general pattern of existing lot lines;
- D. Lots created shall not adversely affect the remainder of the parcel or adjoining property and shall conform to the applicable provisions of the land use ordinance;
- E. Utility easements shall be provided as needed.
- F. The infrastructure to be installed does not require engineering, if the water, storm water, sewer, and curb are explicitly controlled by the building code or are not considered to be under the city's stewardship after installation.

16.06.040 PROCEDURE

- A. To obtain approval of a minor subdivision where the number of lots to be developed is three (3) or less, the developer shall cause a "record survey" to be prepared by a land surveyor, licensed in the state of Utah. This record survey shall clearly show the division of the proposed lots and shall include all dimensions, square footage, and metes and bounds descriptions. The "record survey" shall be prepared in accordance with the standards established by SMC 17.23.17 of the Utah Code Annotated.
- B. Where the number of lots to be developed is greater than three (3) but less than ten (10), the developer shall, after receiving approval for a minor subdivision concept plan from the STRC, cause a final plat to be prepared. The final plat shall meet the requirements for final plats as outlined in SMC 16.12 of this title.

16.06.050 APPROVAL OF THE MINOR SUBDIVISION

- A. The final plat or record survey shall be submitted to the planning department at least ten (10) days prior to a regularly scheduled meeting of the planning commission. No public hearing shall be required.
- B. Following the review of the proposed minor subdivision, the planning commission shall recommend to the city council either approval, modification, or rejection of the final plat or record survey.
- C. After receiving a recommendation from the planning commission, the developer shall present the final plat or record survey to the city council for consideration. Prior to reviewing the final plat or record survey and the recommendation of the planning commission, the city council shall present the final plat or record survey to the STRC for review and approval. Upon receiving an approval from the STRC the city council shall review the final plat or record survey and consider the recommendation of the planning commission, city engineer, and other such departments deemed appropriate. If the final plat or record survey conforms to city's ordinances and this title, the city council shall approve the final plat or record survey.

16.06.060 DISAPPROVAL BY THE CITY COUNCIL

If the city council determines that the record survey or final plat is not in conformity with this title or other applicable ordinances, or any reasonable conditions imposed, it shall disapprove the plat or record survey specifying the reasons for such disapproval. Within one year after the city council has disapproved any plat or record survey, the subdivider may file with the planning department a plat or record survey to meet the requirements of the city council. No plat or record survey has any force or effect until the same has been approved by the city council.

16.06.070 REQUIRED IMPROVEMENTS

- A. Developers of minor subdivisions shall be required to provide improvements as detailed in SMC 16.20 of this title. A determination of the adequacy of existing improvements to meet the needs of the development shall be made by the city engineer. In the event the city engineer determines the existing facilities are inadequate,

the developer shall be responsible to complete the steps of a major subdivision chapter 16.07.

- B. In situations where the tract of land to be subdivided contains no more than five (5) intrablock lots, the city council, after receiving a recommendation from the planning commission, may vary the improvement requirements of this chapter as they pertain to the intrablock lots.
- C. In developments of three (3) lots or less, the city council may, at its sole discretion, delay the construction of individual lot improvements until such time as a request for a building permit has been made; if bond is secured.

16.06.080 RECORDING OF PLAT OR FILING OF RECORD SURVEY

After receiving city council approval and, completion of the required public improvements or establishment of security to ensure funds to construct said improvements, and the plat has been signed by the planning commission chairperson, the city engineer, other city officials, and the mayor and attested by the city recorder, it shall be presented to the county recorder of Cache County for recording. In cases where a record survey has been approved and signed by the city engineer, the record survey shall be presented to the office of the Cache County surveyor or designated office for filing.

16.07 MAJOR SUBDIVISIONS

16.07.010 PURPOSE

16.07.020 CONCEPT PLAN

16.07.030 PRELIMINARY PLAT

16.07.040 FINAL PLAT

16.07.050 IMPROVEMENTS

16.07.010 PURPOSE

The purpose of the major subdivision process is to ensure orderly division of property not meeting the requirements of a minor subdivision for purposes of development in Smithfield. This chapter shall outline the requirements and procedures, as they have been developed, to accomplish this goal.

16.07.020 CONCEPT PLAN

Before dividing any tract of land into lots, a subdivider shall first prepare a concept plan meeting the requirements of SMC 16.05 of this title. The concept plan shall be submitted to the planning commission for consideration and approval.

16.07.030 PRELIMINARY PLAT

After receiving approval of the concept plan from the planning commission, the subdivider shall file an application for preliminary plat approval on a form prescribed by the city, together with three (3) copies of the preliminary plat and two (2) reduced eleven by seventeen inch (11 x 17") copies to the Smithfield planning department for approval by the planning commission. Submittals shall be made with the appropriate filing fee and must be made a minimum of fifteen (15) days prior to the next regularly scheduled meeting of the planning commission. The preliminary plat must be prepared in accordance with the provisions of such plats as outlined in SMC 16.09 of this title.

16.07.040 FINAL PLAT

Within one year of the approval of the preliminary plat by the planning commission, the subdivider shall prepare a final plat in accordance with the provisions of chapters 16.12 and 16.16 of this title. Two (2) copies of the final plat together with two (2) reduced eleven by seventeen inch (11 x 17") copies shall be submitted to the planning department, together with the appropriate filing fee, at least fifteen (15) days prior to a regularly scheduled meeting of the planning commission. The planning commission shall recommend to the city council to approve, approve with conditions, or disapprove the final plat. In cases where the planning commission recommends disapproval of the final plat, the subdivider may make corrections to the plat and resubmit it to the planning commission for reconsideration. Following final action by the planning commission, the subdivider shall submit the final plat to the city recorder, with the recommendations from the planning commission, for consideration and approval by the city council.

16.07.050 IMPROVEMENTS

- A. The subdivider shall be responsible for the design and construction of all public improvements within or in support of the subdivision. Prior to submitting the final plat to the planning commission, the subdivider shall cause construction plans to be prepared by a Utah registered professional engineer for all required public improvements. Construction plans shall be prepared in accordance with the minimum standards of Smithfield City and this title.
- B. Each set of plans should contain a signature block which may be signed by the city engineer indicating approval of the plans. In addition, each set of plans and specification should be stamped by the professional preparing them.

16.09 PRELIMINARY PLATS

16.09.010 PURPOSE

16.09.020 APPLICATION AND FEES

16.09.030 PRELIMINARY PLAT REQUIRED INFORMATION

16.09.040 APPROVAL OF PRELIMINARY PLAT

16.09.050 EXPIRATION OF PRELIMINARY PLAT APPROVAL

16.09.010 PURPOSE

The purpose of the preliminary plat is to require formal preliminary approval of a major subdivision by the planning commission in order to minimize changes and revisions which might otherwise be necessary on the final plat. The preliminary plat and all information and procedures relating thereto, shall, in all respects, be in compliance with the provisions of this title and any other applicable ordinances.

16.09.020 APPLICATION AND FEES

The subdivider of a subdivision, after receiving approval of the concept plan required in SMC 16.05 of this title, shall file an application for preliminary plat approval with the city planning department on a form prescribed by the city, together with two (2) hard and one (1) electronic copies of the preliminary plat. At the same time, the subdivider shall pay the appropriate filing fee as provided in the current prevailing fee schedule.

16.09.030 PRELIMINARY PLAT REQUIRED INFORMATION

A. Contents: The preliminary plat shall contain the following information:

1. The preliminary plat shall be drawn to scale not smaller than one hundred feet (100') to the inch, and shall show a north arrow;
2. The proposed name of the subdivision;
3. The location of the subdivision including the address and the section, township and range;
4. The names and addresses of the owner, subdivider if other than the owner, and the engineer or designer of the subdivision;
5. Date of preparation, scale (at least 100 feet to the inch), and north point;
6. Signature block containing signatures of representatives for each of the four (4) public utilities (gas, power, telephone, cable TV) indicating that they have been made aware of the pending development.

B. Existing Conditions: The plat shall show the following:

1. The location of the nearest legal monument;
2. The boundary of the proposed subdivision and the acreage included;
3. All property under the control of the subdivider, even though only a portion is being subdivided. Where the plat submitted covers only a part of the subdivider's tract, a sketch of the proposed street system on the unplatted parts of the subdivider's land shall be considered in the light of existing major street plans or other planning commission studies;
4. The location, width and names of all existing streets within two hundred feet (200') of the subdivision and of all prior platted streets or other public ways, railroad and utility rights of way, parks, and other public open spaces, permanent buildings and structures, and houses or permanent easements;
5. Section and corporation lines, within and adjacent to the tract;
6. Location of all wells, proposed, active and abandoned, and of all reservoirs within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries;
7. Existing sewers, water mains, irrigation lines, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location;
8. Existing ditches, canals, natural drainage channels and open waterways and proposed realignments;
9. Boundary lines of adjacent tracts of unsubdivided land, showing ownership where possible;
10. Contour at vertical intervals of not more than two feet (2') excepting in mountainous or otherwise steep areas where a more practical interval would be warranted;
11. Where applicable, location of the 100-year floodplain as determined by the federal emergency management agency (FEMA).

C. Proposed Plan: The preliminary plat shall show:

1. The layout of streets (designated by actual or proposed names and numbers), showing location, widths and other dimensions of proposed streets, alleys and easements which shall be in conformance to the adopted street master plan;
2. The layout, numbers and typical dimensions of lots;
3. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
4. Building setback line, including showing dimensions;
5. Easements for water, sewers, drainage, utility lines and other purposes;
6. Typical street cross sections and street grades where required by the planning commission;
7. A plan or method by which the subdivider proposes to handle stormwater drainage for the subdivision. Any disposal of stormwater in an open waterway shall require approval of those responsible for the open waterway;
8. A plan for culinary water improvements and waste disposal improvements for all lots proposed within the subdivision;
9. An adequate traffic report prepared by a qualified traffic engineer when required by the City Engineer.

D. Property Owner Agreements: Where necessary, copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the planning commission.

16.09.040 APPROVAL OF PRELIMINARY PLAT

- A. The Subdivision Technical Review Committee (STRC), shall review the preliminary plat and visit the site of the proposed subdivision. Following the review, the STRC shall determine compliance with the standards and criteria set forth in this title and all other ordinances of Smithfield City, including, but not limited to, the land use ordinance, general plan and master street plan, upon approval the STRC shall forward the preliminary plan to the planning commission for their review and approval.
- B. The planning commission shall hold a public hearing on the proposed preliminary plat after providing notice of the date, time and place of the public hearing. Such notice shall be mailed not less than three (3) calendar days before the public hearing and addressed to the record owner of each parcel adjacent to the external boundary of the subdivision. In lieu of mailed notices to adjacent property owners a notice may be posted not less than three (3) calendar days before the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers by. In the event of a proposed multiple-unit residential development or a commercial or industrial development, a mailed notice of the date, time, and place of the public hearing shall be addressed to each affected entity.
- C. The planning commission may approve, approve subject to modification, or disapprove the submitted preliminary plat, and shall make findings specifying any inadequacy, noncompliance with city regulations, questionable or undesirable design and/or engineering, and the need for any additional information which may assist the planning commission to evaluate the preliminary plat. The subdivider shall be notified in writing of the action taken by, and the findings of, the planning commission regarding the submitted preliminary plat.
- D. If the planning commission denies preliminary plat approval, no further review of the proposed subdivision shall be made by the planning commission, and a new preliminary plat shall be required to reinitiate the subdivision process.
- E. If the preliminary plat is approved, the planning commission shall return one copy of the plat signed by the planning commission chairman to the subdivider together with any conditions that may be attached. Other signed copies shall be forwarded to each of the interested city departments. The planning commission shall retain one signed copy of the plat for its files. If the preliminary plat is disapproved, the planning commission shall indicate its disapproval by distributing signed copies of the plat bearing the reasons for disapproval.
- F. Granting of a preliminary plat approval by the planning commission shall not constitute a final acceptance of the subdivision by the planning commission. Nor shall approval of the preliminary plat relieve the subdivider of the responsibility to comply with all required conditions and ordinances, and to provide the improvements and easements necessary to meet all city standards and requirements.

16.09.050 EXPIRATION OF PRELIMINARY PLAT APPROVAL

- A. Application for final plat approval shall be made within twelve (12) months after approval or conditional approval of the preliminary plat by the planning commission. This time period may be extended for up to twelve (12) months if the subdivider petitions the planning commission for an extension prior to the expiration date. Only one extension may be granted.
- B. In subdivisions where a final plat for an individual phase of the overall subdivision has been approved and recorded within the time frame outlined in SMC A of this section, preliminary plat approval shall be considered to be valid for an additional twenty four (24) months from the date of recording of each final plat. This time period may be extended for up to twelve (12) months pursuant to SMC A of this section.

16.12 FINAL PLATS

16.12.010 PURPOSE

16.12.020 FILING DEADLINE, APPLICATION, AND FEES

16.12.030 PREPARATION AND REQUIRED INFORMATION

16.12.040 REVIEW BY THE CITY ENGINEER

16.12.050 PLANNING COMMISSION ACTION

16.12.060 REVIEW BY THE CITY ATTORNEY

16.12.070 REVIEW BY THE CITY COUNCIL

16.12.080 RECORDING OF THE FINAL PLAT

16.12.090 EXPIRATION OF FINAL APPROVAL

16.12.010 PURPOSE

The purpose of the final plat is to require formal approval by the planning commission and city council before a subdivision plat is recorded in the office of the Cache County recorder. The final plat and all information and procedures relating thereto shall in all respects be in compliance with the provisions of this title. The final plat and construction plans submitted shall conform in all respects to those regulations and requirements specified during the preliminary plat process.

16.12.020 FILING DEADLINE, APPLICATION, AND FEES

Application for final plat approval shall be made by submitting two (2) copies of the proposed final plat together with two (2) reduced eleven by seventeen inch (11 x 17") copies, and two (2) sets of construction plans, to the planning department within twelve (12) months after approval or conditional approval of the preliminary plat by the planning commission. This time period may be extended for up to twelve (12) months for good cause if the subdivider petitions the planning commission for an extension prior to the expiration date, however only one extension may be granted. At the time of application, the appropriate fee shall be paid in accordance with the current prevailing fee schedule.

16.12.030 PREPARATION AND REQUIRED INFORMATION

- A. **Preparation:** The final plat must be prepared by a licensed land surveyor on a sheet of approved mylar with waterproof black ink. The top of the plat shall be either north or east, whichever best accommodates the drawing. The final plat shall be made to a scale large enough to clearly show all details, and in any case not smaller than one hundred feet (100') to the inch, and workmanship on the finished drawing shall be neat, clean cut and readable.
- B. **Description And Delineation:** The final plat shall show:
 - 1. The name of the subdivision, as approved by the planning commission;
 - 2. Accurate angular and linear dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features. A boundary description of the subdivision shall also be provided;
 - 3. An identification system for all lots and blocks and names and numbers of streets. Lot lines shall show dimensions in feet and hundredths;
 - 4. True angles and distances to the nearest established street lines of official monuments, which shall be accurately described in the plat and shown by appropriate symbol;
 - 5. Radii, internal angles, points and curvatures, tangent bearings and the length of all arcs;
 - 6. The location of all monuments to be installed and accurately located by the appropriate symbol. All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position;
 - 7. The dedication to the city of all streets and highways included in the proposed subdivision;
 - 8. Pipes or other such iron markers, with the appropriate surveyor's tag, shall be placed at each lot corner prior to approval of the final plat;
 - 9. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners;
 - 10. Where it is proposed that streets be constructed on property controlled by a public agency or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on the final plat in a form approved by the city attorney;
 - 11. The final plat shall be prepared on twenty four inch by thirty six inch (24" x 36") approved mylar and shall have a one and one-half inch (1½") border on the left and a one-half inch (½") border on the three (3) remaining sides;
 - 12. The street address for each lot shall be shown on the final plat. Street address shall be assigned by the city;
 - 13. All streets within the subdivision shall be numbered (named streets shall also be numbered) in accordance with and in conformity with the adopted street numbering system adopted by the city;
 - 14. All boundary, lot and other geometrics (bearings, distances, curve data, etc.) on the final plat shall be close to an accuracy of not less than one part in five thousand (1/5,000);
 - 15. A legend and general notes or statements as required by the city or other interested parties and a north arrow and the scale of the drawing;
 - 16. A seven and one-half foot (7½') utility easement across all lot frontages that are adjacent to public streets and other required easements for water, sewers, drainage, utility lines and other purposes;
 - 17. The area of each lot in square feet or acres;
 - 18. A basis of bearing shall be indicated on the plat.
- C. **Standard Forms For The Final Plat:** The final plat shall include:

1. A registered land surveyor's certificate of survey in the form required by state law;
 2. The owner's certificate of dedication;
 3. A notary public's acknowledgment;
 4. The Smithfield planning commission's certificate of approval;
 5. The Smithfield City council's certificate of approval;
 6. The city engineer's certificate of approval;
 7. The city attorney's certificate of approval;
 8. A one and one-half by five inch (1¹/₂ x 5") space in the lower left hand corner of the drawing for the county recorder's use;
 9. The board of health certificate of approval in cases where sewage disposal will be through the use of individual waste disposal systems.
- D. **Submittal:** The final plat shall be submitted for approval with a title opinion by a licensed abstract company showing the names of the owner or owners of the subdivision.
- E. **Utility Easement Approval:** The final plat shall show all utility easements required for the installation and maintenance of utilities needed to serve the subdivision. The final plat shall not be approved by the city engineer until the subdivider obtains the signature of an officer of every utility company providing utility services in the city, which signature shall indicate that the utility easement is in a form acceptable to the utility company's plans for providing services in the subdivision.
- F. The locations for the placement of mailboxes.

16.12.040 REVIEW BY THE CITY ENGINEER

The city engineer shall review the final plat and construction plans and determine compliance with the engineering and surveying standards and criteria set forth in this chapter and all other applicable ordinances of the city and the state of Utah. As the culinary water and sanitary sewer authority, the city engineer shall review the construction plans for compliance with the water and sewer master plans of the city and the overall impact the development is expected to have on those systems. The city engineer shall sign the final plat if the city engineer finds that the subdivision and the construction plans fully comply with the improvement standards required by this chapter, that the survey description is correct, that the current water and sewer systems with any proposed improvements are adequate to meet the needs of the development, and that all easements are correctly described and located. The city engineer shall complete a review of the plat and construction plans within thirty (30) days after being submitted for review to the engineer, unless a longer time is necessary for good cause. If the final plat and construction plans comply, the city engineer shall provide written approval and forward the plat to the planning commission. If the final plat or the construction plans do not comply, the city engineer shall return the plat to the subdivider with comment.

16.12.050 PLANNING COMMISSION ACTION

Upon receipt of the final plat, the planning commission shall review the plat to determine whether the plat conforms with the preliminary plat, with all changes requested, and with all requirements imposed as conditions of acceptance. If the submitted final plat is not acceptable, the planning commission shall notify the subdivider and specify the respects in which it is deficient. If the planning commission determines that the final plat is in conformity with all requirements of the ordinances of the city and with the conditions of acceptance by the planning commission, it shall recommend approval of the final plat and the chairperson of the planning commission shall sign the plat in the appropriate block and forward the plat to the city attorney.

16.12.060 REVIEW BY THE CITY ATTORNEY

The city attorney shall review the final plat and the current title report to verify compliance with the city's regulatory requirements and to ensure it has been properly prepared to allow for the legal transfer of individual lots and the dedication of public and private land. The city attorney may also review public easements, protective covenants and other documents where applicable. Upon satisfactory completion of the items specified in this section, the city attorney shall provide written approval of the plat to the city manager before the plat is presented to the city council.

16.12.070 REVIEW BY THE CITY COUNCIL

- A. Within a reasonable time following approval of the final plat by the city engineer, the planning commission and the city attorney, the final plat shall be submitted to the city council for its review and consideration. The city council shall not be bound by the recommendations of the city staff or the planning commission and may set its own conditions and requirements consistent with this title. If the city council determines that the final plat is in conformity with the requirements of this title, other applicable ordinances, and any reasonable conditions as recommended by the city's staff and planning commission or as set on the city council's own initiative, that all fees have been paid as required, and that the city council is satisfied with the final plat of the subdivision, it may approve the final plat. If the city council determines that the final plat is not in conformity with this title or other applicable ordinances, or any reasonable conditions imposed, it may disapprove the final plat specifying the reasons for disapproval. Within one year after the city council has disapproved any plat, the subdivider may file with the planning department, a plat altered to meet the requirements of the city council. No final plat shall have any force or effect unless the same has been approved by the city council and signed by the mayor and city recorder, city engineer and all other required officials.
- B. The city council shall not give final approval to any subdivision plat until the planning commission has approved the plat.

16.12.080 RECORDING OF THE FINAL PLAT

Following city council approval, the completion of the subdivision improvements as described in SMC 16.20 of this title or the filing of the security for performance agreement as described in SMC 16.22 of this title, the filing of the warranty deposit, and the signing of the plat by the mayor and city recorder, and all other required officials the final plat shall be presented by the city recorder to the Cache County recorder for recording.

16.12.090 EXPIRATION OF FINAL APPROVAL

If the final plat is not recorded within six (6) months from the date of city council approval, such approval shall be null and void. This time period may be extended by the city council for up to an additional six (6) month period for good cause shown. The subdivider must petition in writing for an extension prior to the expiration of the original six (6) months. No extension will be granted if it is determined that it will be detrimental to the city.

16.16 GENERAL REQUIREMENTS FOR ALL SUBDIVISIONS

16.16.010 GENERAL LAYOUT STANDARDS

16.16.020 LOT LAYOUT STANDARDS

16.16.030 STREET LAYOUT STANDARDS

16.16.040 PROTECTION STRIPS

16.16.050 DEDICATION OF WATER

16.16.060 PUBLIC ACCESS ALONG WATERWAYS

16.16.010 GENERAL LAYOUT STANDARDS

- A. The city's general plan shall be used as an advisory guide for all subdivision layouts.
- B. Where trees, waterways, scenic points, historical spots or other city assets and landmarks, as determined by the planning commission, are located within a proposed subdivision, reasonable steps should be taken to preserve these features.
- C. Blocks shall not exceed one thousand six hundred feet (1,600') in length. Blocks shall be wide enough to adequately accommodate two (2) tiers of lots.
- D. Dedicated walkways through the block may be required where access is necessary to a point designated by the planning commission. Such walkways shall be a minimum of five feet (5') in width with a fifteen foot (15') dedicated right of way, but may be required to be wider where determined necessary by the planning commission. The subdivider shall surface the full width of the walkway with a concrete surface, install a vinyl fence or its equal four feet (4') high on each side and along the full length of each walkway and provide barriers at each walkway entrance to prevent the use of the walkway by any motor vehicle or by any other nonmotorized vehicle wider than four feet (4').
- E. Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off street parking and delivery facilities as required in the land use ordinance.

16.16.020 LOT LAYOUT STANDARDS

- A. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for building, and be properly related to topography, to the character of surrounding development and to existing requirements. A subdivision should not create lots which would make improvement impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewerage, driveway grades or other physical conditions.
- B. All lots shown on the preliminary and final plats must conform to the minimum requirements of title 17 of this code, if any, for the zone in which the subdivision is located.
- C. All lots shall have the minimum required frontage on a dedicated street, improved to standards hereinafter specified, with a pavement width equal to at least twenty five feet (25'). Exceptions may be given to intrablock lots which have been approved subject to the provisions of SMC 17.84 of this code.
- D. Double frontage lots shall be prohibited except where unusual conditions make other designs undesirable or in cases where lots adjoin arterial or major collector streets. Double frontage lots or limited driveway access may be required when lots adjoin the following streets:

1. Hillside Drive or 1000 East Street;
2. 600 South east of Main Street;
3. 250 East Street south of 600 South;
4. Main Street/U.S. 91;
5. 1000 South Street;
6. 300 South Street east of Main Street.

The subdivider may be required to construct a fence meeting the requirements established by the planning commission along the rear lot lines of double frontage lots. The subdivider may also be required to landscape the park strip areas along those streets listed above or where double frontage lots are created. Where plant materials are required, automatic sprinkling systems shall be provided.

- E. Side lines of lots shall be approximately at right angles, or radial to the street lines.
- F. In general, all remnants of lots below minimum size must be added to adjacent lots, rather than allowed to remain as unusable parcels.

16.16.030 STREET LAYOUT STANDARDS

- A. Subdividers shall locate streets within the subdivision so that the streets connect with existing public streets and shall meet the provision of the adopted city master street plan or the transportation section of the general plan. Those streets which have not been designated on the master street plan shall be as required by the planning commission and city council.
- B. The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas and shall provide access to unsubdivided adjoining areas insofar as such continuation or access shall be deemed necessary by the planning commission.
- C. Streets shall intersect with each other with a right of way radius corner of at least thirteen feet (13').
- D. Minor streets shall approach the arterial or collector streets at an angle of not less than eighty five degrees (85°).
- E. Cul-de-sacs shall be allowed at the discretion of the planning commission and city council. In no case shall cul-de-sacs exceed a maximum length of five hundred fifty feet (550') measured from the intersecting right of way line to the center of the cul-de-sac. All cul-de-sacs shall have a minimum radius of fifty five feet (55'). However, the city engineer may require cul-de-sacs be constructed with a fifty four foot (54') diameter planted median and a one hundred twenty seven foot (127') diameter right of way to accommodate better snow removal.
- F. Where a street is designated to remain only temporarily as a dead end street and is at least two hundred fifty feet (250') in length, a satisfactory turnaround area and recordable easement may be required at the end thereof to remain and be available for public use so long as the dead end exists. The city may require improvements to be installed in temporary turnaround areas.

16.16.040 PROTECTION STRIPS

Where subdivision streets parallel contiguous property of other owners, the subdivider may, upon approval of the planning commission, retain a protection strip not less than one foot (1') in width between the street and adjacent property provided the portion of street being developed is more than the portion attributed to the current development. In such cases, an agreement shall be prepared by the subdivider to the satisfaction of the city attorney, contracting to deed to the then owners of the contiguous property, the one foot (1') or larger protection strip for a consideration named in the agreement, such consideration to be not more than the fair cost of land in the protection strip, the street improvements properly chargeable to the contiguous property, plus the value of one-half ($\frac{1}{2}$) the land in the street at the time of agreement, which is improved and is greater than the portion developed and attributable to the current developer's subdivision, together with interest at a fair rate from the time of agreement until the time of the subdivision of such contiguous property. One copy of the agreement shall be submitted by the city attorney to the planning commission prior to approval of the final plat. Protection strips shall not be permitted at the end of or within the boundaries of a public street or proposed street or within any area intended for future public use.

16.16.050 DEDICATION OF WATER

As a condition of approval of the subdivision, the city council shall require each developer, which has not received preliminary approval prior to the adoption hereof, to

provide one acre-foot of usable water per dwelling unit or residential lot, whichever is greatest, to the city. This contribution of water is intended to assist the city in meeting the water supply needs brought on as a result of the development. When the required water is provided to the city, the appraised dollar value shall be applied as a credit against any impact fees adopted for the purchase for water. This requirement for usable water may be satisfied through the application of one or a combination of the following options:

- A. Culinary quality water which, in the opinion of the city, would qualify for conversion to a municipal use with a point of diversion residing in an existing city diversion point or that may be transferable to an existing city diversion point.
- B. Secondary or irrigation quality water from a canal or irrigation company operating within the corporate limits of Smithfield City. Only certificates of shares of capital stock in the name of Smithfield City will be considered as a means of satisfying the requirement for one acre-foot of usable water. One share of capital stock shall represent three (3) acre-feet of usable water. High water or partial season water will not be accepted.
- C. If the city engineer determines the city has an adequate existing water supply and a sufficient water right to meet the foreseeable future needs of the city, a subdivider or developer may in lieu of providing water, pay the amount identified in the most current "prevailing fee schedule" as set forth by the city council. Fees collected by the city shall be earmarked for the purpose of obtaining additional water rights or developing existing water resources. The city may refund any fees received in accordance with this option if the subdivider or developer provides water in accordance with SMC A or B of this section.
- D. In the event the subdivider or developer should choose the option identified in SMC C of this section and in doing so constructs a secondary distribution system within the development or a portion of the development, the city may, at its discretion, rebate up to seventy five percent (75%) of the fee paid for each lot served. Qualification for rebate will only be considered for those lots with adequate capital water stock available to them and provided the sale or transfer of that capital water stock to another individual or lot without the consent of the city is restricted. The means by which the sale or transfer of the capital water stock is restricted shall be at the discretion of the city.

16.16.060 PUBLIC ACCESS ALONG WATERWAYS

All subdivisions that contain or abut a canal, river, or stream shall dedicate to the city a permanent fifteen foot (15') right of way along the west or south bank of said waterway. The right of way, which shall be measured from the inside bank of the waterway, will be for the purpose of providing permanent public access to the waterway for maintenance and recreational purposes. In the event the proposed development borders the east and north banks and the west and south banks have already been developed, then the dedication shall be from the east and north banks. The right of way shall be made available to the city at fair market value based on a negotiated price or current property appraisal.

16.20 DESIGN AND CONSTRUCTION STANDARDS FOR IMPROVEMENTS

16.20.010 DEPARTMENT STANDARDS

16.20.020 SUBDIVISION IMPROVEMENT PLANS

16.20.030 SANITARY SEWER

16.20.040 CULINARY WATER

16.20.050 STORM DRAINAGE

16.20.060 STREET IMPROVEMENTS

16.20.070 SECONDARY WATER

16.20.080 UTILITIES

16.20.090 EXTENSION OF IMPROVEMENTS

16.20.010 DEPARTMENT STANDARDS

Standards for design, construction specifications and inspection of street improvements, curbs, gutters, sidewalks, storm drainage, flood control facilities, water distribution, fire hydrants and sewage disposal shall be prepared by the city engineer. All such standards shall be in conformance with the standards adopted by applicable state and federal regulatory agencies. All subdividers shall comply with the established standards provided they have been approved by the city council of Smithfield City.

16.20.020 SUBDIVISION IMPROVEMENT PLANS

- A. Subdivider shall be required to provide public improvements within each subdivision to reduce their impact on current city services and budgets and to ensure a livable community.
- B. Construction plans and specifications for all proposed improvements shall be prepared by a professional engineer, licensed by the state of Utah, to provide the design services for the improvement being constructed. Plans and specifications shall be submitted in duplicate on twenty four inch by thirty six inch (24" x 36") drawings. Drawings shall have a one and one-half inch (1½") border on the left and a one-half inch (½") border on the three (3) remaining sides. Specifications shall be shown in a legible, systemized manner on the construction plans and/or on eight and one-half inch by eleven inch (8½" x 11") sheets attached to the construction drawings. In lieu of submitting specifications, the professional engineer may reference on the construction drawings the most recent set of standard specification adopted by the city.
- C. All drawings shall be complete, clear and legible and shall conform to the standards of the profession.
- D. The minimum information required on all drawings submitted for approval shall include:
 - 1. Title Block: Title block with name of subdivision, name of city or county, type of work, date, name of engineer or firm preparing drawings and space for approval of the city engineer;
 - 2. North Arrow And Scales: Horizontal scale preferred is one inch equals fifty feet (1" = 50'); minimum is one inch equals one hundred feet (1" = 100'). Vertical scale preferred is one inch equals five feet (1" = 5'); minimum is one inch equals ten feet (1" = 10');
 - 3. Bench Marks: Location of construction bench marks with elevations indicated;
 - 4. Grades: Profiles indicating existing and finished grades on all construction and extending, as required, beyond the limits of the immediate project to existing improvements when new improvements are joining existing improvements;
 - 5. Construction Details: Plans and profiles will include all construction details such as typical curb and gutter sections; sidewalks, street cross sections; cross drains; location and elevations of manholes; catch basins, storm sewers and their appurtenant works; elevation and location of fire hydrants, water and secondary water mains, type of pipe, valves and their appurtenant works; location, size and elevations of sewer mains with grades and type of pipe, manholes, cleanouts and other appurtenant works;
 - 6. Curves: Complete curve data must be shown for all horizontal and vertical curves. The minimum length of vertical curves shall be one hundred feet (100') unless otherwise approved;
 - 7. Street Lighting Plan: A street lighting plan in conformance with the standards identified in SMC 9.24, "Outdoor Lighting", of this code, shall be prepared for all major

subdivisions. Street lighting plans shall indicate the location and height of luminaires, and luminaire style to be constructed. The style of luminaires and luminaire poles shall be as required by the lighting administrator or city engineer. Street lighting shall be placed at all intersections, at the end of cul-de-sacs, and at spacing not to exceed five hundred feet (500') measured along the street right of way line.

16.20.030 SANITARY SEWER

- A. All subdivisions shall provide a sewer collection system. This collection system shall consist of street collection lines, manholes and lateral service lines that are in conformance with the city sewer standards and other requirements set forth by the city. Subdivisions of three (3) lots or less which are located in a residential agricultural zone or agricultural zone with all lots situated in excess of three hundred feet (300') from an existing sewer collection system and outside the limits of the source protection zone 2, and which would require pumping of the sewage due to unavoidable topography or grade may utilize individual sewage septic systems as a means of sewage treatment.
- B. Collection lines and lateral service lines shall be installed according to construction plans duly prepared by a licensed engineer and approved by the city engineer. The collection lines shall be installed at the locations and depths necessary to serve all lots. The lateral service lines shall be connected to the collection line and extended to a point in the subdivision lot that is five feet (5') beyond the street property line at which point a cleanout shall be installed.
- C. Collection line manholes shall be placed at locations such that their spacing does not exceed four hundred feet (400').

16.20.040 CULINARY WATER

- A. Such systems shall be in accordance with city standards and subject to the approval of the city engineer.
- B. All culinary water service lines shall be stubbed into each subdivision lot five feet (5') beyond the street property line at which point the meter barrel, setter and other appurtenances are to be installed in accordance with city standards. The water meter itself will be installed by the city upon request of the owner or developer and upon payment of the required connection fee.
- C. Fire hydrants shall be installed in all subdivisions in locations designated by the fire department and city engineer.

16.20.050 STORM DRAINAGE

- A. A system to collect, convey, and dispose of stormwater shall be designed and constructed for all subdivisions. Professional engineers designing such systems shall refer the most recent version of the stormwater design standards adopted by the city for guidance.
- B. Ditches and canals shall not be approved as a suitable means for storm drainage water disposal or conveyance without the written permission of the appropriate ditch or canal company. Ditches, canals or other waterways shall not be permitted within property dedicated or to be dedicated for public use.
- C. On site detention of stormwater may be required when in the opinion of the city engineer adequate facilities for stormwater disposal do not exist beyond the limits of the subdivision. Detention basins shall be sized in accordance with the most recently adopted stormwater design standards adopted by the city. Retention basin should be avoided and only allowed when, in the opinion of the city engineer, no other reasonable option is available. Subsurface drains or other mechanism shall be constructed in conjunction with the retention basin which will ensure all the retained water will dissipate within seventy two (72) hours.
- D. Conveyance of stormwater to any drainage facility owned by the Utah department of transportation shall be acceptable only upon approval of that department.
- E. The stormwater conveyance system, including pipes, inlet and outlet structures, junction boxes, etc., shall be designed to accommodate a 10-year storm event of proper duration for the drainage area being designed.

16.20.060 STREET IMPROVEMENTS

- A. Grades of streets shall not be in excess of eight percent (8%) on arterial streets, nor in excess of ten percent (10%) on collector and local streets.
- B. All streets within the city shall be improved with pavements bounded by integral concrete curbs and gutters to an overall width in accordance with generally accepted road construction standards, rules and regulations, or as now or hereafter adopted by the city council.
- C. Pavements shall be constructed in accordance with the requirements of the standards, rules and regulations as now or hereafter adopted by the city council.
- D. Curbs and gutters on all urban streets shall be concrete of the standard high back type unit, not less than two and one-half feet ($2\frac{1}{2}'$) in overall width, and not less than seven inches (7") thick where the curb abuts the street pavement.
- E. Where required under the provisions of the Americans with disabilities act, curbs, gutters, and sidewalks shall be constructed so as to meet the minimum requirements of the act.
- F. Stormwater inlets and catch basins shall be provided within the roadway improvements at points specified by the city engineer.
- G. All curb corners shall have a radius of not less than twenty five feet (25') and shall be constructed to accommodate handicap traffic.
- H. Open ditches or canals shall not be allowed within or adjoining a subdivision except along rear or side lot lines. The subdivider shall work with irrigation, drainage or ditch companies as to:
 - 1. Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision;
 - 2. The size of pipe and culverts required;
 - 3. The responsibility for the periodic inspection, cleaning and maintenance of such ditches, pipes and culverts. In cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the city engineer.
- I. The subdivider shall install a six foot (6'), nonclimbable fence, or its equivalent along nonaccess streets, open reservoirs, and in single-family and multiple-family residential zones, along railroad rights of way. Materials shall be as specified by the city. A minimum forty two inch (42"), two (2) rail, white PVC fence shall be constructed along all adjacent Birch Creek golf course property to discourage unauthorized access to the golf course.
- J. The subdivider shall install curbs, gutters and sidewalks on existing and proposed urban streets in all subdivisions and along all streets bordering such developments.
- K. To assure conformity, the city shall furnish and install all required street signs and the cost thereof shall be charged to and paid for by the subdivider. All regulatory signs shall be the responsibility of the city.
- L. The subdivider shall be responsible for the installation of street lighting including poles, luminaires, and wiring in the locations indicated on the approved street lighting plan. Installation of the street lighting shall be done in conjunction with and under the direction of the local power utility company.

16.20.070 SECONDARY WATER

A secondary irrigation system shall be constructed in all subdivisions where the city owned secondary system is located within six hundred feet (600') of the subdivision. In subdivisions where a secondary system is required, the system shall be constructed only in those areas of the development where a static water pressure of forty (40) psi is possible.

16.20.080 UTILITIES

All utilities including power, cable television, and telephone shall be underground and shall be so placed prior to road improvements such as asphalt surfacing, curb and gutter, and sidewalk.

16.20.090 EXTENSION OF IMPROVEMENTS

- A. In the event a developer should construct the basic services such as water, sanitary sewer and storm sewer, curb and gutter, pavement, bridges, sidewalk, etc., to and around his development and in doing so said improvements are made available or extended for the betterment of areas which previously had been unserved, he may receive consideration from developers of surrounding properties if, in the opinion of the city council, the value of areas has been increased as a direct result of those improvements. Consideration may be in the following form:
1. Hook up fee;
 2. Cost share based on percentage of benefitting acres;
 3. Cost share based on percentage of benefitting lots;
 4. Cost share based on percentage of benefitting developers.
- B. It shall be at the option of the city council to determine which of the methods listed in SMC A of this section shall be used in establishing the most equitable consideration. Prior to making a decision the city shall notify the benefitting property owner(s) or developers, and inform them of the pending action. In making this notification the estimated costs for the improvements shall be presented and the benefitting property owner(s) or developers shall have thirty (30) days from the date of notification in which to decide whether to participate in the initial construction costs or allow the city to determine the best method for compensation as listed in this section.
- C. The estimated costs for the improvements as presented to the benefitting property shall be based on the lowest of two (2) competitive bids secured by the developer installing the services. Actual compensation made shall be based on invoices for materials and labor which shall be documented and presented to the city.
- D. Consideration shall be paid by the benefitting developer or property owner at such time that benefitting lots or property are developed. Payment shall be made directly to the developer which installed the improvements or his/her assigned heirs. Recording of the final plat of the benefitting property owner shall be withheld until such consideration has been paid.
- E. Full consideration shall be due as determined in this section for a period not to exceed five (5) years from the date said improvements are accepted by the city. For a period of ten (10) years immediately following the initial five (5) years, the consideration will be decreased by an amount equal to one-tenth ($\frac{1}{10}$) annually until such time that fifteen (15) years has lapsed since the acceptance of the improvements by the city from which time the developer will not be entitled to consideration.

16.22 IMPROVEMENT BONDING AND WARRANTY

16.22.010 SECURITY FOR SUBDIVISION IMPROVEMENTS

16.22.020 WARRANTY PERIOD AND WARRANTY DEPOSIT

16.22.010 SECURITY FOR SUBDIVISION IMPROVEMENTS

- A. A final plat of a subdivision of land shall not be signed by the mayor and city recorder without a certification by the city engineer that the improvements described in the subdivider's plans and specifications have been constructed and installed in conformance with city standards.
- B. In lieu of installing all improvements prior to recording a final plat, the subdivider may enter into a security for performance agreement acceptable to the city as security to ensure completion of all required improvements. The security for performance agreement shall be in a form approved by the city council and may contain specific provisions approved by the city attorney. The agreement shall include, but not be limited to:
1. Subdivider's agreement to complete all improvements within a period of time not to exceed eighteen (18) months from the date the agreement is executed;
 2. The improvements shall be completed to the satisfaction of the city and in accordance with city standards as adopted by the city council;
 3. The security for performance shall be equal to one hundred ten percent (110%) of the city engineer's estimated cost of the improvements to be installed exclusive of power, natural gas, telephone, and cable television;
 4. The city shall have immediate access to the security proceeds;
 5. The security proceeds may be released at intervals determined by the city engineer upon the request of the subdivider as improvements are completed. The amount of the release shall be determined by the city but in no case shall it be in excess of the amount estimated by the city engineer at the time the original security amount for the proposed and now completed improvement was established. Such requests for release may be made only once every thirty (30) days and no release shall be authorized until such time as the city has inspected the improvements and found them to be in compliance with the city's standards. The final ten percent (10%) of the security proceeds shall be released following completion of all required improvements including power, natural gas, telephone, and cable television provided no deficiencies are found. All releases shall be by written authorization by the city engineer.
- C. The security for performance agreement shall require the establishment of one of the following:
1. An escrow account, in any bank acceptable to both the city and developer. The bank shall agree to hold and apply the proceeds in the escrow account only for the named improvements. The agreement shall give the city the right to withdraw those funds necessary to complete any improvements not installed within the eighteen (18) month time limit established;
 2. An irrevocable letter of credit which shall require the following specifications:
 - a. Have an expiration date of not less than eighteen (18) months,
 - b. Be obtained from a bank which meets the following standards:
 - (1) Have total assets of fifty million dollars (\$50,000,000.00) or more,
 - (2) Have an equity capital to total assets ratio of five percent (5%) or more,
 - (3) Have a minimum capitalization of fifty million dollars (\$50,000,000.00),
 - (4) Have a good profitability trend,
 - c. Be approved by the city attorney;
 - d. A cash bond agreement accompanied by a cashier's check payable only to the city of Smithfield.
- D. No extensions in time will be granted for the completion of improvements.

16.22.020 WARRANTY PERIOD AND WARRANTY DEPOSIT

- A. In addition to the security for performance agreement described in SMC 16.22.010 of this chapter, the subdivider shall present a warranty deposit to the city equal to fifteen percent (15%) of the total cost for all improvements.
- B. A warranty period shall commence upon the date that all improvements required by the city to be installed within the subdivision have been completed to the satisfaction of the city and a final inspection thereof has been made approving the same. The warranty period shall commence at that date and shall continue for a period of one year thereafter. If any deficiencies are found by the city during the warranty period in materials or workmanship, the subdivider shall promptly resolve such defects or deficiencies and request the city engineer to reinspect the improvements. At the end of the one year warranty period, the subdivider shall request the city engineer to make a final warranty period inspection of all improvements. If the city engineer verifies that the improvements are acceptable, the city engineer shall notify the city manager who shall in turn notify the city council prior to releasing the warranty deposit posted by the subdivider. In the event deficiencies are found and not corrected within the one year warranty period, the warranty deposit shall be forfeited to the city. The city shall then use the proceeds to correct the deficiencies. Any funds remaining shall be released to the subdivider upon approval of the city council, and any costs incurred by the city to correct deficiencies shall be billed to and paid by the subdivider.
- C. The warranty deposit may be made separately or with the security for performance agreement. In any event, the warranty deposit, shall be made prior to the signing of the final plat by the mayor and city recorder.

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17.04.010 SHORT TITLE

This title shall be known as the *ZONING ORDINANCE OF SMITHFIELD, UTAH*, and may be so cited and pleaded.

17.04.020 PURPOSE OF TITLE

This title is designed and enacted for the purpose of promoting the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the present and future inhabitants and businesses of Smithfield, Utah, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, protecting the tax base, securing economy in governmental expenditures, fostering the city's commercial and industrial growth and the protection of both residential and nonresidential development.

17.04.030 INTERPRETATION

In interpreting and applying the provisions of this title, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

17.04.040 CONFLICT

Wherever higher or more restrictive standards are established by the provisions of any other applicable statute, ordinance, or regulation that are established by the provisions of this title, the provisions of such other statute, ordinance, or regulation shall govern.

17.04.050 DETERMINATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of the various zones, the following rules shall apply:

- A. Where the indicated boundaries on the zoning map are approximately street, railroad, public right of way, or alleyways, the centerline of the street, railroad, public right of way or alley shall be construed to be the zone boundaries unless otherwise indicated.

- B. Where the indicated boundaries are approximately lot lines, the lot lines shall be construed to be the zoning district boundaries unless otherwise indicated.
- C. Where land has not been subdivided into lots and/or blocks, the zoning district boundaries shall be determined by use of the scale measurement shown on the map unless otherwise indicated.
- D. Where uncertainty continues to exist, the planning department shall interpret the map. That interpretation may be appealed to the planning commission.

17.04.060 EFFECT UPON PREVIOUS ORDINANCE AND MAP

The existing zoning ordinance of Smithfield, Utah, in its entirety and including maps heretofore adopted, is superseded and amended to read as set forth in this title; provided, however, that this title, including maps on file with the planning commission, shall be deemed a continuation of the previous ordinance, and not a new enactment, insofar as the substance of revisions of the previous ordinance is included, whether in the same or in different language; and this title shall be so interpreted upon all questions of construction, including, but not limited to, questions of construction relating to tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming uses, buildings or structures, and to questions as to dates upon which such uses, buildings or structures became conforming or nonconforming.

17.04.070 DEFINITIONS

For the purposes of this title, the following terms and words and their derivations shall have the meanings as given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, and the plural the singular. "Shall" is always mandatory. Words not included in this section, but which are defined in the building code, shall be construed as defined therein. Words which are not included herein or in the building code shall be given their usual meaning as found in the English dictionary, unless the context of the words clearly indicates a different meaning. Definitions of words applicable particularly to certain chapters shall be included in those chapters.

ACCESSORY APARTMENT: A housing unit that is self-contained, but incorporated within an existing structure that was originally designed for a single family and will not be substantially altered.

ACCESSORY RESIDENTIAL UNIT: A dwelling unit within a building used for nonresidential purposes to be used solely for persons employed on the premises, not rented or otherwise used as a separate dwelling.

ADMINISTRATIVE CONDITIONAL USE: A conditional use that may be reviewed and approved by the zoning administrator, rather than by the planning commission, in accordance with chapter SMC 17.32 of this title.

AGRICULTURE: The tilling of the soil, the raising of crops, horticulture and gardening, but not including the keeping or raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

ALLEY: A public thoroughfare twenty six feet (26') or less in width.

ALTERED: Any change in the construction of, or addition to, a building which would permit an increase in capacity, or a change of use.

ALTERED, STRUCTURAL: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

ANTENNA, STEALTH: An antenna completely disguised as another object, or otherwise concealed from view, thereby concealing the intended use and appearance of the facility, shall be allowed in all zoning districts. Examples of stealth facilities include, but are not limited to, flagpoles, light pole standards or architectural elements such as dormers, steeples and chimneys.

APARTMENT COURT: Any buildings or group of buildings which contain dwelling units. See definition of Dwelling, Group.

APARTMENT HOTEL: Any building which contains dwelling units and also satisfies the definition of a "hotel", as defined in this section.

APARTMENT HOUSE: See definition of Dwelling, Multiple.

APARTMENT MOTEL: Any building or group of buildings which contain dwelling units. See definition of Dwelling, Group.

APPEAL AUTHORITY: The person, board, commission, agency or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

ASSISTED LIVING FACILITY: A residential facility, licensed by the state of Utah, with a homelike setting that provides an array of coordinated supportive personal and healthcare services, available twenty-four (24) hours per day, to residents who have been assessed under Utah department of health or the Utah department of human services rules to need any of these services. Residents typically need at least some supervision and assistance with daily living. Support staff may prepare meals and help residents with personal hygiene tasks. Each resident in an assisted living facility shall have a service plan based on the assessment, which may include: a) specified services of intermittent nursing care; b) administration of medication; and c) support services promoting resident's independence and self-sufficiency. Such facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability. Exteriors of Facilities shall be compatible in appearance and constructed using materials similar to the predominate buildings in the zone and area in which they are located.

Type I: a residential facility that provides assistance with activities of daily living and social care to two or more residents who require protected living arrangements; and are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

Type II: a residential facility that provides assistance with activities of daily living and social care to two or more residents who require protected living arrangements; and are not capable of achieving mobility sufficient to exit the facility without the assistance of another person.

Large: Houses seventeen (17) or more residents.

Small: Houses six (6) to sixteen (16) residents.

Limited capacity: House two (2) to five (5) residents.

BASEMENT: A story partly underground. A basement shall be counted as a story for purposes of height measurement if its height is one-half ($\frac{1}{2}$) or more above grade.

BOARDING HOUSE: A building with not more than five (5) guestrooms where, for compensation, meals are provided for at least five (5) but not more than fifteen (15) persons. Persons residing as clientele in a boarding house must be at least eighteen (18) years of age and not under the supervision of the state or any other institution.

BUILDING: Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, chattels, or property of any kind.

- Accessory Building: A detached subordinate building clearly incidental to and located upon the same lot occupied by the main building.
- Height Of Building: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between ridge and eaves of a gable, hip or gambrel roof.
- Main Building: The principal building or one of the principal buildings upon a lot, or the building or one of the principal buildings housing the principal use upon a lot.
- Public Building: A building owned and operated or owned and intended to be operated by a public agency of the United States Of America, of the state, or any of its subdivisions. It shall not be construed to include buildings for use as warehouses, public garages and equipment sheds.

CARPORT: A private garage not completely enclosed by walls or doors. For the purposes of this title, a carport shall be subject to all of the regulations prescribed for a private garage.

CHILDCARE CENTER, COMMERCIAL: A facility, separate from a home or residence, in which children are being cared for by persons other than their own parents or guardians. It is maintained for at least four (4) but less than twenty four (24) hours daily for the care of children less than fourteen (14) years of age and unrelated to the caregiver. This care may be given with or without charge and with or without stated educational or developmental purposes.

CHILDCARE CENTER, FAMILY GROUP: The care of children in a home or residence by two (2) caregivers, which provides for nine (9) and not more than sixteen (16) children when in compliance with the requirements established by the state of Utah. The facility is maintained for at least four (4) hours but less than twenty four (24) hours daily. This care may be given with or without charge and with or without stated educational or developmental purposes.

CHILDCARE CENTER, RESIDENTIAL: The care of children in a home or residence by a provider. The provider shall care for not more than eight (8) children, except for additional children when in compliance with age requirements established by the state of Utah. The facility is maintained for at least four (4) hours but less than twenty four (24) hours daily. This care may be given with or without charge and with or without stated educational or developmental purposes.

CHURCH OR TEMPLE: A building together with its accessory buildings, and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC, DENTAL AND MEDICAL: A building in which a group of physicians, dentists and allied professional assistants are associated for the carrying on of their professions. The clinic may include a dental or medical laboratory; but, it shall not include inpatient care or operating rooms for major surgery.

CLUB, PRIVATE: Any nonprofit corporation, or organization, operating as a social club, recreational, athletic or kindred association organized primarily for the benefit of its stockholders or members and serving alcoholic beverages and/or food.

CONDITIONAL USE: A land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some zones or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. Such conditions are applied and maintained in accordance with chapter SCM 17.32 of this title.

CONVENIENCE STORE: A retail establishment which provides its customers with limited grocery items, soft drinks, snacks, etc. Convenience stores may also offer limited automotive supplies such as gasoline, oil, filters, antifreeze and other items typically found in a grocery store.

COURT: An open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two (2) or more sides by such building or buildings. The width of a court is its least horizontal dimension, measured between opposite sides in the same general direction as the yard or lot line on which the court opens.

DAIRY: A farming operation for the production of milk in commercial quantities and which is regularly inspected by the state department of agriculture or its cooperating agencies. It includes the raising of the natural increase to the dairy herd but does not include the feeding and fattening of livestock for slaughter in conjunction therewith.

DAIRY PROCESSING PLANT: A commercial establishment for manufacture, processing or distribution of dairy products.

DAIRY PRODUCTION OR ICE CREAM PLANT, SMALL: A commercial establishment for the manufacture, processing or distribution of dairy products where the manufacturing and storage area does not exceed eight hundred (800) square feet in a CB or CC zone and two thousand four hundred (2,400) square feet in a GC or A zone.

DENSITY: The number of dwelling units per gross acre of land.

DEVELOPMENT PLAN: All plans, studies, plats, statements, reports and information required by applicable provisions of this title.

DISTRICT: A portion of the area of Smithfield, shown on a map attached to the zoning ordinance codified in this title and found on file with the planning commission and given a district name.

DWELLING: Any building that contains one or more dwelling units used, rented, leased, or that are occupied for living purposes, except the following: hotels, boarding houses, motels, mobile homes, proctor group care facility, residential facility for the elderly, and residential facility for the disabled.

DWELLING, FOUR-FAMILY: A building arranged or designed to be occupied by four (4) families, the structure having only four (4) dwelling units under one ownership, i.e., duplex, on one lot.

DWELLING, GROUP: Two (2) or more dwelling structures occupying the same lot in one ownership and having yards and open spaces in common.

DWELLING, MULTIPLE: A building arranged or designed to be occupied by more than four (4) families.

DWELLING, SINGLE-FAMILY: A building arranged or designed to be occupied by one family, the structure having only one dwelling unit, except as allowed herein for accessory apartments.

DWELLING, THREE-FAMILY: A building arranged or designed to be occupied by three (3) families, the structure having only three (3) units under one ownership.

DWELLING, TWO-FAMILY: A building arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units under one ownership.

DWELLING UNIT: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT: A nonprofitable interest in property owned by another that entitles its holder to a specific use on, under or above said property.

FEMA: An acronym for the federal emergency management agency.

FACILITY, PROCTOR GROUP CARE: A facility where care is given to more than one but less than eleven (11) juveniles that meet the definition of "proctor care juvenile" as defined in this section.

FAMILY: One of the following groups of individuals, but not more than one at the same time:

- A. An individual living alone.
- B. Two (2) or more people, all of whom are related to one designated occupant of the dwelling to include spouse, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great grandparent, and great grandchild and their foster children or other legal guardianship and up to two (2) other unrelated persons who do not pay rent, provided:
 - 1. One parking stall in addition to that required by SMC 17.24.040 of this title is provided for each unrelated person.
 - 2. Unrelated persons are allowed in single-family residential, agricultural, and residential agricultural zones only.The term "related" does not include other, more distant relationships such as cousins.
- C. Two (2) unrelated individuals and any children of either of them living as a single housekeeping unit.

FARM ANIMALS: The keeping of animals and fowl commonly used for food or fiber production, as a beast of burden, commercial purposes, or for pleasure. The density allowed in the various zones shall be as defined in this title.

FARM ANIMALS LIMITED: The keeping of not more than two (2) horses, two (2) cows, two (2) llamas, four (4) sheep, four (4) goats, twenty (20) rabbits, forty (40) chickens, forty (40) pheasants, ten (10) turkeys, ten (10) ducks, ten (10) geese, three (3) ostriches, four (4) emus, and forty (40) pigeons, provided the keeping of pigs on any lot is prohibited and that not more than three (3) of the above listed species of animals or fowl are permitted at any one time.

An additional number of animals or fowl equal to fifty percent (50%) of the above listed numbers may be kept for each ten thousand (10,000) square feet over and above one acre, exclusive of ten thousand (10,000) square feet for the residence.

FAST FOOD ESTABLISHMENT: Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready to consume state and whose principal method of operation includes the following characteristics:

- A. Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers;
- B. The consumption of foods, frozen desserts or beverages is not restricted to tables and counters inside the establishment or on a dining patio immediately adjacent thereto; and
- C. The establishment provides drive-in, drive-through and/or walk-up service.

FIXED DOG RUN: A fenced in and/or covered structure used to house or contain a dog(s) in a relatively limited area. Not meant to include merely keeping a dog attached to a line or keeping a dog in a fenced yard. A fixed dog run must be closer to the owner's residence than the adjoining neighbor's residence. Locations of fixed runs shall be located according to the following setbacks:

- A. Front setback: Thirty feet (30');
- B. Side setback: Ten feet (10');
- C. Side setback adjoining street: Twenty feet (20');
- D. Rear setback: Ten feet (10');
- E. Setback from neighbors' residences (any residence on adjacent property): Thirty feet (30').

FLOODPLAIN: Any land area subject to being inundated by water from any source. Floodplain areas are generally defined on the flood insurance relief map (FIRM) provided to the city by FEMA.

FLOOR AREA: The sum of the gross horizontal area of the floor of a building or buildings, measured from the exterior faces of the exterior walls.

FOSTER CARE: The provision of care which is conducive to the physical, social, emotional and mental health of children who are temporarily unable to remain in their own homes. (See title 501-12-2, Utah state government.)

FOSTER CARE JUVENILE: Any juvenile that has been removed by the state from a home, parents, or guardian for protection, health, safety, or welfare concerns of the juvenile for a temporary period of time.

FRATERNAL AND BENEVOLENT SOCIETY: A chartered, nonprofit social club or lodge with or without dining facilities composing a branch of a fraternal order, or other society to include Lions, Elks, Masons, American Legion, Eagles, Optimists, Odd Fellows, Kiwanis, Rotary, Veterans Of Foreign Wars and other similar nonprofit fellowship organizations which are open only to members and their duly authorized guests.

FRONTAGE: All property fronting on a public street.

GARAGE FOR MAJOR REPAIR: An establishment, which in addition to providing the services typically offered by a garage for minor repair, may also be engaged in the repair or replacement of major automotive or truck components including, but not limited to, transmissions, clutches, short and long block engines, axles, differentials, etc.

GARAGE FOR MINOR REPAIR: An establishment, which in addition to providing the services typically offered by a service station, also is engaged in the repair or replacement of minor automotive or light truck components.

GARAGE, PRIVATE: An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common.

GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for hiring, selling or storing motor driven vehicles.

GENERAL PLAN: A document that the city has adopted, which sets forth general guidelines for the proposed future development of the land within the city, as set forth in state law and city ordinances. The general plan includes what is also commonly referred to as a "master plan".

GRADE:

- A. For buildings adjoining one street only, the elevation of the sidewalk at the center of that wall adjoining the street;
- B. For buildings adjoining more than one street, the average of the elevations of the sidewalks at the centers of all walls and adjoining the streets;
- C. For buildings having no wall adjoining the street, the average level of the ground (finished surface) adjacent to the exterior walls of the building. All walls approximately parallel to and not more than five feet (5') from a street line are to be considered as adjoining a street.

GROUP PRESCHOOL: A facility or establishment separate from a home or residence for the care and instruction of up to thirty (30) children by two (2) instructors which may or may not be related to the children. This instruction may be given with or without charge.

HARD SURFACE: An impermeable dust free surfacing such as concrete or asphalt. Pulverized or recycled asphalt shall not be considered hard surface.

HOME, FOSTER: A dwelling providing residence and care for nonrelated "foster care juveniles" (as defined in this section) under the age of eighteen (18), with or without compensation from the state. The foster home shall meet all licensing and training requirements as defined by the state.

HOME, NURSING: An institution providing residence and care for the aged.

HOME OCCUPATIONAL SALES, NONDISRUPTIVE: A use conducted within a dwelling unit which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and is carried on by persons residing in the dwelling and does not change the character thereof, and in connection with which there is no display of merchandise or goods to be sold. The use would generally not include the receiving of clients but could include the receiving of one client at a time on an appointment basis, as long as no two (2) appointments were consecutive or overlapping. Uses may include, but are not limited to, the following: data processing; bookkeeping; teaching of independent private lessons including music and tutoring; hobbies and crafts; telephone solicitation; professional services (including by way of example: clergyman, income tax preparation, accounting services, attorney services, engineering services or other professional services); order processing; home sewing operations; tailoring; building or other contractor when no equipment or supplies are stored on the premises; and other occupations that clearly involve little or no disturbance to the neighborhood. Nondisruptive home occupations shall not require a conditional use permit. The use of the yard space shall not be permitted.

HOME OCCUPATIONS/SALES, POTENTIALLY DISRUPTIVE: A use conducted within a dwelling unit which is clearly secondary to the use of the dwelling for dwelling purposes and which meets the following: the use is carried on by persons residing in the dwelling or may include one immediate family member not residing in the dwelling for which a separate off street parking space is provided if the additional person owns or operates a motor vehicle, the use does not change the character of the dwelling; there is no window display, however some display of merchandise or goods to be sold may be allowed, and the use shall not generate vehicular traffic or parking beyond that which is commonly associated with the zone in which it is located. Uses may include, but not be limited to, the following: beauty or barber shop establishments; instruction for group dance, crafts, music, or martial arts of four (4) or more students; physicians, surgeons, and dentists for consultation or emergency treatment, and other similar trades, occupations and professions, any home occupation/sales listed as nondisruptive but with a client load or other factors which would tend to impact the neighborhood. All potential disruptive home occupations shall require a conditional use permit. The use of the yard space shall not be permitted, except for childcare centers and preschools.

HOME PRESCHOOL: A home or residence for the care and instruction of up to fifteen (15) children by an instructor who may or may not be related to the children. This instruction may be given with or without charge.

HOME, PROCTOR: A dwelling providing residence and care for nonrelated "proctor care juveniles" (as defined in this chapter), under the age of twenty one (21), with or without compensation from the state. The proctor home shall meet all licensing and training requirements as established by the state.

HOTEL: A building in which lodging or boarding and lodging are provided for more than fifteen (15) persons, primarily transient and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, bars, or club rooms, public banquet halls, ballrooms, and meeting rooms.

HOUSEHOLD PETS: Animals or fowl, ordinarily permitted and kept for company or pleasure, such as dogs, cats and canaries, but not including a sufficient number of dogs or cats to constitute a kennel or cattery as defined in title 6 of this code. Household pets may also include the keeping of not more than twelve (12) pigeons, four (4) mature rabbits, two (2) goats, one lamb not over eight (8) months old, two (2) ducks, two (2) geese and two (2) ferrets and that not more than five (5) of the above listed species of animals or fowl are permitted at any one time.

INDIVIDUAL STORAGE UNITS: Individual units arranged in series and under the ownership of a single owner. Each unit shall be designed and sized for the storage of personal items including household goods, lawn and garden equipment, RVs, etc. Units may also be used to store items of a commercial nature which are not toxic or hazardous. Individual units shall be limited in size such that their width shall not exceed twelve feet (12'), their length forty feet (40') and their height fourteen feet (14') to the ceiling. Placement of individual storage units shall not be allowed within two hundred feet (200') of the east or west right of way line of Main Street and shall be adequately screened.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, tires, debris, waste, dismantled or wrecked automobiles or parts thereof, iron, steel and other

old or scrap ferrous or nonferrous material.

JUNKYARD: Any yard, establishment or business maintained, used or operated for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard.

KENNEL/CATTERY, COMMERCIAL: The keeping of three (3) or more dogs or five (5) or more cats for a fee.

KENNEL/CATTERY, NONCOMMERCIAL: An establishment of three (3) or more dogs or five (5) or more cats and regulated by a "conditional use permit".

LAND USE AUTHORITY: A person, board, commission, department, agency, or other body designated by the legislative body to act upon a land use application.

LAND USE ORDINANCE: A planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

LANDSCAPING: The installation of living plant materials (i.e., lawn, ground cover, annual and perennial flowering plants, vines, shrubs, and trees) planted directly on the property and kept free of weeds. Use of water (i.e., pools, fountains, falls and streams) and sculptures are also included as landscape design materials. Decorative paving materials (i.e., bricks, pavers, flagstones, textured concrete) may be included provided they result in attractive open space, add color or texture to the design, and create visual interest. Landscaping rocks, gravel, or wood chips may be used, provided such area does not cover more than ten percent (10%) of the area required to be landscaped.

LIGHT MANUFACTURING: Shall include the manufacturing and assembly of clothing and cloth items; small audio and visual products; electrical household appliances and toys, but not including refrigerators, washing machines, dishwashers and similar household appliances; business equipment including computers, calculators, but excluding office furniture; scientific, medical, dental and drafting instruments; orthopedic and medical appliances, optical goods, watches and clocks, electronic equipment, precision instruments, musical instruments, photographic equipment; printing services; and other small finished products manufactured or assembled using processes that ordinarily do not create noise, smoke, fumes, glare, or odors. Light manufacturing includes processes which do not require extensive floor areas or land areas.

LIVESTOCK FEED YARD: A commercial operation on a parcel of land where livestock are kept in corrals or yards for extended periods of time at a density which permits little movement, and where all feed is provided for the purpose of fattening or maintaining the condition of livestock prior to their shipment to a stockyard or sale, etc.

LODGING HOUSE: A building where lodging only is provided for compensation to five (5) or more persons.

LOT: A parcel of land occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, and yard areas as are required by this title and having frontage upon a street. Except for group dwellings, not more than one dwelling structure shall occupy any one lot.

LOT, CORNER: A lot abutting on two (2) intersections or intercepting streets, where the interior angle or intersection or interception does not exceed one hundred thirty five degrees (135°).

LOT, INTERIOR: A lot other than a corner lot.

LOT, INTRABLOCK: A parcel of land occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required by this title and not having frontage on a public street, but having access to a public street. Intrablock lots shall be located within the established platted block areas of the city.

LOT WIDTH: The distance between the side lot lines measured along a line parallel to the street line at the required front setback. The width of a corner lot is the lesser of the two (2) distances from the abutting streets to the interior lot lines opposite those streets.

MANUFACTURED HOUSE: A structure transportable in one or more modules which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation and footing when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The manufactured home shall be attached permanently to an approved foundation and footing. Units which are not manufactured after June 1976 or stamped approved by HUD (national manufactured home construction and safety standards act of 1974) shall not be considered a manufactured home as defined in this section.

For clarification, this definition excludes mobile homes as defined in this section which are permitted in mobile home parks under this section. Also excluded are other types of manufactured housing often referred to as factory built or modular units.

MOBILE HOME: A structure that is transportable in one or more sections, built on a permanent chassis and designed to be used without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

MOBILE HOME PARK: Any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

MOBILE HOME SPACE: A plot of ground within a mobile home park which is designed for the accommodation of one mobile home.

MOBILE HOME STAND: That part of a mobile home space which has been reserved for the placement of one mobile home with appurtenant structures or additions.

MOBILE HOME SUBDIVISION: A residential subdivision designed for the express purpose of offering lots under separate ownership for the placement of mobile homes.

MODULAR HOME: A home constructed in units designed to satisfy all provisions in the uniform building code. Such units are similar to site built structures in design and construction, except that they would be modular in design to facilitate their transportation. These units would be considered as prefabricated construction regulated by international building code, and for this reason are not included within the scope of this definition.

MOTEL, MOTOR COURT OR MOTOR LODGE: A building in which lodging, or boarding and lodging are provided and offered to the public for compensation. It is the same as a hotel except that the buildings are usually designed to serve tourists traveling by automobile, ingress and egress to rooms need not be through a lobby or office, and parking usually is adjacent to the rooms.

NATURAL WATERWAYS: Those areas, varying in width, along streams, creeks, springs, gullies or washes which are natural drainage channels as determined by the city engineer, in which areas no buildings shall be constructed.

NONCONFORMING BUILDING OR STRUCTURE: A building or structure or portion thereof, lawfully existing at the effective date hereof, which does not conform to all the height, area and yard regulations herein prescribed in the zone in which it is located.

NONCONFORMING LOT: A lot existing at the effective date hereof and which does not conform to all square footage or frontage regulations herein prescribed in the zone in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the effective date hereof and which does not conform with the use regulations of the zone in which it is located.

PARKING LOT: An open area, other than a street, used for the temporary parking of more than four (4) automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

PARKING SPACE: Space within a building, lot or parking lot with minimum dimensions of nine feet by twenty feet (9' x 20') for the parking or storage of one automobile.

PAWNBROKER: Any person engaged in the business of lending money on deposit or pledges of personal property or other valuable thing, other than securities or printed evidence of valuable things, and selling or agreeing to sell the same back to the seller at a price other than the original price of the purchase, or who sells unredeemed pledges with or without the contemporary sales of the merchandise.

PERMITTED USE: A specific use authorized in a particular zone which does not require planning commission review and approval.

PORTABLE STORAGE CONTAINER: Includes any of the following types of buildings, structures, or vehicles:

- A. Shipping container of the type commonly marketed for storage and which can be delivered or removed by semitrailer, regardless of whether such structure is located on foundation or slab.
- B. Semitrailer or other trailer whether such vehicle is parked on or off a public street, and which does not have a current Utah license and inspection.
- C. Utility box from a delivery truck when such has been removed from the chassis.
- D. Does not include an open roll-off or other trash storage container or modular home, house trailer, vehicle or camp trailer.

PROCTOR CARE: The provision of care for only one youth at a time placed in a licensed proctor home. The youth shall be adjudicated to the custody of the division of youth corrections.

PROCTOR CARE JUVENILE: Any juvenile that has been removed from a home, parents or guardian by reason of being a menace to society and the community or having broken the laws of the state. Any juvenile that is under parole, or placed in any rehabilitation program or like programs sponsored by the state or other institutions. Any youth offender as defined in Utah Code Annotated.

PUBLIC UTILITY: A structure or facility used by a public agency to store, distribute, or chemically treat water, power, gas, sewer, equipment, or other services.

RECREATION, PUBLIC: Recreational facilities operated by a public agency and open to the general public for a fee, such as golf courses, golf driving ranges and baseball batting ranges.

RECREATION VEHICLE: Any vehicle which is designed to be transported on its own wheels and is intended to be used as temporary living quarters for travel, recreation or vacation purposes. Recreation vehicles may, or may not, include one or all of the accommodations and facilities provided in a mobile home. This term shall include the terms "vacation vehicle", "truck camper", "tent trailer", "motor home", or "travel trailer".

RESTRICTED LOT: A parcel of land severed or placed in separate ownership after August 22, 1990, and which does not meet all area, width, yard and other requirements of this title for a lot, or a parcel of land which does meet all the requirements of this title for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in area, width, setback, yard or coverage requirements.

RETIREMENT CENTER: Housing complex intended for use by the elderly or those of retirement age only. Building may be single- or multiple-story with individual units which may be attached or detached. The complex should be independently owned and shall be comprised of separate, totally self-contained, rented housing units. Facilities for laundry services, storage and recreation may also be available.

SCHOOL, COMMERCIAL: An establishment for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately and do not offer a complete educational curriculum.

SCHOOL, PRIVATE OR QUASI-PUBLIC: A school operated by a private or quasi-public organization, or individual, which has a program similar to that provided in any public school in the state of Utah, except that such curriculum may include religious instruction. A private school may be a for profit or nonprofit organization. This definition shall not include commercial schools.

SECONDHAND STORE: A store, office or place of business for the purchase, barter or exchange or sale of any secondhand merchandise of value, or the exchange in the business of dealing of secondhand goods.

SIGN: Any device used for visual communication to the general public but not including any flag, badge or ensign of any governmental agency. See chapter SMC 17.36 of this title.

STABLE, PRIVATE: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, PUBLIC: A stable other than a private stable.

STORY: The space within a building included between the surface of any floor and the surface of the ceiling next above.

STORY, HALF: A story with at least two (2) of its opposite sides situated in a sloping roof, the floor areas of which do not exceed two-thirds ($\frac{2}{3}$) of the floor immediately below it.

STREET: A public thoroughfare which affords principal means of access to abutting property, and is more than twenty six feet (26') wide.

STRUCTURAL ALTERATIONS: Any change in supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE: That which is framed, erected, constructed or placed upon the ground, but not including fences which are six feet (6') or less in height.

SWINE: Includes pigs, hogs and boars and are not permitted in any zone.

USE, ACCESSORY: A subordinate use customarily incidental to and located upon the same lot occupied by the main use.

VARIANCE: A device which grants a property owner relief from certain provisions of this title when the property owner has met the burden of showing that all requirements of this title and state law have been met.

VETERINARY OR ANIMAL HOSPITAL: A building and runs where both large and small animals are kept and/or treated by a licensed veterinarian.

WIDTH OF LOT: The horizontal distance between the side lot lines, measured at the required front yard setback line.

YARD: A space on a lot, other than a court, unoccupied and unobstructed from the ground upward, by buildings, except as otherwise provided in this title.

YARD, FRONT: A space on the same lot with a building, between the front line of the building (exclusive of steps) and the front lot line, and extending across the full width of the lot. In cases of corner lots, the property owner shall identify which of the two (2) front yards shall be designated as the front yard and which shall be the corner side yard. Rear yards shall be located opposite the designated front yard and shall contain the minimum required rear yard space.

YARD, REAR: A space on the same lot with a building, between the rear line of the building (exclusive of steps and chimneys) and the rear line of the lot and extending the full width of the lot for interior lots or in the case of a corner lot to the side corner setback line. Corner lot rear yards shall be located opposite of the designated front yard and shall contain the minimum required rear yard space. For purposes of determining compliance with minimum rear yard spaces, distances shall be measured perpendicular to the building.

YARD, SIDE: A space on the same lot with a building, between the side line of the building (exclusive of steps or open stairways) and the side line of the lot and extending from the front yard line to the rear yard line. For purposes of determining compliance with minimum side yard depths, distances shall be measured perpendicular to the building.

YARD, SIDE CORNER: A space between the other front lot line on a corner lot that is not used to designate the front of the structure and the closest permissible location of a main building and extending between the rear lot line and the designated front setback line. For purposes of building setback, the provisions of SMC 17.12.180B of this title shall govern for corner lots.

ZONE: Synonymous to "district".

ZONING ADMINISTRATOR: An individual or body designated by the city council who is authorized to perform certain administrative actions, including review and approval of certain applications, as set forth herein.

17.08 ADMINISTRATION

17.08.010 BUILDING INSPECTOR TO ENFORCE TITLE

17.08.020 PERMITS TO COMPLY WITH TITLE

17.08.030 POWERS AND DUTIES OF BUILDING INSPECTOR

17.08.040 CHANGES AND AMENDMENTS

17.08.050 AREAS ANNEXED

17.08.060 LICENSING

17.08.070 VIOLATION; PENALTY

17.08.080 FEES

17.08.010 BUILDING INSPECTOR TO ENFORCE TITLE

The building inspector, appointed under the provisions of the building code of Smithfield City, is designated and authorized as the officer charged with the enforcement of this title, but the city council of Smithfield City, by resolution or ordinance, may from time to time entrust such administration, in whole or in part, to any other office of Smithfield City without amendment to the ordinance codified in this title.

17.08.020 PERMITS TO COMPLY WITH TITLE

From the time of the effective date hereof, the building inspector shall not grant a permit for the construction or alteration of any building or structure or the moving of a building or structure onto a lot, if such building or structure would be in violation of any of the provisions of this title nor shall any Smithfield City officer grant any permit or license for the use of any building or land if such would be in violation of this title.)

17.08.030 POWERS AND DUTIES OF BUILDING INSPECTOR

It shall be the duty of the building inspector to inspect or cause to be inspected all buildings in course of construction or repair. He shall enforce all of the provisions of this title, entering actions in the court when necessary, and his failure to do so shall not legalize any violation of such provisions. The building inspector shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations then in effect.

17.08.040 CHANGES AND AMENDMENTS

The ordinance codified in this title, including the maps, may be amended from time to time by the Smithfield City council. All proposed amendments shall be first submitted to the planning commission for its recommendation. The city council and planning commission shall each hold a public hearing after providing notice in conformance with section 10-9a-205, Utah Code Annotated or as said section may be amended. The planning commission's recommendation shall be returned to the Smithfield City council for its consideration within thirty (30) days. Failure of the planning commission to submit its recommendation within the prescribed time shall be deemed approval by such commission of the proposed change or amendments. The Smithfield City council may overrule the planning commission's recommendations by a majority vote of its members.

17.08.050 AREAS ANNEXED

New areas annexed to Smithfield, Utah shall automatically be classified as being an A-10 zone until such classification shall have been changed by an amendment to this title as provided by law.

17.08.060 LICENSING

All departments, officials and public employees of Smithfield City which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license for uses, buildings or purposes where the same would be in conflict with the provisions of this title, and any such permit or license, if used in conflict with the provisions of this title, shall be null and void.

17.08.070 VIOLATION; PENALTY

Any person, firm or corporation whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of the provisions of this title shall be deemed guilty of a class C misdemeanor and subject to fines and penalties as provided. Upon conviction shall be sentenced to pay a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding ninety (90) days. If the person violating this title is a corporation, association, partnership or other governmental instrumentalities, then upon conviction, said corporation, association, partnership or other governmental instrumentality shall be subject to a fine not to exceed one thousand dollars (\$1,000.00). Every person, firm or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of any violation of this title is committed, continues or permitted by such person, firm or corporation.

17.08.080 FEES

Any request to amend the zoning map of Smithfield City shall be accompanied by an application for rezone, available at the city office, and the payment of the required fee as set forth in the most recent prevailing fee schedule adopted by resolution of the city council.

17.10 APPEAL AUTHORITY

17.10.010 AUTHORITY

17.10.020 APPOINTMENT OF ADMINISTRATIVE APPEALS HEARING OFFICER

17.10.030 APPEALING LAND USE AUTHORITY'S DECISION

17.10.040 VARIANCES

17.10.010 AUTHORITY

The authority to hear requests for variances from the terms of the land use ordinance, appeals from decisions applying the land use ordinances, and in other matters specifically described in this title shall be vested in the Smithfield administrative appeals hearing officer.

17.10.020 APPOINTMENT OF ADMINISTRATIVE APPEALS HEARING OFFICER

The mayor shall appoint the administrative appeals hearing officer with the advice and consent of the city council. The administrative appeals hearing officer shall be appointed for a period of three (3) years, may be removed by a majority vote of the city council at any time, and may serve until a replacement is appointed.

17.10.030 APPEALING LAND USE AUTHORITY'S DECISION

An applicant, a board or officer of the city, or any person adversely affected by the land use authority's decision applying a land use ordinance may, within the time period provided in SMC A of this section, appeal that decision to the administrative appeals hearing officer by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance. When an appeal is taken from a decision of the land use authority, the city recorder shall immediately transmit to the administrative appeals hearing officer all papers, if any, constituting the record upon which the action appealed from was taken.

- A. Time To Appeal; Filing Fee: Any appeal, pursuant to this section, must be filed in writing, on forms provided by the city, with the office of the city recorder within ten (10) calendar days of the issuance of the written decision applying the land use ordinance. Upon the filing of any appeal with the city recorder, the appellant shall pay to the city recorder, the fee prescribed in the most recently adopted prevailing fee schedule of the city. The city recorder shall transmit no papers or record to the administrative appeals hearing officer and the administrative appeals hearing officer shall not consider any appeal unless and until such fee has been paid.
- B. Time For Hearing Appeal: The administrative appeals hearing officer should hear the appeal within fifteen (15) to thirty (30) days of the date the appeal was filed.
- C. Written Statement Setting Forth Theories Of Relief Required: The appellant shall deliver to the administrative appeals hearing officer and all other participants, five (5) business days prior to the hearing, a written statement setting forth each and every theory of relief he intends to raise at the hearing, along with a brief statement of facts in support thereof.
- D. Condition Precedent To Judicial Review: No person, board or officer of the city may seek judicial review of any decision applying the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the district court unless it was timely and specifically presented to the administrative appeals hearing officer.
- E. Standard Of Review And Burden Of Proof On Appeal: The administrative appeals hearing officer shall, on appeal, presume that the decision applying the land use ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.
- F. Due Process Rights: The administrative appeals hearing officer shall respect the due process rights of each participant. Any appellant may appear at any hearing or other proceeding before the administrative appeals hearing officer in person or by an attorney of his/her choice.
- G. Stay On Appeal: An appeal filed in accordance with this section stays all proceedings in the appeal activity, unless the officer from whom the appeal is taken certifies to the administrative appeals hearing officer that by reason of facts stated in the certificate the stay would in his/her opinion cause imminent peril to life or property. In such

cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the administrative appeals hearing officer or by the district court on application and notice and on due cause shown.

- H. Conditional Use Permit Appeals: The city council shall continue to hear and decide appeals from the planning commission decisions regarding conditional use permits.
- I. Direct Appeal To District Court: Notwithstanding the forgoing, decisions of the city council relative to adopting or amending the general plan or any other land use ordinance may only be appealed directly to the district court.
- J. Decision Of Appeal: In exercising the above mentioned powers and authority, the administrative appeals hearing officer may affirm or reverse, wholly or in part, or may modify the order, requirement, decision or determination of a land use authority.

17.10.040 VARIANCES

Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the administrative appeals hearing officer for a variance from the terms of the ordinance.

- A. The administrative appeals hearing officer may grant a variance only if:
 - 1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - a. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - b. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - c. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - d. The spirit of the land use ordinance is observed and substantial justice done.
 - 2. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under this SMC A, the administrative appeals hearing officer may not find an unreasonable hardship unless the alleged hardship:
 - a. Is located on or associated with the property for which the variance is sought; and
 - b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - 3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under this SMC A, the administrative appeals hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - 4. In determining whether or not there are special circumstances attached to the property under this SMC A, the administrative appeals hearing officer may find that special circumstances exist only if the special circumstances:
 - a. Relate to the hardship complained of; and
 - b. Deprive the property of privileges granted to other properties in the same zone.
- B. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- C. Variances run with the land.
- D. The administrative appeals hearing officer may not grant a use variance.
- E. In granting a variance, the administrative appeals hearing officer may impose additional requirements on the applicant that will:
 - 1. Mitigate any harmful effects of the variance; or
 - 2. Serve the purpose of the standard or requirement that is waived or modified.

17.12 SUPPLEMENTARY AND QUALIFYING REGULATIONS

- [17.12.010 EFFECT OF CHAPTER](#)
- [17.12.020 LOTS IN SEPARATE OWNERSHIP](#)
- [17.12.030 YARD SPACE FOR ONE BUILDING ONLY](#)
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17.12.010 EFFECT OF CHAPTER

The regulations set forth in this chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this title.

17.12.020 LOTS IN SEPARATE OWNERSHIP

Any single lot or parcel of land, which was of record at the time of readoption of the ordinance codified herein, but does not meet the requirements of the district in which it is located for minimum lot width and area, may be utilized if all other requirements of this title are met.

17.12.030 YARD SPACE FOR ONE BUILDING ONLY

No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this title, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established, except as provided in planned unit developments.

17.12.040 EVERY DWELLING TO BE ON A LOT

Every dwelling shall be located and maintained on a "lot" as defined in this title.

17.12.050 SEPARATELY OWNED LOTS; REDUCED YARDS

In any lot under a separate ownership from adjacent lots and of record at the time of passage of the ordinance codified herein and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width, provided that on interior lots, the smaller of the two (2) yards shall be in no case less than five feet (5'), or the larger less than eight feet (8'), and for corner lots the side yard on the side street shall be in no case less than fifteen feet (15') or the other side yard be less than five feet (5').

17.12.060 PRIVATE GARAGE WITH SIDE YARD; REDUCED YARDS

17.12.070 YARDS TO BE UNOBSTRUCTED; EXCEPTIONS

Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard, the ordinary projections of skylights, sills, belt courses, cornices, roof overhang, chimneys, flues and other ornamental features which project into a yard not more than four feet (4') and open or lattice enclosed fire escapes, fireproof outside stairways and balconies upon fire towers projecting into a yard, not more than five feet (5').

17.12.080 WALL, FENCE OR HEDGE

- A. **Height Of Fences, Hedges Or Walls:** No fence or wall or other similar structure shall be erected in any required front, rear or side yard to a height in excess of six feet (6') or in the case of R-1 single-family or RM multiple-family residential front yards, to a height in excess of forty eight inches (48"), except for accessory buildings and structures permitted therein. The height of a security fence in a commercial or manufacturing zone may be increased to seven feet (7') after obtaining a conditional use permit and a building permit. Where there is a difference in the grade of the properties on either side of a fence or wall, the height of the fence or wall shall be measured from the average elevation of finished grades of the adjoining properties in question at the fence line.
- B. **Retaining Wall:** Where a retaining wall protects a cut below the natural grade and is located on the line separating lots, such retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed. Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a fence, solid wall or hedge, providing that in any event a protective fence or wall not more than forty eight inches (48") in height may be erected at the top of the retaining wall.
- C. **Fence Or Obstruction Required:** Where the subdivision or lot line is adjacent to any public, commercial, manufacturing or private enterprise or business, a fence or obstruction may be required to be constructed by the subdivider or builder when in the judgment of the city council such fence or obstruction is needed to prevent a hazard, nuisance or to otherwise protect the best interest of the citizens of Smithfield City. Said fences shall be required to separate residential areas from areas of public high and private schools, or any other similar type use. Said fences or obstructions shall be six feet (6') or more in height and subject to approval by the city council.

17.12.090 AREA OF ACCESSORY BUILDINGS

No accessory building nor group of accessory buildings in any residential zone shall cover more than twenty five percent (25%) of the rear yard.

17.12.100 EXCEPTIONS TO HEIGHT LIMITATIONS

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and parapet walls, skylights, towers, steeples, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits prescribed in this title, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

17.12.110 MINIMUM HEIGHT OF MAIN BUILDINGS

No dwelling shall be erected to height less than one story above grade.

17.12.120 CLEAR VIEW OF INTERSECTING STREETS

No obstruction (shrubs, trees, rocks, solid fences, weeds, patios, signs, etc.) in excess of three feet (3') in height with respect to the adjacent street crown shall be placed on any corner lot within a triangular area formed by the existing or proposed curb lines and a line connecting them at points forty feet (40') from the intersection of the lines except a reasonable number of trees pruned to a height of not less than eighty four inches (84") to permit unobstructed vision to automobile drivers.

17.12.130 INSUFFICIENT REQUIREMENTS ON LOT SEVERED FROM RESTRICTED LOT

- A. A restricted lot which meets all the requirements of this title for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient

in area, width, yard or other requirements may be considered otherwise by adding or designating sufficient acreage to the adjacent lot to meet all the requirements of this title for a lot. The added or designated land must then be duly recorded in the office of the county recorder, Cache County, Utah, before a building permit may be issued.

- B. Where a dwelling in the agricultural zone was of public record prior to March 19, 1970, the dwelling may be severed on a lot which meets the area, width and yard regulations of the RA-1 zone, and will be treated as nonconforming. Land which is severed may be built on if it meets the requirements of area, width and yard regulations for the agricultural zone.

17.12.140 GROUP DWELLINGS

Group dwelling developments are permitted in any RM zone through the issuance of a conditional use permit subject to the following conditions:

- A. Type of dwelling shall not exceed that allowed in the zone;
- B. Each dwelling structure shall have a lot area equal to that required in the zone for an individual lot. Front, side and rear yards shall equal those required in the particular zone;
- C. Two (2) auto parking spaces shall be provided for each dwelling unit;
- D. All perimeter lot lines shall be enclosed with a six foot (6') visual barrier fence;
- E. Landscaped areas are provided;
- F. Approval of the site plan by the planning commission.

17.12.150 COVERAGE REGULATIONS

In no zone shall a building or group of buildings with their accessory building cover more than sixty percent (60%) of the area of the lot.

17.12.160 MOBILE HOME PARKS

Mobile home park developments shall comply with the following requirements:

- A. Minimum area of two (2) acres;
- B. Individual mobile home spaces shall be a minimum of thirty five feet (35') in width and seventy feet (70') in length;
- C. A fifteen foot (15') wide landscaped space shall be planted around the outside boundary of the mobile home park except the front yard shall comply with the zone. The front landscaping shall extend to the front setback line;
- D. No trailer shall extend closer than fifteen feet (15') to any property line;
- E. An area equal to ten percent (10%) of the mobile home park shall be developed for recreational use;
- F. Water supply, sewage disposal and common laundry and restroom facilities shall be approved by the board of health;
- G. Driveways shall be a minimum of twenty four feet (24'), curb to curb. Automobile stalls shall be a minimum of ten feet (10') in width and there shall be area to park two (2) automobiles for each trailer space;
- H. The mobile home park site shall be enclosed with a six foot (6') masonry wall, solid board fence, or chainlink with solid slats except for driveways. Front wall or fence shall be located at the front setback line in the front yard;
- I. Site plan shall be approved by the planning commission.

17.12.170 TREE PLANTING

On any subdivision or building lot which boundary is adjacent to any public street, thoroughfare or other public property, the property owner will be required to plant and maintain one shade tree at his expense on public property to provide for public aesthetic improvement for every twenty feet (20') of frontage or lot boundary involved. Smithfield City tree warden will specify the location and type of tree to be planted and may waive or vary the above stipulation when in his judgment it is in the best interests of Smithfield City.

17.12.180 YARD REGULATIONS

- A. The minimum depth of front yard for main residential buildings and for private garages (which have a minimum side yard of 10 feet) shall be thirty feet (30'), or the average of the existing buildings where fifty percent (50%) or more of the frontage between two (2) street intersections is developed, but in no case less than twenty feet (20').
- B. On corner lots, the least of the two (2) front yards shall be a minimum of twenty feet (20') and the combination of the two together shall total a minimum of fifty feet (50').
- C. All corner lots shall have a minimum of one hundred foot (100') frontage on all adjacent streets, except in cases where both adjacent streets are a ninety nine foot (99') right of way. In such cases, the frontage along one of the adjacent streets may be reduced to eighty feet (80').
- D. In cases where a canal, river, creek or other waterway is within the confines of a lot, the area within the top inside bank of said waterway shall not be considered in determining lot compliance with the regulations for minimum lot area. Also, placement of a structure shall be such that a minimum yard as required by this title shall be provided between the structure and the inside bank of the waterway, or between the structure and a maintenance or conservation easement where one exists or is required.
- E. In the case of childcare centers, when there are from nine (9) to sixteen (16) children, the minimum lot size requirement would be ten thousand two hundred fifty (10,250) square feet for nine (9) children and an additional two hundred fifty (250) square feet for each additional child up to sixteen (16) children. The rear yard shall be fenced.

17.12.190 MOVEMENT OF STRUCTURES

No used structures shall be moved into or within the corporate limits of this city, without first obtaining a conditional use permit approval as specified in this title and final approval from the city council. This does not apply to trailers or mobile homes placed within an approved mobile home park, or temporary storage of items designed for recreational use, such as campers, boats, etc.

17.12.200 UNUSED

17.12.210 RESIDENTIAL BUILDINGS IN A COMMERCIAL ZONE

A residential building located upon land previously zoned residential which has been rezoned to a commercial zone and used for commercial purposes, may be returned to a residential use provided the following requirements are met:

- A. A conditional use permit is first obtained.
- B. The building exterior and yard have not been significantly changed so they no longer resemble a dwelling.
- C. Any signs mounted on the building or freestanding on the lot must be removed.
- D. The building must be inspected by the city building inspector and city fire inspector and a certificate of occupancy issued prior to the building being occupied as a dwelling.

17.12.220 TEMPORARY STRUCTURES

The planning and zoning administrator may permit a temporary building for commerce or industry or residential use, which building is incidental to a permitted use. Such permit may be issued for up to six (6) months for a residential use and up to one year for a commercial or industrial use. Permits may be revoked whenever, in the opinion of the planning and zoning administrator, such action would be in the best interest of Smithfield City, or upon presentation of evidence that the petitioner has violated the conditions or intent of the permit.

It is understood that by granting such special exceptions, no other portion or intent of this title is created null or void or invalidated.

17.12.222 PORTABLE STORAGE CONTAINERS

- A. Portable storage containers are prohibited with the exception of those located in a commercial zone and manufacturing zone which shall be regulated as any other building structure.
- B. Vertical stacking of two (2) or more portable storage containers and stacking of any other materials on top of the portable storage container is prohibited.
- C. The exterior of the portable storage container shall be painted or altered to cover any advertising, lettering or numbers. The container shall be painted or altered within thirty (30) days of purchase.
- D. A building permit is required for all portable storage containers larger than one hundred twenty (120) square feet of floor space.

17.12.225 GRAZING PERMITS

The planning and zoning administrator may permit a temporary grazing permit to be issued. Such permit may be granted provided:

- A. It is deemed desirable and necessary for the control of noxious, unsightly or hazardous natural growth. A minimum pasture area equal to one-half ($\frac{1}{2}$) acre which is free of buildings, roadways, and landscaped areas is identified.
- B. It is granted on a year to year basis from April 1 through November 30, with no animals being housed on said property at any other time where the permit is issued. No sheds, feeding stalls, shelters, stables or any other structure can be built for the purpose of housing or caring for said animals.
- C. Animals are limited to two (2) animal units per pasture acre. Animals will be limited to cattle, horses, sheep, goats, or any other grazing animal as approved by the planning and zoning administrator. One animal unit shall equal one cow, one horse, four (4) sheep, or four (4) goats. One suckling offspring will be allowed with each adult animal, with the two (2) counting as one animal unit.
- D. The party requesting this special exception presents a petition containing the signatures of a majority of all adjacent property owners who are in agreement with the request. The planning and zoning administrator may then consider the petition, but is not obligated to grant the request if, in the planning and zoning administrator's judgment, it should reject it for reasons that are in the best interest of Smithfield City.
- E. Such permit shall be issued on a year to year basis and will be revoked at any time whenever in the opinion of the planning and zoning administrator such action would be in the best interest of Smithfield City, or upon presentation of evidence that the petitioner has violated the conditions or intent of the permit.
- F. The fee is paid as shown in the most recent prevailing fee schedule.
- G. It is understood that by granting such special exceptions, no other portion or intent of this title is created null or void or invalidated.
- H. Any appeals may be directed to the planning commission.

17.12.230 KEEPING CHICKENS (DOMESTIC FOWL)

- A. Subject to the requirements of this section and any other applicable provision of this code, hen chickens (and no roosters) regardless of age, in the amount set forth below, may be kept on a lot or parcel of land in a residential (R) zone, with the exception of the multiple-family residential zone, for the sole purpose of producing eggs.

- 1. The number of hen chickens which may be kept shall be limited based on the size of the lot or parcel as follows:

20,000 square feet and under	Up to 14 chickens
16,000 square feet and under	Up to 12 chickens
12,000 square feet and under	Up to 10 chickens
10,000 square feet and under	Up to 8 chickens
8,000 square feet and under	Up to 4 chickens

- B. Chickens shall be confined within a secure outdoor enclosed area which shall include a covered, ventilated, and predator resistant chicken coop.
 - 1. The coop shall have a minimum floor area of at least two (2) square feet per chicken.
 - 2. If chickens are not allowed to roam within an enclosed area outside the coop, the coop shall have a minimum floor area of six (6) square feet per chicken.
 - 3. The coop shall be located in a rear yard at least twenty five feet (25') from any dwelling located on an adjacent lot and that there be a three foot (3') setback between the property line and the coop.
 - 4. The coop and enclosed area shall be maintained in a neat and sanitary condition.
 - 5. No chicken shall be permitted to roam outside the enclosed area or outside the coop if there is no enclosed area.
 - 6. Chicken feed shall be stored and dispensed in rodentproof and predatorproof containers.
- C. Chickens shall not be kept on a residential lot or parcel unless the person keeping chickens first obtains a permit, issued by the planning and zoning administrator.
- D. The permittee shall acknowledge the rules set forth in this section and shall, as a condition of permit issuance, agree in writing to comply with such rules.
- E. It shall be unlawful for any person to keep any chicken in a residential zone in a manner contrary to the provisions of this section.

17.14 ANIMAL RIGHTS REGULATIONS FOR R-1 ZONES

17.14.010 PURPOSE

17.14.020 DEFINITIONS

17.14.030 NUMBER OF ANIMALS PERMITTED

17.14.040 YOUNG ANIMAL ALLOWANCE

17.14.050 COMBINING LAND

17.14.060 REGULATIONS REGARDING FEEDING AND HOUSING ANIMALS

17.14.070 TRESPASS BY FOWL OR ANIMALS

17.14.080 PROHIBITED ANIMALS

17.14.090 CONTINUANCE OF NONCONFORMING ANIMAL RIGHTS

17.14.100 TRANSFERRING THE ANIMAL RIGHTS FOR ANOTHER PIECE OF PROPERTY

17.14.110 ANIMAL RIGHTS IN PLATTED SUBDIVISIONS

17.14.120 PROHIBITIONS ON THE KEEPING OF ANIMALS WHICH CAUSES EXCESSIVE SOIL EROSION OR DUST

17.14.130 PERMIT REQUIRED

17.14.140 REVOCATION

17.14.150 APPEALS

17.14.010 PURPOSE

The purpose of this chapter is to provide for the keeping of animals, other than household pets, within the single-family residential zone if certain provisions and conditions are met as outlined herein.

17.14.020 DEFINITIONS

For the purposes of this chapter:

ANIMAL: Individual or a combination of the following species: horses, cattle, llamas, mules, sheep, goats, turkeys, ducks, geese, rabbits, pheasants, pigeons. Exclusive of household pets.

ANIMAL EQUIVALENT UNIT (AEUs): A unit of measure used to equate numbers of animals of different species based on their size, social and environmental impact to a specific number.

ANIMAL RIGHTS: The right to keep, maintain, or board animals for personal, commercial, agricultural, or recreational use.

PARCEL: A single piece of land under one ownership or a single piece of land under one ownership together with contiguous pieces which may be under separate ownership but have been pledged to the primary piece for the purpose of increasing the available land necessary to establish animal rights.

17.14.030 NUMBER OF ANIMALS PERMITTED

Animals may only be kept within a single-family residential zone when permitted by this title and in accordance with the provisions of these regulations.

- A. **Number Allowed:** The number of allowable animals kept shall be determined based on the animal equivalent unit (AEU) for each animal and the size of the parcel set aside for the animals.
- B. **Classification:** Each animal species shall be assigned one of the following classifications based on their size, and their anticipated social and environmental impact:

1. Large size animal - cattle, horse, donkey, mule.
2. Medium size animal - sheep, goat, emu, llama.
3. Large fowls - turkey, geese.
4. Small animals, fowl - pigeons, pheasants, ducks, rabbits.

Animals not listed above and which are not considered household pets or animals which are not otherwise restricted, may be kept in accordance with this section in numbers consistent with their approximate size.

- C. **Animal Equivalent Units:** Each classification of animal shall be represented by an animal equivalent unit as follows:

Animal Classification	Adult Animal Equivalent Unit Per Animal	Animal Density Per AEU
Large animal	1 .00	1 .00
Medium animal	0 .50	2 .00
Large fowls	0 .10	10 .00
Small animal and fowl	0 .05	20 .00

- D. **Animal Density:** The number of animals assigned to a parcel shall not exceed a density of two (2) animal equivalent units (AEU) per acre. Animal species can be mixed provided the allowable density is not exceeded.

17.14.040 YOUNG ANIMAL ALLOWANCE

Animals which are less than one year old in the large animal and the medium animal categories as listed in the table above will only count at half the adult animal unit equivalent rate.

17.14.050 COMBINING LAND

A lot may be combined with adjoining lots for the purpose of creating a parcel of sufficient size to meet the minimum requirements for the establishment of animal rights as outlined in this chapter subject to the following conditions:

- A. An agreement between the applicant and the adjoining lot owner assuring the use of the adjoining lot owner's land by the applicant for the purpose of harboring animals must be recorded at the office of the county recorder and be on file with the city recorder.
- B. If the owner of property that has been pledged to another should sell all or a portion of the pledged property, the animal rights permit will be revoked unless a new agreement is recorded at the office of the county recorder and filed with the city.
- C. Any fencing or barriers or portions of such, between the applicant's property and the adjoining lot shall be opened to allow for free passage of any animals from one lot to the other.
- D. Lot area pledged to another cannot be subdivided without the loss of animal rights.
- E. Land pledged to another cannot include area within required yard space, i.e., front yard, side yard and rear yard.
- F. If the owner of a lot that has pledged land to create a parcel for the purpose of establishing animal rights should sell that lot, animal rights will be lost unless a new agreement is signed and recorded with the new lot owner.

17.14.060 REGULATIONS REGARDING FEEDING AND HOUSING ANIMALS

- A. Where permitted under the provisions of this title, any large and medium sized animals are to be fed and corralled at least forty five feet (45') from the owner's dwelling and seventy five feet (75') from any neighbor's dwelling as measured from the closest point of the corral or enclosure to the closest point of the dwelling.
- B. These restrictions only apply to the permanent corral, stable, shed, barn or other protected or restricted area wherein the animal is fed and housed and not to the temporary grazing of livestock in pastures that are separate from a residential parcel.
- C. Corrals, stables, sheds, barns, and other areas where animals are housed and fed must be cleaned of all animal waste (manure) and soiled bedding material on a regular basis (weekly). All waste must be disposed of properly and not be stockpiled, except during the winter months, beginning November 1, when disposal is difficult. Any wintertime stockpile must be removed no later than April 15. Waste stockpiles have the same setback restrictions as corrals, sheds, etc.
- D. Using a common fence between adjoining lots for the purpose of pasturing, corralling, or otherwise containing large or medium animals shall be prohibited unless the adjoining property owner gives consent. If consent is not given, the owner of the animals must provide a secondary fence or other acceptable means to restrict animals from the joint fence.

17.14.070 TRESPASS BY FOWL OR ANIMALS

It is unlawful for the owner or any person in charge of any animal or fowl to allow such animal or fowl to trespass upon the premises of another.

17.14.080 PROHIBITED ANIMALS

It is prohibited, whether on a temporary or a long term basis, to keep the following either under the provisions of this chapter or as household pets:

- A. Hogs or pigs.
- B. Alligators and crocodiles.
- C. Bears (Ursidae). All bears including grizzly bears, brown bears, black bears, etc.
- D. Cat family (Felidae). All except the commonly accepted domesticated cats, including cheetah, cougar, leopard, lion, lynx, panther, mountain lion, tiger, wildcat, etc.
- E. Dog family (Canidae). All except domesticated dogs, including wolf, fox, coyote, dingo, etc.
- F. Ostrich (Struthionidae).
- G. Peacock (Pavo crissatus).
- H. Porcupine (Erethizontidae).
- I. Primate (Hominidae). All subhuman primates.
- J. Raccoon (Procyonidae). All raccoons including eastern raccoon, desert raccoon, ringtailed cat, etc.
- K. Skunks.
- L. Venomous fish and piranha.
- M. Venomous snakes, lizards or other venomous reptiles.
- N. Weasels (Mustelidae). All including weasels, martens, wolverines, badgers, otters, ermine, mink, mongoose, etc. Additionally, all furbearing animals in "fur farms" are also prohibited, except ferrets which are allowed as a household pet.
- O. Any otherwise prohibited wild animals such as big game animals which are restricted by state or federal law.

17.14.090 CONTINUANCE OF NONCONFORMING ANIMAL RIGHTS

Refer to SMC 17.16.060 of this title for specific regulations regarding nonconforming uses; provided, however, that the prohibitions in SMC 17.14.080, "Prohibited Animals", of this chapter shall apply immediately and shall not be subject to exceptions in SMC 17.16.060 of this title. Property owners of parcels with established nonconforming animal rights will not be required to adhere to this chapter provided they maintain the nonconforming animal rights on said property. If the nonconforming animal rights are not maintained for any reason, this chapter shall apply to the property, provided said property is one acre or larger.

17.14.100 TRANSFERRING THE ANIMAL RIGHTS FOR ANOTHER PIECE OF PROPERTY

The right to keep animals on a parcel is not transferable to another parcel.

17.14.110 ANIMAL RIGHTS IN PLATTED SUBDIVISIONS

Lots in major or minor subdivisions are not eligible for animal rights.

17.14.120 PROHIBITIONS ON THE KEEPING OF ANIMALS WHICH CAUSES EXCESSIVE SOIL EROSION OR DUST

The keeping of animals is not allowed when such keeping causes excessive soil erosion or dust by reason of overgrazing, trampling or other destruction of ground. This applies to both irrigated or nonirrigated ground. The keeping of animals on such parcels shall be considered a public nuisance. The maximum number of animals which may be kept in such areas shall be in accordance with this chapter, but shall be further restricted to a number which does not cause the loss, trampling or other destruction of ground cover resulting in excessive soil erosion, dust, or odors.

17.14.130 PERMIT REQUIRED

Those wishing to establish animal rights for a particular lot or parcel shall first obtain an animal rights permit from the planning commission. Prior to considering a request for a permit, the city shall attempt to contact adjacent property owners to notify them of the pending action.

- A. **Permits:** Permits shall be granted for a maximum of three (3) calendar years and shall be renewed on or before December 31 of the third year regardless of the month in which it is granted. Renewals must be applied for and granted prior to the renewal date.
- B. **Permit Fee:** The applicant shall pay the applicable permit fee as established in the most recent prevailing fee schedule adopted by resolution of the Smithfield City council.
- C. **Renewals:** The planning and zoning administrator may issue renewals of an existing animal rights permit provided there have been no verifiable violations of the existing permit reported by the animal control officer. Violations may include excessive noise and/or containment issues related to the animals.

17.14.140 REVOCATION

The permit may be revoked by the planning commission upon failure to comply with the conditions imposed at the time of original approval. It may also be revoked for just cause, such as:

- A. Negative impact on the health, safety and welfare concerns of the residents of Smithfield.
- B. Complaints of noise, odor, failure to keep the animal under proper care and/or control.
- C. Creation or existence of a public or private nuisance.
- D. Legitimate written complaints received by the animal control officer concerning the animals.

17.14.150 APPEALS

Appeal of any decision regarding animal rights permits shall be to the city council. Notice of appeal specifying the grounds for the appeal shall be made in writing and shall be filed at the office of the city recorder. The city recorder shall cause a copy of the notice to be given to the chairperson of the planning commission. The notice of appeal shall be filed not more than ten (10) working days after the decision by the planning commission. The city council may affirm, modify or reverse the decision of the planning commission, and the city council shall present, in writing, the reasons for its action.

17.16 NONCONFORMING BUILDINGS AND USES

17.16.010 PURPOSE OF NONCONFORMING USE AND STRUCTURES PROVISIONS

17.16.020 CONTINUING EXISTING USES

17.16.030 CONSTRUCTION APPROVED PRIOR TO ORDINANCE

17.16.040 NONCONFORMING USES; SUBSTITUTION; EXTENSION; DISCONTINUANCE

17.16.050 NONCONFORMING LOTS OF RECORD

17.16.060 NONCONFORMING ANIMAL RIGHTS

17.16.010 PURPOSE OF NONCONFORMING USE AND STRUCTURES PROVISIONS

To control and gradually eliminate those uses of land or structures, which although legal at the time of their establishment, do not now conform to the use regulations of the district within which they are situated. Such uses shall be deemed nonconforming uses. Likewise, it is intended to control and gradually eliminate structures which although legal at the time of their erection, do not now conform to the height, bulk and location regulations of the district within which they are situated. Such structures shall be deemed to be nonconforming structures. Any structure or use which was permitted prior to enactment of this title, but which is designated by this title as a conditional use, shall not be considered a nonconforming use, and shall not be subject to the provisions of this chapter.

17.16.020 CONTINUING EXISTING USES

Except as specified in this chapter, any use or structure, lawfully existing at the time of the enactment or subsequent amendment of this title, may be continued, even though such use or structure does not conform with the provisions of this title for the district in which it is located. Except as otherwise provided by law, nothing in this title shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

17.16.030 CONSTRUCTION APPROVED PRIOR TO ORDINANCE

A structure or part thereof, which does not conform to the regulation of the district on which it is situated, but for which a building permit was issued and construction started prior to the enactment of the ordinance codified in this title, may be completed in accordance with such plans, providing work is prosecuted continuously and without delay. Such structure shall be deemed to be nonconforming and shall be subject to the regulations set forth in this chapter.

17.16.040 NONCONFORMING USES; SUBSTITUTION; EXTENSION; DISCONTINUANCE

A nonconforming use shall not be enlarged, extended, or changed unless the use is changed to a use permitted in the district in which it is located, and a nonconforming structure shall not be reconstructed or structurally altered unless such alteration shall result in removing those conditions of the building which render it nonconforming except as follows:

- A. Substitution Or Extension:
 - 1. When authorized by the planning commission in accordance with this title, a nonconforming use which is determined to be of a more desirable nature may be substituted for another nonconforming use.
 - 2. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
 - 3. Buildings and structures which are determined to be nonconforming in respect to setbacks or height may be continued. Additions or structural alterations may be made to the extent that they are required by law. In addition the planning commission, after holding a public hearing, may allow an enlargement or structural alteration provided such change is in harmony with the surrounding neighborhood and meets the intent of the general plan and this title. Reasonable conditions may be attached to the approval in order to ensure neighborhood compatibility.

4. Repairs and structural alterations may be made to a nonconforming building provided that the floor space of such building is not increased.
5. A nonconforming use may be expanded to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.
6. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction, may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion.

B. Cessation Of Use:

1. A use shall be deemed to have ceased when it has been discontinued either temporarily or permanently for a period of one year or more, whether or not with the intent to abandon said use.
2. If said nonconforming use is discontinued for a continuous period of one year or more, the use shall be considered to be abandoned and any future use of such land shall conform to the provisions of the zone in which it is located.

17.16.050 NONCONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record as of the effective date hereof, notwithstanding limitations imposed by other provisions of this title. This provision shall apply even though such lot may fail to meet the requirements for area, width, and/or frontage, that are generally applicable in the district, provided that yard dimensions of the lot shall conform to the yard regulations for the zone in which such lot is located.

17.16.060 NONCONFORMING ANIMAL RIGHTS

A. Where nonconforming animal rights are properly established the following applies:

1. Numbers may not be increased except offspring in which case the offspring may stay at the mother's side, until six (6) months of age.
2. To maintain a nonconforming land use, animals and/or fowls must accompany lots and/or building for a period of not less than thirty (30) days per calendar year.
3. When extraordinary circumstances exist, any of the subsections of this section may be appealed to the administrative appeals hearing officer who shall have the right to grant exceptions.

17.20 BOARD OF ADJUSTMENT

17.24 PARKING AND LOADING ZONE

17.24.010 PURPOSE OF CHAPTER

17.24.015 DEFINITIONS

17.24.020 GENERAL PROVISIONS

17.24.030 PARKING FOR PERSONS WITH DISABILITIES

17.24.040 PARKING SPACE FOR DWELLINGS

17.24.050 PARKING SPACE FOR BUILDING OR USES OTHER THAN DWELLING

17.24.060 PARKING LOT CONSTRUCTION

17.24.070 OFF STREET TRUCK LOADING SPACE

17.24.010 PURPOSE OF CHAPTER

To provide at the time of erection of any building or at the time any main building is enlarged or increased in capacity, a minimum number of off street parking spaces for vehicles used by persons expected to come to an establishment at any time under normal conditions for any purpose, whether as patron, customers, guests, employees or otherwise. This chapter also intended to result in easily accessed parking areas that are attractively landscaped to improve their appearance and to avoid negative environmental impacts associated with large areas of paved surfaces.

17.24.015 DEFINITIONS

The following terms used in this chapter shall have the respective meanings set forth in this section:

GROSS FLOOR AREA: The floor area within the inside perimeter of the exterior walls of the building without deduction for corridors, stairways, closets, or other features.

NET FLOOR AREA: The actual occupied area not including unoccupied accessory areas such as corridors, stairways, restrooms, mechanical and IT rooms, and closets.

RETAIL FLOOR AREA: That area set aside in a retail business that is accessible to the public and shall include all display areas and check out areas.

17.24.020 GENERAL PROVISIONS

- A. **Off Street Parking Required:** There shall be provided a minimum number of off street parking spaces for each use as provided in this chapter. There shall be no change in use or expansion of any building or use without the accompanying space to accommodate the increased off street parking needs as required herein.
- B. **Location Of Parking Spaces:** All parking spaces required to serve buildings or uses shall be located on the same lot as the building or use served except as provided herein.
- C. **Off Site Parking Spaces:** In the case of nonresidential uses, required off street parking spaces that cannot be provided on site may be located on other property not more than one thousand feet (1,000') from the nearest edge of the paved parking area of the off site parking lot to the nearest public entrance of the building being served measured along the route of most reasonable pedestrian travel provided:
 1. Permission has been granted by the owner of the property on which the property will be located.
 2. An agreement has been executed by the owner of the off site property and the business owner guaranteeing the use of the property for parking.
 3. There are adequate spaces available at the off site property not already committed to another use.
 4. A safe route, suitable for use by the disabled is available from the off site parking facility to the building entrance being served.
 5. Off site parking is not permitted for home occupations in residential zones.

- D. **Access:** All off street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. Parking lots in excess of five (5) spaces shall be designed to allow vehicles to enter and exit the lot in a forward direction. All vehicular access roads/driveways shall be constructed of asphalt or concrete and maintained in good repair. All accesses and driveways shall meet the provisions of chapter SMC 17.28 of this title.
- E. **Utilization Of Required Parking Spaces:** Except as otherwise provided in this section, required off street parking facilities provided for uses listed in SMC 17.24.050 of this chapter shall be for the parking of passenger vehicles of guests, patrons, occupants, or employees of such uses.
- F. **Change In Use:** When the use of an existing building or structure is changed to a different use, parking shall be provided in the amount required for such new use. However, if an existing building or structure was established prior to May 1, 2011, any increase in required parking shall be limited to the amount by which the new use exceeds the existing use.
- G. **Intensification Of Use:** When the intensity of any building, structure or premises is increased through the addition of dwelling units, gross floor area, seating capacity, or other units of measurement specified herein for required parking, additional parking shall be provided in the amount by which the requirements for the intensified use exceed those of the existing use.
- H. **Mixed Occupancies In The Building:** In the case of mixed uses in the building or on a lot, the total requirements for off street parking facilities shall be the sum of the requirements for the various use computed separately. Off street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint, common, or shared use.
- I. **Joint, Common Or Shared Use:** Joint, common or shared use of parking facilities is permitted provided the following are met:
1. The shared parking area is contiguous to the property the land use will serve, except as provided in SMC C of this section.
 2. An agreement is prepared, executed and recorded at the office of the Cache County recorder assuring the joint use of such facilities by the property owners of the joint uses.
 3. Either of the following conditions apply:
 - a. The total of all parking spaces when used together, shall not be less than the sum of the various uses computed separately; or
 - b. The shared parking facilities allow for separate daytime/nighttime uses.
- J. **Off Street Parking Space Dimensions:** A minimum parking space shall be at least ten feet by eighteen feet (10' x 18') for diagonal or ninety degree (90°) spaces; or ten feet by twenty two feet (10' x 22') for parallel spaces, exclusive of access drives or aisles. In cases where the parking spaces are located within a private garage or carport a minimum clear space of fifteen feet by twenty two feet (15' x 22') shall be provided for one space; twenty feet by twenty two feet (20' x 22') for two (2) spaces; and twenty nine feet by twenty two feet (29' x 22') for three (3) spaces.
- K. **Aisle Width:** The minimum aisle width shall be twenty four feet (24') for parking spaces aligned at a ninety degree (90°) angle. For sixty degree (60°) parking the minimum aisle width shall be twenty two feet (22'). For forty five degree (45°) parking the minimum aisle width shall be twenty feet (20'). In cases where an aisle serves parking stalls aligned at different angles, the most restrictive (widest) aisle shall prevail.
- L. **Design And Maintenance:** Parking lots shall be designed to ensure safe and easy ingress, egress and movement through the interior of the lot. The number of curb cuts onto major roads should be minimized. Shared access driveways between adjacent sites are encouraged. Parking lot islands should be provided on the interior of the parking lot to help direct traffic flow and to provide landscaped areas within such lots.
- M. **Parkway:** No parkway shall be used for parking.

17.24.030 PARKING FOR PERSONS WITH DISABILITIES

Any parking area to be used by the general public shall provide parking spaces designated and located to adequately accommodate the disabled, and these shall be clearly marked as such. Parking spaces for the disabled shall be located in close proximity to the principal building. The designation of parking spaces for the disabled shall constitute consent by the property owner to the enforcement of the restricted use of such spaces to disabled motorists by the city. Parking spaces for the disabled shall conform to the standards of the Americans with disabilities act. The number of required parking spaces accessible to the disabled shall be as follows:

Total Parking Spaces	Disabled Motorist Parking Space(s)
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total

17.24.040 PARKING SPACE FOR DWELLINGS

- A. **Single-Family Residential Zones:** In all single-family residential zones there shall be provided a private garage, or in an area properly located for a future garage, a hard surfaced space for the parking of one automobile for the first six hundred (600) square feet or fraction thereof of gross floor area in a new dwelling, plus one extra parking stall for each additional eight hundred (800) square feet or fraction thereof. There shall also be one additional parking space for each six hundred (600) square feet of living space added to an existing dwelling unit. In no case shall there be less than one such parking space nor more than three (3) such parking spaces required for each dwelling unit.
- B. **Multiple-Family Residential Zones:** Parking in multiple-family residential zones shall be in accordance with SMC 17.60.070 of this title.

17.24.050 PARKING SPACE FOR BUILDING OR USES OTHER THAN DWELLING

- A. For a new building, or for any enlargement or increase in seating capacity, floor area or guestrooms of any existing main building, there shall be at least one permanently maintained parking space of not less than one hundred eighty (180) square feet net area (10 feet x 18 feet) as follows:

Assisted living facility	2 parking spaces for each 4 employees, plus 2 parking spaces for each 6 infirmary or nursing home beds, plus 2 parking spaces for each 4 rooming units
Auditorium; accessory to a church, school, university or other institution	1 parking space for each 5 seats in the main auditorium or assembly hall. In the case of churches, should more than 1 congregation be expected to occupy the building at 1 time, allowances should be made to accommodate each congregation simultaneously
Auto repair garage	4 parking spaces per repair bay
Auto sales, new and used	3 parking spaces per 1,000 square feet of enclosed sales area, plus 1 space per 2,500 square feet of outside display area, plus 3 spaces per service bay, but never less than 5 spaces
Bank/credit union	1 parking space per 250 square feet of gross floor area, plus 1 space for each teller station
Bars, taverns, and nightclubs	1 parking space per 100 square feet of gross floor area
Beauty parlor/barbershop	3 spaces per operator chair
Bed and breakfast establishment	1 parking space per room
Bowling alley	2 parking spaces per lane
Car wash, self-serve	4 stacking spaces for each washing stall, plus 2 drying spaces for each washing stall
Churches	1 parking space per 100 square feet of gross floor area
Club or lodge	6 parking spaces per 1,000 square feet of gross floor area
Congregate care facility	1 parking space for each bedroom
Convenience store	1 parking space per 300 square feet of gross floor area
Dance studio	1 parking space for each 250 square feet of usable floor area
Daycare or preschool, child or adult	1 parking space per 1,000 square feet of gross floor area
Dry cleaning	3 parking spaces, plus 2 spaces per 1,000 square feet of gross floor area
Funeral home	1 parking space per 4 seats in parlor plus 1 space per 2 employees plus 1 space per vehicle used in connection with the business
Furniture store	1.5 parking spaces per 1,000 square feet of gross floor area
Grocery store	6 parking spaces, plus 1 space for each 200 square feet of gross floor area
Group home	1 parking space per home and 1 parking space for every 2 support staff present during the highest employment shift
Gym/health club/recreation facility	5 spaces, plus 4 spaces per 1,000 square feet of gross floor area
Hospital	2 parking spaces per hospital bed
Hotel or motel	1 parking space for each individual guestroom or suite of rooms for the first 30; 1 additional parking space for each 2 guestrooms or suites of rooms in excess of 30 but not exceeding 60; and 1 additional parking space for each 3 guestrooms or suites of rooms in excess of 60
Individual storage facility	2 parking spaces plus 1 space per 50 units
Library	3 parking spaces per 1,000 square feet of gross floor area
Lube center	2 parking spaces per service bay plus 3 stacking spaces per bay
Manufacturing establishments	1 parking space for each employee based on the greatest number of employees at any 1 time
Medical/dental offices	1 parking space per 200 square feet of gross floor area, plus 1 space for each doctor or dentist or employee
Movie theater	1 parking space per 4 seats
Museum, art gallery	1 parking space per 1,000 square feet of gross floor area
Nursery/greenhouse	1 parking space per 1,000 square feet of display area
Nursing care facility, sanatorium	1 parking space for each 4 beds for which accommodations are offered, plus 1 parking space for each 4 employees other than doctors
Office	1 parking space for each 2 employees working on the highest employment shift, or 1 parking space for each 300 square feet of gross floor area whichever is the greatest
Plumbing and heating supply	2 parking spaces per 1,000 square feet of gross floor area, plus 1 space per employee
Restaurant	1 parking space per 100 square feet of gross floor area
Retail establishments	1 parking space per 200 square feet of retail floor area

Schools:	
• K through 8th grade	1 parking space for each classroom, plus 1 parking space for each full time employee
• Senior high school	7 parking spaces for each classroom, plus 1 parking space for each full time employee
• Vocational/trade schools	1 space for each employee, plus 1 space for each 3 students based on the maximum number of students attending classes on the premises at any time
• College/university	1 parking space for each faculty member, plus 1 parking space for each 3 full time employees, plus 1 parking space for each 5 students
Stadium or arenas	1 parking stall per 5 fixed seats
Theaters	1 parking stall per 40 square feet of gross floor area in the main seating area
Veterinarian	4 parking spaces per doctor, plus 1 space for every additional employee

- B. In no case shall a building be constructed, altered or increased where, if the foregoing parking provisions are inadequate to provide sufficient space for all employees and customers combined, the provision of adequate parking spaces shall supersede any and all foregoing formulas.

17.24.060 PARKING LOT CONSTRUCTION

- A. **Lighting And Landscaping:** Every parcel or portion thereof used as a parking lot shall be arranged, constructed and landscaped in accordance with chapter 17.100, "Site Development And Landscaping", of this title. Any lights used to illuminate the lot shall be so arranged and constructed to meet the standards identified in SMC title 9, chapter 9.24, "Outdoor Lighting", of this code.
- B. **Parking Lot Surface:** Parking lots shall be paved with a surfacing material of asphalt or concrete composition and shall be graded to ensure proper drainage of stormwater.
- C. **Curb And Gutter:** All parking lots shall be finished with curb and gutter around the perimeter with adequately placed stormwater inlet boxes to collect stormwater.

17.24.070 OFF STREET TRUCK LOADING SPACE

- A. **Adequate Space To Be Provided:** On the same premises with every building, structure or part thereof, erected and occupied or increased in capacity after the effective date hereof, for manufacturing, storage, warehouse, goods display, department store, grocery, hotel, hospital, mortuary, laundry, dry cleaning or other use similarly involving the receipt or distribution by vehicle of materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with the public use of streets.
- B. **Access:** Each required off street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will eliminate or minimize conflicts with traffic movement. Maneuvering and backing space to the loading dock shall be accommodated on site when possible.
- C. **Utilization Of Off Street Loading Areas:** Space allocated to any off street loading use shall not be used to satisfy the space requirements for any off street parking.
- D. **Size:** Unless otherwise specified, a required off street loading space shall be at least twelve feet (12') in width by at least thirty five feet (35') in length for short spaces, and fourteen feet (14') in width by at least fifty feet (50') in length for long spaces exclusive of aisle and maneuvering space. Maneuvering aprons of appropriate width and orientation shall be provided and will be subject to approval by the city engineer.
- E. **Vertical Clearance:** All loading areas shall have a vertical clearance of at least fourteen feet (14').
- F. **Design And Maintenance:**
1. Design Of Loading Areas: All loading areas shall be oriented away from adjacent residential or other incompatible uses.
 2. Plan: The design of loading areas shall be subject to the approval of the city engineer.
 3. Loading Area Surface: Loading area surfaces shall be hard surfaced and drained to dispose of all surface water and to provide effective drainage without allowing the water to cross the sidewalk or driveway.

17.28 MOTOR VEHICLE ACCESS

17.28.010 PURPOSE

17.28.020 RIGHT OF WAY ACCESS PERMITS

17.28.030 GENERAL STANDARDS

17.28.040 SHARED ACCESS

17.28.070 DRIVEWAY SPECIFICATIONS

17.28.080 DRIVEWAY LOCATION AND SPACING

17.28.010 PURPOSE

The motor vehicle access regulations of this chapter are intended to maintain and improve traffic levels of service by managing the number of location of access points to public right of way.

17.28.020 RIGHT OF WAY ACCESS PERMITS

No property owner shall be permitted to construct, develop, or begin using access from private property onto a city right of way without obtaining a right of way access permit from the Smithfield City engineering department.

17.28.030 GENERAL STANDARDS

The following standards apply to all developments within all zoning districts:

- A. **Back Out Parking Prohibited:** Except single-family detached houses, parking configurations that require vehicles to back out of parking areas directly onto public rights of way are prohibited.
- B. **Maintenance Of Curb Bridges:** Curb bridges shall be maintained in a safe and proper functioning manner. If curb bridges to parking areas fall into disrepair, the city

engineer may order the portion of the structure within the public right of way to be repaired, removed, or abated. If the city undertakes any action that is a duty of the property owner under this chapter, the property owner shall be responsible for the cost of the city's action.

- C. **Access To State Highway Right Of Way:** Uses and developments taking access to state highways are subject to the Utah state department of highways' "Regulations For The Control And Protection Of State Highway Right Of Way" and the approval of the city engineer.

17.28.040 SHARED ACCESS

Shared access between adjoining parcels is strongly encouraged. It may be required by the city engineer as a condition of project approval. The city engineer may require shared access if the property owner owns or controls adjoining property or if it is feasible for separate property owners to enter into an agreement.

17.28.070 DRIVEWAY SPECIFICATIONS

A. Residential Driveways:

1. Driveways serving single-family detached houses, attached houses, or duplexes shall not be less than twelve feet (12') in width for single lane driveways. Driveways in this classification shall not exceed twenty four feet (24') in width for two (2) to three (3) car parking areas. The maximum residential driveway width shall be thirty feet (30') for four (4) car or larger garage or parking areas.
2. Driveways serving multiple-family dwelling structures, group living and group dwelling structures, or mobile home parks shall have a maximum driveway width of thirty feet (30') at the property line. Interior driving lanes shall be at least twenty feet (20') wide.
3. A maximum of two (2) driveways shall be permitted on a single-family residential lot. The maximum width of any second driveway shall be limited to twelve feet (12'). The minimum distance between two (2) driveways on the same lot shall be twelve feet (12') and no more than thirty percent (30%) of the lot frontage may be occupied by driveways where more than one driveway is constructed.
4. More than one driveway may be permitted for multiple-family dwelling structures if approved by the city engineer as part of the site approval process.
5. Access to intrablock developments shall be as specified in SMC 17.84.020 of this title.

- B. **Circular Driveways:** Circular driveways shall only be permitted on local residential streets or minor collector streets. A minimum lot frontage of one hundred feet (100') or greater is required or if located on a corner lot, at least forty foot (40') spacing from the curb line to the leading edge of the driveway.

C. Commercial And Manufacturing Zone Driveways:

1. Entry (ingress) lanes shall be limited to a maximum width of sixteen feet (16'), except as noted in this subsection.
2. Exit (egress) lanes shall be at least twelve feet (12') wide with one lane for each turning movement. If there is a straight across alignment approved by the city engineer, there shall be a third twelve foot (12') lane for straight traffic.
3. The city engineer may approve varied widths based on site specific and project specific conditions and traffic safety.
4. The city engineer may require the construction of a landscaped median within a driveway access to restrict egress turning movements.

17.28.080 DRIVEWAY LOCATION AND SPACING

- A. **Single-Family Residential And Multiple-Family Residential Zones:** No stand alone driveway shall be closer than twelve feet (12') (measured edge to edge) to another driveway on the same or an adjacent lot and no driveway shall be closer to a side lot line than five feet (5').

- B. **Commercial And Manufacturing Zones:** The following standards apply to all developments in a commercial or manufacturing zone:

1. **Number Of Driveways:** One driveway is allowed per lot or one driveway per three hundred feet (300') of street frontage, whichever is greater, unless a greater number is approved by the city engineer.
2. **Driveway Spacing:** Driveways shall be spaced at least seventy five feet (75') from other driveways and street intersections, unless otherwise approved by the city engineer. Spacing is measured edge to edge.

17.32 CONDITIONAL USES

17.32.010 PURPOSE OF CHAPTER

17.32.020 GENERAL STANDARDS

17.32.030 APPLICATION PROCEDURES

17.32.040 AMENDMENTS OR MODIFICATION OF A CONDITIONAL USE

17.32.050 PLANNING COMMISSION ACTION

17.32.060 NOTICE OF PLANNING COMMISSION ACTION

17.32.070 EXPIRATION

17.32.080 REVOCATIONS

17.32.090 APPEALS

17.32.100 SPECIAL PROVISIONS FOR KENNEL/CATTERY CONDITIONAL USE PERMITS

17.32.010 PURPOSE OF CHAPTER

To provide for the regulation of uses to ensure their compatible integration in the land use pattern of Smithfield City and to comply with state law.

17.32.020 GENERAL STANDARDS

An approved conditional use permit shall be required for each conditional use listed in this title. No building permit or other permit or license shall be issued for a conditional use by any officer or employee of Smithfield City unless a conditional use permit has been approved.

- A. **General Review Criteria:** An applicant for a conditional use permit in any zone must demonstrate each of the following, where applicable:

1. The application complies with all applicable provisions of this code, chapter, state and federal law;
2. The structures associated with the use are compatible with surrounding structures in terms of use, scale, and mass;
3. The use is not detrimental to the public health, safety, and welfare. A use shall be considered detrimental if:
 - a. It will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;
 - b. It will unreasonably interfere with the lawful use of surrounding property;

4. The use is consistent with the current Smithfield City general plan;
5. Streets or other means of access to the proposed development are suitable and adequate to carry anticipated vehicular and pedestrian traffic and will not materially degrade the service level on the adjacent streets;
6. The internal circulation system of the proposed development is properly designed to allow for the free flow of traffic within the development and between adjacent developments when possible;
7. Existing or proposed utility services are adequate for the proposed use and are designed in such a way as to not adversely affect adjacent properties;
8. There is sufficient emergency vehicle access;
9. Operating and delivery hours are compatible with adjacent land uses;
10. An acceptable plan is provided for fencing, screening, and landscaping to protect adjacent land uses from adverse noise, light, dust, and visual impacts;
11. That within the site and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been fully mitigated and the mitigation measures are appropriate to the topography of the site.

17.32.030 APPLICATION PROCEDURES

- A. **Application:** Application for a conditional use permit shall be made at the office of the Smithfield City planning commission on forms provided for that purpose.
- B. **Development Plan:** The applicant for a conditional use permit shall prepare a site development plan of the proposed conditional use which meets the requirements of SMC 17.100 of this title. The city engineer shall review the site development plan for conformance with engineering standards and this title before the application shall be placed on an agenda of the planning commission.
- C. **Surrounding Property Owners:** The applicant shall provide with the application, the names and addresses of all property owners within three hundred feet (300') from the boundary of the subject property as listed in the current records of the Cache County recorder.
- D. **Permit Fee:** The applicant shall pay the applicable conditional use permit fee as established in the most recent prevailing fee schedule adopted by resolution of the Smithfield City council.
- E. **Public Hearing:** A public hearing need not be held; however, a hearing may be held when the planning commission shall deem a hearing to be necessary to serve the public interest.

17.32.040 AMENDMENTS OR MODIFICATION OF A CONDITIONAL USE

Once granted, a conditional use shall not be enlarged, changed, extended, increased in intensity, or relocated unless a new conditional use application is made and approved by the planning commission, except as provided below:

- A. Modifications to an approved conditional use permit may only be granted when it can be determined that such changes or modifications are necessary to accommodate special circumstances related to the location, site, or implementation of the approved development and where such modifications are found to be insignificant and minor so as not to measurably change the approved conditional use permit or the intent of conditions that may have been imposed. The request for amendment shall be made in writing and documented on the site plan of the project.

17.32.050 PLANNING COMMISSION ACTION

- A. The planning commission may take the following actions:
 1. Approve the application as proposed,
 2. Approve the application with conditions,
 3. Continue the application to a subsequent meeting, or
 4. Disapprove the application.
- B. Appropriate conditions may be attached to any approval where, and to the extent that, the planning commission finds that the imposition of such conditions will directly mitigate or eliminate some reasonably anticipated impact created by the proposed use in order to protect the integrity of the land use zone and to meet the intent of this chapter.
- C. All conditions shall be entered into the minutes of the planning commission and on the conditional use permit.
- D. The minutes of the planning commission meeting shall identify the adverse impacts that will be directly mitigated or eliminated by the stipulated conditions.

17.32.060 NOTICE OF PLANNING COMMISSION ACTION

Within a reasonable time following the public hearing, the applicant shall be given written notification of the planning commission's action. If the application is approved, the notice shall outline conditions attached to the approval, if any, the procedures to be followed prior to obtaining a business license or building permit, and the expiration date of the approval.

17.32.070 EXPIRATION

- A. Unless there is substantial action under a conditional use permit within a period of one year from the date of planning commission approval, the permit shall expire. Substantial action shall be demonstrated by submitting final plans for approval and obtaining, and maintaining, a current building permit. If construction is not proposed as an element of the conditional use, a business license shall be obtained to satisfy this requirement.
- B. The planning commission may grant an extension for a maximum of six (6) months under exceptional circumstances. A request for extension shall be submitted, in writing, by the applicant prior to expiration of the original one (1) year period. Only one extension shall be granted.
- C. If the approved use or activity should cease for any reason for a continuous period of one year or more, the conditional use permit shall automatically terminate without notice. Application for, and approval of, a new conditional use shall be required prior to any subsequent reinstatement of the use.
- D. All conditions shall run with the property. In the event the applicant should cease the approved use resulting in another party conducting the activity, no additional application shall be required for continuation of the conditional use. Requested changes to conditional use permits resulting from the transfer of these rights to a new applicant shall be subject to the provisions in SMC 17.32.040, "Amendments Or Modification Of A Conditional Use", of this chapter.

17.32.080 REVOCATIONS

- A. A conditional use permit may be revoked upon failure to comply with the conditions imposed at the time of the original approval of the permit. In addition, the renewal of any conditional use permit may be denied at the annual or other periodic renewal time, or at any other time regardless of the issue date of the permit, and any conditional use permit may also be revoked, for good cause. Good cause shall include, but not be limited to, the following, within the discretion of the planning commission: circumstances which are detrimental to or have a negative impact on the health, safety and welfare concerns of the citizens and residents of Smithfield, incompatible zoning or land use, complaints of noise, odor, failure to comply with the conditions imposed at the time the original approval of the permit was given, the creation and existence of a public or private nuisance, failure of the permit holder or his agent or employees to comply with the conditions and requirements of applicable state, county and/or federal laws, rules and regulations, unlawful activities conducted and permitted on the premises for which the conditional use permit was issued and/or other legitimate factors.
- B. Prior to the revocation of a conditional use permit or the denial of an application to renew a conditional use permit, the permit holder shall be given a notice which shall state in substance that the planning commission intends to revoke the conditional use permit or deny the application to renew it, together with the reason or reasons therefor, at a regular or special meeting of the planning commission (which shall be at least 10 days and not more than 30 days from the date notice is sent) and the permit holder shall have a right to appear, to be represented by counsel, to hear the evidence against him/her, to cross examine witnesses and to present evidence as to why the permit should not be revoked or the application denied.
- C. SMC B of this section shall not apply to original applications for conditional use permits which have not previously been issued or approved by the planning commission, and such applicants need only be informed that their application has been denied and the reasons for such denial.

17.32.090 APPEALS

Appeal of any decision regarding conditional use permits shall be to the city council. Notice of appeal specifying the grounds for the appeal shall be made in writing and shall be filed at the office of the city recorder. The city recorder shall cause a copy of the notice to be given to the chairperson of the planning commission. The notice of appeal shall be so filed not more than ten (10) working days after the decision by the planning commission. The city council may affirm, modify or reverse the decision of the planning commission. However, the city council shall present, in writing, the reasons for its action.

17.32.100 SPECIAL PROVISIONS FOR KENNEL/CATTERY CONDITIONAL USE PERMITS

- A. In considering each application for a conditional use permit relating to a kennel/cattery, a land use authority appointed by the city council, other than the planning commission, may issue an original conditional use permit if each of the following conditions are satisfied:
 - 1. The size of the kennel does not exceed four (4) dogs. The size of the cattery does not exceed five (5) or more cats.
 - 2. The size of lot involved is greater than ten thousand (10,000) square feet.
 - 3. The breed of one or more of the dogs to be contained in the kennel is not: pit bull, rottweiler, German shepherd, husky, Alaskan malamute, doberman pinscher or wolf hybrid.
- B. In considering each application for a conditional use permit relating to a kennel/cattery, the designated land use authority shall proceed as required in this subsection, and in imposing such regulations and conditions as are necessary to protect the public welfare in this regard, the designated land use authority shall consider, among other things, the zone in which the conditional use is proposed, the size of lot involved, the proximity of a proposed fixed dog run to neighbors, the proposed size of the fixed dog run, its placement on the property and the proposed number of dogs or cats. Together with anything else stated in an approved permit, each permit shall clearly state the maximum number of dogs or cats to be allowed.
- C. If the application does not meet all of the conditions listed in SMC A of this section, or if the land use authority feels there are extenuating circumstances, the application shall be referred to the planning commission for consideration.
- D. Conditional use permits for a kennel may be issued only if a fixed dog run is provided for the following breeds: pit bull, rottweiler, German shepherd, husky, Alaskan malamute and doberman pinscher or wolf hybrid.
- E. In the event the applicant should disagree with the decision rendered by the land use authority, the application shall be considered by the planning commission upon written request of the applicant.
- F. The land use authority may issue renewals of an existing kennel/cattery conditional use permit provided there have been no verifiable violations of the existing conditional use permit reported by the animal control officer for excessive noise or containment issues related to the kennel/cattery animals.
- G. Each permit shall be granted for a maximum of three (3) calendar years and shall be renewed on or before December 31 of the third year regardless of the month in which it is granted. Renewals must be applied for and granted prior to the renewal date.
- H. All kennel/cattery conditional use permits shall run with the property identified on the application and be valid in the name of the applicant only.

17.36 SIGNS

17.36.010 SCOPE OF CHAPTER

17.36.020 ENFORCEMENT

17.36.030 DEFINITIONS

17.36.040 GENERAL REGULATIONS; APPLICABILITY

17.36.050 PERMITS REQUIRED

17.36.060 PERMITTED SIGNS; PERMITS NOT REQUIRED

17.36.070 PROHIBITED SIGNS

17.36.080 REQUIRED SETBACKS; FREESTANDING SIGNS

17.36.090 SIGNS AT STREET INTERSECTION

17.36.100 ILLUMINATION

17.36.110 CANOPIES, MARQUEES, AWNINGS AND ARCHITECTURAL PROJECTION REGULATIONS

17.36.120 SUPERGRAPHIC

17.36.125 TEMPORARY SIGNS

17.36.130 BILLBOARDS; OFF PREMISES SIGN

17.36.135 COMMERCIAL COMPLEX SIGNS

17.36.140 WIND SIGN

17.36.150 PORTABLE OR WHEELED SIGN

17.36.155 ELECTRONIC MESSAGE DISPLAYS (EMDs)

17.36.160 ZONING LOCATIONS

17.36.010 SCOPE OF CHAPTER

- A. **Application Of Provisions:** The provisions of this chapter shall apply to the display, construction, erection, alteration, use, location and maintenance of all signs within the city; and it is unlawful hereafter to display, construct, erect or alter any sign except in conformance with provisions of this chapter except with preexisting, nonconforming conditions.
- B. **Limitations:** Furthermore, it is unlawful to alter, maintain, enlarge any sign constructed prior to the enactment of the ordinance codified herein except in conformance with this chapter.
- C. **Exemptions:** Except as specifically provided, the following shall be exempt from the provisions of this chapter:
1. Signs which are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right of way, except that such signs shall be subject to the safety regulations of the uniform building code;
 2. Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes, or to identify streets or to ward off danger. Identification or bulletin board signs accessory to governmental buildings or other facilities shall be exempt from the provisions of this chapter;
 3. The flag, pennant or insignia of any nation, organization of nations, state, country or city, any religious, civic or fraternal organization, or any educational institution; except when such are used in connection with a commercial promotion or as an advertising device;
 4. Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration;
- D. Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.

17.36.020 ENFORCEMENT

The building inspector is authorized and directed to enforce all provisions of this chapter. He shall appear for and on behalf of the city in all matters regarding this chapter. The city council may charge such other city officers or officials with the enforcement of this chapter, in whole or in part, as may be necessary without amending this chapter.

17.36.030 DEFINITIONS

For the purposes of this chapter:

ANIMATION: A visual effect used on an electronic message display through movement or semblance of movement created through a sequence of progressive changes of parts, lights or degree of lighting.

ARCHITECTURAL PROJECTION: Any permanent projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including roof overhangs, mansards, marquees, canopies, pilasters and the like, but not including signs.

AWNING: A movable shelter supported entirely from the building and a type which can be retracted, folded or collapsed against the face of the building.

BANNER: A sign or street graphic composed of fabric hung from a pole which is projected perpendicular from the face of a building limited to commercial and institutional establishments. Also attached to a pole at the bottom of the banner.

BILLBOARD: See definition of Off Premises Sign.

CANOPY: A permanently roofed shelter covering a sidewalk, driveway or similar area, which shelter may be wholly or partially supported by columns, poles or braces extended from the ground; provided, that in no event shall said canopy extend over the public right of way.

DISSOLVE: A mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

ELECTRIC SIGN: Any sign containing concealed lighting but not including signs illuminated by exterior light sources.

FADE: A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

FLASHING: A mode of message transition on an electronic message display that appears or passes suddenly, an instant burst of light. A message displayed for less than three (3) seconds.

FRAME: A complete, static display screen on an electronic message display.

HEIGHT: The vertical distance measured from the elevation of the nearest sidewalk (or in the absence of a sidewalk from the lowest point of finished grade on the lot upon which the sign is located, but within 25 feet of the sign) to the uppermost point on the sign or sign structure.

ILLUMINATION:

Direct Illumination: Lighting by means of an unshielded light source (including neon tubing) which is effectively visible as part of the sign, where light travels directly from the source to the viewer's eye.

Indirect Illumination: Lighting by means of a light source which is directed at a reflecting surface in such a way as to illuminate the sign from the front, or the entire building facade upon which the sign is displayed.

Internal Illumination: Lighting by means of a light source which is within a sign having a translucent background silhouetting opaque letters or designs, or which is within

letters or designs which are themselves made of translucent materials.

KIOSK: A small freestanding structure located within a pedestrian circulation area and intended for use as a key, magazine, flower or similar type of small shop, or etc., also housing for public telephones.

MARQUEE: A permanently roofed structure attached to and wholly supported by a building, and projecting from the building.

OFF PREMISES SIGN: A sign which directs attention to a use, business, profession or service, etc., not conducted, sold or offered upon the premises where the sign is located.

ON PREMISES SIGN: A sign which relates solely to a use, business, profession, service, etc., provided or offered upon the premises where the sign is located.

PORTABLE OR WHEELED SIGNS: A sign that is movable and temporary, constructed for the purpose of display and advertisement.

ROOFLINE: The highest point on any building including any parapet wall, not including chimneys and exhaust system housings.

SCROLL: A mode of message transition on an electronic message display where the message appears to move vertically across the display surface.

SIGN: Any writing, pictorial representation, decoration (including any material used to differentiate sign copy from its background), form, emblem or trademark, flag or banner, or any other figure of similar character. If, for any reason, it cannot be readily determined whether or not an object is a sign, the building inspector and/or city engineer shall make such determination.

SIGN FACE: The surface of a sign, upon, against or through which the message is displayed or illustrated.

SIGN, LEGAL NONCONFORMING: Any sign which was lawfully erected and maintained prior to the enactment of this chapter and any amendments thereto, and which does not conform to all the applicable regulations and restrictions of this chapter.

SIGN STRUCTURE: Any supports, uprights, braces or framework of a sign.

SIGNS, CLASSES OF:

Canopy Sign: A sign applied to or painted upon a canopy as described in this section. Such sign shall be an integral part of the canopy and have no relief.

Freestanding Sign: A sign which is supported by one or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or a sign which is erected on the ground; providing that no part of the sign is attached to any part of any building, structure or pedestal sign and ground sign.

Marquee Sign: A sign depicted upon, attached to or supported by a "marquee" as defined in this section.

Projecting Sign: A sign attached to a building or extending in whole or part, twelve inches (12") or more horizontally beyond the surface of the building to which the sign is attached, but not including a "marquee sign" as defined in this section. Support structure must be perpendicular to surface of the building.

Roof Sign: A sign painted on the roof of a building, or a sign supported by poles, uprights or braces attached to the roof of a building; or a sign projecting above the roofline of a building, but not including a sign projecting from or attached to the wall face (see definition of Wall Sign).

Suspended Sign: A sign suspended from the ceiling of an arcade, marquee or canopy.

Vehicle Mounted Sign: A sign displayed upon a trailer, van, truck, automobile, bus, railroad car, tractor, semitrailer or other vehicle, whether or not vehicle is in operating condition.

Wall Sign: A sign displayed upon or against the wall of an enclosed building, where the exposed face of the sign is in a plane parallel to the plane of said wall and extends not more than twelve inches (12") horizontally from the face of said wall. A sign erected upon or against the side of a roof having an angle of forty five degrees (45°) or less from the vertical, shall be considered to be a wall sign, and shall be regulated as such; provided, no portion of the sign protrudes above the wall or roof having an angle forty five degrees (45°) or less from the vertical.

Wind Sign: A sign consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

Window Sign: A sign which is painted on, applied or attached to, or located within three feet (3') of, the interior of a window; which sign can be seen through the window from the exterior of the structure. Merchandise which is included in a window display shall not be included as part of a window sign.

SIGNS, TYPES OF:

Bulletin Board: A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar events.

Business Sign: A sign which identifies and/or directs attention to the business, profession, commodities, services, entertainment or activities conducted, sold, displayed, offered or stored on the premises where the sign is located.

Commercial Complex Sign: A sign which is used to identify a planned commercial development comprised of more than one lot and the tenants located therein.

Construction Sign: A temporary sign announcing subdivision development construction or other improvements of property by a builder, contractor or other person furnishing services, materials or labor to said premises. For the purposes of this title, a construction sign shall not be a "real estate sign" as defined in this section.

Electronic Message Display: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic

means.

Identification Sign: Means and includes the following:

- A. A nameplate which establishes the identity of an occupant by listing his name and business or professional title;
- B. A sign which establishes the identity of a building or building complex by name or symbol only;
- C. A sign which indicates street address or combines nameplate and street address;
- D. A sign which identifies an area in the city which, by reason of development, natural features, historical occurrences or common references, has or will become a landmark in the city;
- E. A commemorative sign, such as a cornerstone, memorial or plaque, when such is cut into a masonry surface or constructed of bronze or other incombustible material, and is made an integral part of the structure.
- F. Joint Identification Sign: A sign which serves a common or collective identification for two (2) or more businesses or industrial uses on the same lot. Such sign may contain a director to said uses as an integral part thereof, or may serve as general identification only for such development as shopping center, industrial parks and the like.
- G. Neighborhood Entryway Sign: A sign allowed in subdivisions and planned unit developments as follows:
 - 1. Final Approval: Subdivisions or planned unit developments that have final approval and contain a minimum of five (5) acres.
 - 2. Number Limit: The maximum number of signs shall be one and shall be single sided.
 - 3. Verbiage: Sign shall be limited to the identification of the development as shown on the approved plat.

Off Premises Advertising Sign: Any off premises sign, including a billboard or general outdoor advertising device, which advertises or directs attention to a business, commodity, service or activity conducted, sold or offered elsewhere than on the same lot or within the same building upon which such sign is erected or displayed.

Real Estate Sign: A sign indicating the availability for sale, rent or lease of the specific lot, building or portion of a building upon which the sign is erected or displayed.

Supergraphic: A sign which has no relief, painted or applied to a wall of a building which is of bold and large proportion. Limited to identification signs only.

Temporary Sign: A sign banner or similar device or display which is intended for a temporary period of display for the purpose of announcing a special event, advertising or directing persons to a subdivision or other land or building development, or promoting a political campaign or special election. Said sign may be constructed of cloth, canvas, cardboard, wallboard, plywood or other light temporary material, with or without a structural frame.

STRUCTURE: Anything constructed or erected with a fixed location on the ground above grade, but not including poles, lines, cables or other transmission or distribution facilities of public utilities.

SUBDIVISION: For the purposes of this title, is defined by the subdivision ordinance of the city.

TRANSITION: A visual effect used on an electronic message display to change from one message to another.

TRAVEL: A mode of message transition on an electronic message display where the message appears to move horizontally across the display surface.

UNIFORM BUILDING CODE: The latest edition of the uniform building code published by the International Conference of Building Officials, as amended and adopted by the city council.

VIDEO: A mode of message transition on an electronic message display where the display can operate much like a television. These displays can show live video, recorded video, graphics, logos, animations and text.

17.36.040 GENERAL REGULATIONS; APPLICABILITY

The provisions and requirements of this section shall apply to all signs erected or maintained in the city of Smithfield, unless specifically modified or excepted by the special provisions for any zoning district.

17.36.050 PERMITS REQUIRED

Except as provided in SMC 17.36.060 of this chapter it shall be unlawful to display, erect, relocate or alter any sign without first filing with the building inspector an application in writing, and obtaining a building permit.

17.36.060 PERMITTED SIGNS; PERMITS NOT REQUIRED

The following signs shall be permitted in all zoning districts, and all applicable provisions of this chapter shall apply except that a building permit fee shall not be required.

- A. **Public Signs:** Signs required or specifically authorized for a public purpose by any law, statute or ordinance; may be of any type, number, area, height, location or illumination authorized by law. Such signs are considered to include safety signs, danger signs and traffic signs;
- B. **Private Traffic Directional Signs:** Signs guiding or directing vehicular or pedestrian traffic onto, off of, or within a premises when such do not exceed four (4) square feet per sign in area, and if freestanding, do not exceed six feet (6') in height, do not contain any advertising or trade name identification and are not illuminated, or internally illuminated;
- C. **Real Estate Signs:** Temporary nonilluminated on premises real estate signs which do not exceed four (4) square feet per side in area with no more than two (2) sides and six feet (6') in height if freestanding. Such signs shall not remain in place more than seven (7) days after sale or rental of the subject property and shall be located solely on private property;
- D. **Informative Signs:** Signs commonly associated with, and limited to information and directions related to the permitted use on the lot on which the sign is located; provided, that each sign does not exceed one hundred fifty (150) square inches in area (this category shall be interpreted to include such signs as "No Smoking", "Restrooms", "No Solicitors", "Self-Service", "Vacancy" and similar information signs);
- E. **Window Signs:** Nonilluminated and internally illuminated window signs when the total area of such signs:
 - 1. Does not exceed twenty five percent (25%) of the total window area that it is placed in. Limited to one side per building,
 - 2. Does not exceed twenty five percent (25%) of the total allowable sign area for the premises in the specified district,

3. Temporary posters announcing or advertising events shall be exempted from limitations on window signs;

F. Flags And Flagpoles:

1. Flags: Flags bearing the official design of a nation, state, municipality, or educational institution;
2. Flagpoles:
 - a. Height: No flagpole may be higher than the maximum building height limitation permitted in the zoning district in which the flagpole is located or sixty feet (60'), whichever is less. Additional height may be approved through the granting of a conditional use permit.
 - b. Setback: Flagpoles shall be set back a minimum of three feet (3') from property line or sidewalk whichever is more restrictive. If no sidewalk exists, then setback shall be from the sidewalk as it would be located in accordance with the adopted street cross section.
 - c. Allowable Number Of Flagpoles: Three (3) permanent flagpoles per street frontage;

G. Community Event Signs: Signs advertising a nonprofit public event or city sponsored event, provided the placing of the signs shall be approved and the locations designated by city officials. These signs shall remain in place for no more than twenty one (21) days before and three (3) days after the event and may not exceed twenty (20) square feet in area. Signs in direct competition with city sponsored events shall not be permitted;

H. Identification Signs: Nonilluminated, identification signs which do not exceed four (4) square feet in total area;

I. Political Campaign Signs: Signs or posters announcing the candidates seeking political office and/or political issues, and data pertinent thereto up to an area of twelve (12) square feet. These signs shall be confined to private property and located no closer than two hundred feet (200') to a polling place. Signs must be removed within seven (7) days after the election. These signs shall be in compliance with the standards identified in SMC 17.36.090, "Signs At Street Intersection", of this chapter;

J. Construction Signs: Signs advertising subdivision development, construction, alteration, or repair, announcing the names of contractors, architects, engineers and firms involved with the construction, or announcing the character of the building enterprise or the purpose for which the building is intended. Such signs shall conform with the following:

1. Limited to on premises freestanding, wall or window signs shall not exceed sixty four (64) square feet in total area or thirty two (32) square feet per face, and shall not exceed eight feet (8') in height, and shall be removed within fourteen (14) days after completion of work,
2. Subdivision signs announcing names of architects, engineers, contractors, developers, or other individuals, or firms involved with the subdivision of property or announcing the character of the subdivision; shall not exceed thirty two (32) square feet per side in total area per sign and shall not exceed eight feet (8') in height to top of sign;

K. Grand Opening/Closing Signs: Signs of a temporary nature announcing a grand opening or closing, or reopening of an establishment. Such signs are permitted fourteen (14) days before the event and must be removed within seven (7) days after the event, with a total time limit of thirty (30) days. Streamers, ribbons and pennants are allowed during the same time;

L. One Day Event Signs: Signs of a temporary nature which advertise an event performed by an individual or group such as a garage sale, car wash, bazaar, etc., which are displayed during the day of the event only and which are a maximum of four (4) square feet and must be on private property;

M. Residential Signs: Signs which meet the requirements of a residential sign. All signs which identify a home business or occupation must be approved at the time the business license is applied for or before the erection of the sign. A maximum of one sign per residential lot will be permitted.

17.36.070 PROHIBITED SIGNS

The following signs shall not be permitted or maintained within Smithfield City:

- A. Any sign which, by reason of its size, location, movement, content, coloring, manner or illumination constitutes a hazard to public safety by obstruction or detracting from the visibility of any official traffic control device;
- B. Any sign which contains or imitates an official traffic sign or signal or contains the words "stop", "go slow", "caution", "danger", "warning", or similar words except for private traffic directional signs specifically permitted in this chapter;
- C. Any sign which contains words, statements or pictures of an obscene nature;
- D. Any sign or sign structure which is structurally unsafe or constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation, or is capable of causing electrical shocks to persons likely to come in contact with it;
- E. Any external sign with lights which blink, flash, move, rotate, scintillate, flicker, vary in intensity or color or use intermittent electrical pulsations, except lights which are placed behind rigid, permanently affixed translucent panels and approved by conditional use. Electronic message display shall be permitted as part of a monument or freestanding sign in commercial and industrial zones if a conditional use permit is granted. Such signs may have illumination, transitions (dissolve, fade, frame and animation);
- F. No person shall park any vehicle or trailer so as to be visible from a public right of way, which has attached thereto or thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any motor vehicles or advertising on buses.
- G. Any sign advertising events that are in direct competition with city sponsored events.

17.36.080 REQUIRED SETBACKS; FREESTANDING SIGNS

Freestanding signs in any zone shall be set back the following distances and no point on any such sign shall extend beyond the required setback line:

- A. In all zones fronting Main Street from 500 North to the south city limits, freestanding signs shall be set back the following distances from a predetermined, monumented baseline located near the centerline of Main Street:
 1. 500 North to 500 South: 65.0 feet;
 2. 500 South to south city limits: 60.0 feet or to the right of way line of Main Street, whichever is greater.
- B. In all commercial zones, except as listed in SMC A of this section, freestanding signs shall be set back a minimum of three feet (3') from the property line or sidewalk whichever is the more restrictive. If no sidewalk exists, then setback shall be from the sidewalk as it would be located by the adopted street cross section.
- C. Freestanding signs in manufacturing zones, except as listed in SMC A of this section, shall be set back a minimum of three feet (3') from the property line or sidewalk whichever is the more restrictive. If no sidewalk exists then setback shall be from the sidewalk as it would be located by the adopted street cross section.
- D. Freestanding signs in residential zones, except as listed in SMC A of this section, shall be set back a minimum of three feet (3') from the property line or sidewalk, whichever is the more restrictive. If no sidewalk exists then setback shall be from the sidewalk as it would be located by the adopted street cross section.
- E. Freestanding signs in agricultural zones, except as listed in SMC A of this section, shall be set back a minimum of three feet (3') from the property line or sidewalk,

whichever is the more restrictive. If no sidewalk exists then setback shall be from the sidewalk as it would be located by the adopted street cross section. Signs in commercial and manufacturing zones shall be located not less than twenty five feet (25') from any adjacent residential zones boundary line.

17.36.090 SIGNS AT STREET INTERSECTION

On corner lots, sign structures may only be erected either below three feet (3') or above ten feet (10') with respect to the street elevation when erected within the following described area: The interior triangle formed by the right of way at points which are forty feet (40') from the intersection of the right of way lines and measured along said right of way lines. A vertical pole twelve inches (12") or less in cross section area shall be exempted from this requirement.

17.36.100 ILLUMINATION

Illuminated signs shall be subject to the following conditions:

- A. Any direct light used for the illumination of a sign shall be shielded so that the beams or rays of light will not shine directly onto surrounding areas.
- B. Neither the direct nor the reflected light from any light sources shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.
- C. Signs in residential and agricultural zones shall be nonilluminated, unless illumination is clearly required for safety purposes.
- D. Signs in commercial and manufacturing zones may be illuminated, provided they do not shine directly into a residential zone.
- E. Lights used for direct illuminated signs may extend from the sign a distance not to exceed five feet (5'), provided such lights are shielded and are on private property.
- F. Individual incandescent bulb illumination which is designed to be an integral part of a sign, marquee, canopy, architectural projection, or building facade embellishment shall be permitted as provided:
 - 1. Frosted, translucent or diffused bulb: twenty five (25) watt maximum per bulb;
 - 2. Clear, transparent or bare bulb: seven and one-half ($7\frac{1}{2}$) watt maximum per bulb;
 - 3. Such light shall not blink, flash, move, scintillate, flicker, vary in intensity or color or use electrical pulsations, with the exception of those placed behind rigid, permanently affixed translucent panels and are approved by conditional use. Time-temperature-date signs incorporating the use of blinking lights shall also be permitted if a conditional use permit is granted and provided they conform to the requirements outlined in SMC 17.36.070 of this chapter.

- G. As a minimum, illumination of signs shall be in compliance with the standards identified in SMC 9.24, "Outdoor Lighting", of this code.

17.36.110 CANOPIES, MARQUEES, AWNINGS AND ARCHITECTURAL PROJECTION REGULATIONS

The following regulations shall apply to canopies, marquees, awnings and architectural projections and signs attached to same. For area of sign, see sign regulation chart.

- A. Canopy:
 - 1. Maximum height: Fourteen feet (14').
 - 2. Minimum vertical clearance above sidewalk: Eight feet six inches (8'6").
 - 3. No part of the canopy shall extend over the public right of way.
 - 4. Sign shall be painted on or applied to surface of canopy. Sign or letters shall have no relief.
- B. Marquees: Shall not be permitted.
- C. Awning:
 - 1. Maximum height: Sixteen feet (16').
 - 2. Minimum vertical distance above sidewalk: Eight feet six inches (8'6").
 - 3. No part of the awning shall extend over the public right of way more than two-thirds ($\frac{2}{3}$) the width of the sidewalk or fifteen feet (15'), whichever is less.
 - 4. Signs shall be painted or applied to the surface of the awning. Sign or letters shall have no relief.
 - 5. Permanently fixed awning shall not be permitted over public property.
- D. Architectural Projection:
 - 1. Maximum height: Sixteen feet (16').
 - 2. Minimum vertical clearance above sidewalk: Ten feet (10').
 - 3. No part of the architectural projections shall extend over the public right of way.
 - 4. Sign shall not project beyond the ends of the architectural projection and/or private property.

17.36.120 SUPERGRAPHIC

Supergraphic shall be permitted after conditional use approval. The following regulations apply:

- A. Maximum Height: No part of the supergraphic shall be located more than thirty five feet (35') above ground.
- B. Maximum Sign Area: No maximum square foot area, provided the identification portion of the sign shall not exceed twenty five percent (25%) of the wall area to which the supergraphic is applied or two hundred (200) square feet, whichever is less.

17.36.125 TEMPORARY SIGNS

- A. Standards For Temporary Signs: Temporary signs shall not be placed in or over a public right of way, may not flash, blink, spin, rotate, block traffic visibility, constitute a vehicular or pedestrian hazard, or cause a public nuisance of any kind. They shall not be attached to telephone poles, fences, or trees. They must be firmly secured to the building or ground. Temporary signs may be attached to existing permanent signs only for the promotional period. Temporary signs may cover or obscure an existing permanent sign only if the business has changed hands or changed names. Size of the sign may not exceed forty (40) square feet. No off premises temporary signs are allowed.
- B. Temporary Signs Requiring A Permit:
 - 1. Special Promotion Periods: A business may apply for three (3) special promotion periods during the calendar year. Each period may not exceed seven (7) days in length. The periods may be combined to run consecutively but may not exceed fourteen (14) days in length. A temporary sign permit is required and may be obtained upon submittal of an application available from the city. A banner or portable sign is allowed during this period.

Special product, price, or service advertising is appropriate during these periods.

C. Temporary Signs Allowed Without A Permit:

1. Holiday Periods: A business may advertise a special service, product or sale during the following holiday periods without a permit:

Presidents' Day - February	5 days
Easter - March or April	5 days
Mother's Day - May	5 days
Memorial Day - May	5 days
Father's Day - June	5 days
July 4 - July 24	5 days each
Labor Day - September	5 days
Thanksgiving - November	7 days
Hanukkah, Christmas, New Year's	21 days starting December 15 and ending January 2

One banner or portable sign only is allowed during these periods. A banner or portable sign not affixed to a permanent structure may not exceed twelve (12) square feet. The sign must be removed by the end of the first working day after the holiday period ends. No off premises temporary signs are allowed.

17.36.130 BILLBOARDS; OFF PREMISES SIGN

Billboards and off premises signs are permitted as follows:

- A. Signs on the same street facing the same traffic flow shall not be closer together than six hundred sixty feet (660'), measured on the same side of the street. (Signs on the opposite side of the street shall not be considered for the purposes of spacing.)
- B. Signs can be double faced.
- C. In all areas the maximum sign area shall be one hundred (100) square feet per sign face.
- D. Structures for off premises signs shall be of vertical (cantilever) steel construction and where the back is visible it shall be suitably painted or otherwise covered to present a neat appearance.

17.36.135 COMMERCIAL COMPLEX SIGNS

Commercial complex signs are permitted as follows:

- A. The sign shall be used to identify a planned commercial development and the tenants located therein. The development must be an approved comprehensive development. The development can be divided into individual lots for financing purposes.
- B. The approved name of the development shall be the prominent display of the sign.
- C. The maximum size of the sign shall not exceed one hundred (100) square feet with an additional fifteen (15) square feet for each separately identified tenant. In no case shall the sign area exceed two hundred (200) square feet.
- D. Only one commercial complex sign shall be allowed per development, except in cases where the development fronts more than one street, or the development has sufficient street frontage to allow no less than three hundred fifty feet (350') between signs, when the signs are placed no less than twenty feet (20') away from a driveway or street entering the development measured from the back of curb or the edge of driveway or street, whichever is closer. In such cases, multiple commercial complex signs may be erected after receiving approval from the planning commission.
- E. On lots where commercial complex signs are erected, the total for all freestanding signs shall not exceed two hundred (200) square feet except as permitted in SMC D of this section.

17.36.140 WIND SIGN

Any wind sign which consists of pennants, ribbons, streamers, spinners or similar devices, except as permitted, are permitted for not longer than a daytime period, not to exceed six (6) times per year with fourteen (14) day intervals between displays.

17.36.150 PORTABLE OR WHEELED SIGN

A business with a valid city business license may use a portable or wheeled sign for one period not to exceed ninety (90) days after which time the sign must be removed or made to conform to the provisions of a freestanding sign, including, but not limited to, the requirements for underground power and a permanent fixed mounting.

All portable and wheeled signs must adhere to the setback requirements of a freestanding sign.

17.36.155 ELECTRONIC MESSAGE DISPLAYS (EMDs)

Electronic message displays shall conform to the following:

- A. EMDs shall be allowed as part of a monument or freestanding sign in all commercial and industrial zones. In residential zones, EMDs shall be allowed for schools only.
- B. Permits shall be required for all EMD signs pursuant to SMC 17.36.050 of this chapter. Before a permit is issued, the applicant must first obtain a conditional use permit.
- C. Off premises advertising on an EMD is prohibited with the exception of public service announcements.
- D. Operators of EMDs are encouraged to provide opportunities for the placement of public service announcements on their message boards.
- E. The minimum spacing between EMD signs shall be one hundred feet (100').
- F. Autodimming is required.
- G. The minimum time for sign messages shall be three (3) to five (5) seconds.
- H. A maximum of fifty percent (50%) of the EMD sign may be dedicated to electronic messaging.

I. EMD signs facing residential housing units shall not be placed such that the housing unit falls within an area formed by an arc projecting from the face of the sign at an angle of fifteen degrees (15°) and extending a distance of three hundred feet (300') in the direction of the projection.

J. EMD monument signs are not to exceed six feet (6') in height and the base shall not exceed two feet (2') in height.

K. Prohibited transitions:

1. Flashing.
2. Travel.
3. Scroll.
4. Video.

L. Permitted transitions:

1. Dissolve.
2. Fade.
3. Frame.
4. Animation, six (6) second maximum.

17.36.160 ZONING LOCATIONS

The signs described in this chapter shall be allowed as specified in table 17.36.160 of this section.

TABLE 17.36.160

Zoning	Class Of Sign Permitted	Type Of Sign Permitted	Maximum Sign Area (Square Feet Per Face)	Maximum Height	Illumination Allowed	Setback
Commercial: CB, CP, CC, GC Manufacturing: M-1 Institutional: I-1	Window, wall, projecting	Identification, business, electronic message display	Combination of all permanent signs attached to building not to exceed 15 percent of the occupied building facade	n/a	Direct, indirect, internal	Not to extend beyond the street right of way
		Temporary	32 square feet		None	
	Freestanding	Joint identification	100 square feet, plus 25 square feet for each additional business. Combination of all freestanding signs not to exceed 150 square feet	25 feet at setback	Direct, indirect, internal	See SMC 17.35.080 of this chapter
		Identification, business, electronic message display	100 square feet. Combination of all freestanding signs shall not exceed 150 square feet			
		Real estate	32 square feet			
		Bulletin board	20 square feet			
		Temporary/construction	32 square feet			
		Supergraphic	See SMC 17.36.120 of this chapter			
		Commercial complex	See SMC 17.36.135C of this chapter			
Commercial: CB, CP, CC, GC Manufacturing: M-1 Institutional: I-1	Canopies	Identification	Combination of all permanent signs attached to building not to exceed 15 percent of the occupied building facade	14 feet	Direct, indirect, internal	May extend a maximum of 5 feet over public right of way
	Awnings			16 feet		
	Suspended			None	None	None
	Roof			Maximum building height in zone	Direct, indirect, internal	n/a
Residential: R-1, RM, RA	Window, wall, freestanding	Identification	2 square feet	4 feet	None	See SMC 17.36.080 and 17.36.090 of this chapter
			Churches, schools, public buildings, and multiple housing complexes may be 32 square feet			
			Home occupations 4 square feet - window or wall only	n/a		
			Single-family housing development 20 square feet	6 feet		
Agricultural: A	Window, wall, freestanding	Identification, business	20 square feet	6 feet	None	See SMC 17.36.080 of this chapter

17.40 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

17.40.010 BUILDING PERMIT REQUIRED

17.40.020 CERTIFICATE OF OCCUPANCY REQUIRED

17.40.010 BUILDING PERMIT REQUIRED

- A. Building Permit: It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by this code, except as specified in SMC B of this section, or cause the same to be done without first obtaining a separate permit for each building or structure from the building official.
- B. Exempted Work: A building permit will not be required for the following:
1. One-story detached accessory buildings used as tool and storage shed, playhouses and similar uses, provided the floor area does not exceed the square footage referred to in the current edition of the IBC (international building code) and/or IRC (international residential code);
 2. Fences not over six feet (6') high;
 3. Oil derricks;
 4. Cases, counters and partitions not over five feet (5') high;
 5. Retaining walls which are not over four feet (4') in height measured from the bottom of the footing to the top of the wall unless supporting a surcharge or impounding flammable liquids;
 6. Water tanks supported directly upon grade if the capacity does not exceed five thousand (5,000) gallons and the ratio of height to diameter or width does not exceed two to one (2:1);
 7. Platforms, walks and driveways not more than thirty inches (30") above grade and not over any basement or story below;
 8. Painting, papering and similar finish work;
 9. Temporary motion picture, television and theater stage sets and scenery;
 10. Window awnings supported by an exterior wall of group R, division 3, and group M occupancies when projecting not more than fifty four inches (54");
 11. Prefabricated swimming pools accessory to a group R, division 3 occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed five thousand (5,000) gallons and less than two feet (2') deep.
- C. Separate Permits For Exemptions: Unless otherwise exempted by this code, separate plumbing, electrical and mechanical permits will be required for the above exempted items.
- D. Violation: Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

17.40.020 CERTIFICATE OF OCCUPANCY REQUIRED

No land shall be used or occupied and no building hereafter structurally altered or erected shall be used or changed in use, until a certificate of occupancy shall have been issued by the building inspector, stating that the building or the proposed use thereof, or the use of the land, complies with the provisions of this title or for the renewing, changing or extending of a nonconforming use. A certificate of occupancy either for the whole or a part of a building or structure shall be applied for coincidentally with the application for a building permit, and shall be issued within the ten (10) days after the erection or structural alteration of such building or structure, or part thereof, shall have been completed in conformity with the provision of this title.

17.44 ZONES GENERALLY

[17.44.010 ESTABLISHMENT OF ZONES](#)

[17.44.020 BOUNDARIES OF ZONES](#)

[17.44.030 FILING OF ORDINANCE AND MAP](#)

[17.44.040 RULES FOR LOCATING BOUNDARIES](#)

17.44.010 ESTABLISHMENT OF ZONES

For the purpose of this title, the following zones are created to be applied as necessary to regulate the development of the land in Smithfield, Utah:

A	Agricultural zone
RA	Residential agricultural zone
R-1	Single-family residential zone
RM	Multiple-family residential zone
CP	Commercial professional zone
CB	Central business district zone
CC	Community commercial zone
GC	General commercial zone
M-1	Manufacturing zone
I-1	Institutional zone
	Gateway overlay zone
	Airport limitation overlay zones

17.44.020 BOUNDARIES OF ZONES

The boundaries of each of the said zones are established as described in this title or shown on the map entitled "Zoning Map Of Smithfield, Utah", which map is attached to the ordinance codified in this title and found on file in the office of the city recorder and all boundaries, notations and other data shown thereon are made by this reference as much a part of this title as if fully described and detailed herein.

17.44.030 FILING OF ORDINANCE AND MAP

The ordinance codified herein and map adopted by reference shall be filed in the custody of the city recorder of Smithfield, Utah, and may be examined by the public subject to any reasonable regulations established by the Smithfield recorder.

17.44.040 RULES FOR LOCATING BOUNDARIES

Where uncertainty exists as to the boundary of any zone, the rules of SMC 17.04.050 of this title shall apply.

17.48 A AGRICULTURAL ZONE

17.48.010 PURPOSE

17.48.020 ALLOWED USES

17.48.030 AREA, WIDTH AND YARD REGULATIONS

17.48.040 HEIGHT REGULATIONS

17.48.050 FARM ANIMALS

17.48.060 MODIFYING REGULATIONS

17.48.070 TEMPORARY MOBILE HOMES

17.48.010 PURPOSE

The purpose of the agricultural zone is to preserve appropriate areas of Smithfield City for permanent agricultural use. These regulations are intended to assure areas are provided which will allow for the raising of farm animals while preserving quality land for agricultural activities.

17.48.020 ALLOWED USES

Those uses which are allowed in the agricultural zone either as a permitted use or a conditional use shall be as specified in SMC chapter 17.120, "Use Matrix Table", of this title.

17.48.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the agricultural zones are as follows:

<u>District</u>	<u>Area</u>	<u>Width (In Feet)</u>	<u>Front (In Feet)</u>	<u>Side (In Feet)</u>	<u>Rear (In Feet)</u>
A-3	3 acres	190	30	12 x 12	30
A-10	10 acres	250	30	12 x 12	30

17.48.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35').

17.48.050 FARM ANIMALS

Those agricultural areas within six hundred feet (600') of a commercial, single- or multiple-family residential, or manufacturing zone, and within three hundred feet (300') of a residential agricultural zone shall be limited in the number of farm animals allowed to the following: not more than two (2) cows, two (2) horses, two (2) llamas, four (4) sheep, four (4) goats, twenty (20) rabbits, forty (40) chickens, forty (40) pheasants, ten (10) turkeys, ten (10) ducks, ten (10) geese, three (3) ostriches, four (4) emus, and forty (40) pigeons per acre or portion thereof. Not more than three (3) of the above listed species of animals or fowl are permitted at any one time. Swine (includes pigs, hogs and boars) are not permitted in any zone.

17.48.060 MODIFYING REGULATIONS

- A. **Side Yards:** Main buildings other than dwellings shall have a minimum side yard of twenty feet (20') and the total of the two (2) side yards shall be at least forty feet (40'). Private garages and other accessory buildings located at least ten feet (10') behind the main building may have a side yard of three feet (3'), except the street side yard of a corner lot shall be a minimum of thirty feet (30') for main and accessory buildings.
- B. **Rear Yards:** Private garages and accessory buildings located at least ten feet (10') behind the main building may have a rear yard of three feet (3') provided that on corner lots bearing on the side yard of another lot, the minimum rear yard for all buildings shall be ten feet (10').
- C. **Distance Between Buildings:** No building, structure or enclosure housing animals or fowl shall be constructed closer to a dwelling on the same or adjacent lot than one hundred feet (100').

17.48.070 TEMPORARY MOBILE HOMES

- A. A mobile home may be approved for use as a temporary second dwelling provided the following conditions are met:
 1. A primary dwelling, if present, is in conformance with all provisions of this title.
 2. The mobile home is set back from the front property line a distance equal to or greater than the setback of the primary dwelling should one exist.
 3. The mobile home is connected to water and sewer services in compliance with the provisions of title 13 of this code.
 4. The mobile home is placed no closer than five hundred feet (500') to private property in separate ownership unless the owner of such property provides written approval to the city.
 5. No rent is collected for use of the site or the mobile home.

6. The mobile home shall be occupied by an owner, or employee engaged in an activity on the premises of a permitted agriculture or business operation.
 7. Only one single family occupies the mobile home.
- B. Use of a mobile home as a temporary dwelling may only be permitted after obtaining a conditional use permit.
 - C. Expiration of a conditional use permit for a temporary mobile home shall be three (3) years from the date of approval after which time the use must be terminated unless application for another conditional use permit is approved.
 - D. Where no primary dwelling exists, a mobile home may be approved as a temporary residence for an owner, or employee engaged in an activity on the premises of a permitted agriculture or business operation; provided, however, that written approval must first be obtained from owners of all adjacent property and further, that no rent may be collected for use of the site or the mobile home.
 - E. The planning commission may impose additional requirements relative to placement, screening, time limits and foundations.

17.52 RA RESIDENTIAL AGRICULTURAL ZONE

17.52.010 PURPOSE

17.52.020 ALLOWED USES

17.52.030 AREA, WIDTH AND YARD REGULATIONS

17.52.040 HEIGHT REGULATIONS

17.52.050 MODIFYING REGULATIONS

17.52.010 PURPOSE

The purpose of the RA residential agricultural zone is to provide areas of large lot residential estate neighborhoods of a rural character together with a limited number of farm animals for the benefit and enjoyment of the residents of the neighborhood.

17.52.020 ALLOWED USES

Those uses which are allowed in the residential agricultural zone either as a permitted use or a conditional use shall be as specified in SMC chapter 17.120, "Use Matrix Table", of this title.

17.52.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the residential agricultural zone are as follows:

<u>District</u>	<u>Area</u>	<u>Width (In Feet)</u>	<u>Front (In Feet)</u>	<u>Side (In Feet)</u>	<u>Rear (In Feet)</u>
RA-1	1 acre	130	30	12 x 12	30
RA-2	2 acres		30	12 x 12	30

17.52.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35'), whichever is greater, to be measured from the threshold of the lowest main entrance.

17.52.050 MODIFYING REGULATIONS

Modifying regulations in the RA residential agricultural zone are as follows:

- A. **Side Yards:** Main buildings other than dwellings shall have a minimum side yard of twenty feet (20') and the total of the two (2) side yards shall be forty feet (40'). Private garages and other accessory buildings located at least ten feet (10') behind the main building may have a side yard of three feet (3'), except that the street side yard on a corner lot shall be a minimum of thirty feet (30') for main and accessory buildings.
- B. **Rear Yards:**
 1. Private garages and accessory buildings located at least ten feet (10') behind the main building may have a rear yard of three feet (3') provided that on corner lots rearing on the side yard of another lot, the minimum rear yard for all buildings shall be ten feet (10').
 2. A maximum of two (2) architectural projections or pop outs such as bay windows, exclusive of foundations, shall be allowed to encroach into the required rear yard provided such projection does not exceed a depth of forty two inches (42") or a width of ten feet (10').
 3. Unsheltered decks, supported by posts and which are less than thirty inches (30") above the ground or greater than eighty four inches (84") above the ground but, not greater than the uppermost floor level, shall be allowed to project into the required rear yard a maximum of twelve feet (12').
- C. **Front Yards:** In cases where the average of the front yards of the existing buildings between two (2) street intersections is less than the required thirty feet (30') and more than fifty percent (50%) of the block frontage has been developed, the minimum front yard may be reduced to the average of the existing buildings but in no case less than twenty feet (20').
- D. **Lot Reduction:** Parcels of land divided into two (2) to four (4) lots after the adoption of the ordinance codified herein must meet all regulations of the zone with the exception that a ten percent (10%) reduction may be granted to regulations of width and area for one divided lot. All buildings placed upon said lots must meet front, rear and side yard requirements.
- E. **Accessory Buildings:** One accessory building may be used in conjunction with a home occupation/sales, potentially disruptive or nondisruptive provided the accessory building is not more than one story and not larger than eight hundred (800) square feet or one-half ($\frac{1}{2}$) the area of the main floor of the dwelling excluding attached garage, whichever is smaller.

17.56 R-1 SINGLE-FAMILY RESIDENTIAL ZONE

[17.56.010 PURPOSE](#)
[17.56.020 ALLOWED USES](#)
[17.56.030 AREA, WIDTH AND YARD REGULATIONS](#)
[17.56.040 HEIGHT REGULATIONS](#)
[17.56.050 MODIFYING REGULATIONS](#)

17.56.010 PURPOSE

The purpose of the single-family residential zone is to provide appropriate locations where low density residential neighborhoods may be established, maintained and protected. The regulations also permit the establishment of, with proper controls, the public and semipublic uses such as churches, schools, libraries, parks and playgrounds, which serve the requirements of families. The regulations are intended to prohibit those uses that would be harmful to a single-family neighborhood.

17.56.020 ALLOWED USES

Those uses which are allowed in the single-family residential zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.56.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the residential zones are as follows:

<u>District</u>	<u>Area</u>	<u>Width (In Feet)</u>	<u>Front (In Feet)</u>	<u>Side (In Feet)</u>	<u>Rear (In Feet)</u>
R-1-10	10,000	80	30	10	30
R-1-12	12,000	90	30	10	30
R-1-20	20,000	100	30	10	30

17.56.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than two and one-half (2¹/₂) stories or thirty five feet (35'), whichever is greater, to be measured from the threshold of the lowest main entrance to the highest point on the building. Accessory buildings and other buildings shall not be erected to a height greater than the dwelling, but in no case shall it exceed twenty feet (20') in height.

17.56.050 MODIFYING REGULATIONS

Modifying regulations in the R-1 single-family residential zone are as follows:

- A. **Side Yards:** Main buildings other than dwellings shall have a minimum side yard of twenty feet (20') and the total of the two (2) side yards shall be forty feet (40'). Private garages and other accessory buildings located at least ten feet (10') behind the main building may have a side yard of three feet (3'), except that the street side yard on a corner lot shall be a minimum of twenty feet (20') for main and accessory buildings.
- B. **Rear Yards:**
 1. Private garages and accessory buildings located at least ten feet (10') behind the main building may have a rear yard of three feet (3') provided that on corner lots rearing on the side yard of another lot, the minimum rear yard for all buildings shall be ten feet (10').
 2. A maximum of two (2) architectural projections or pop outs such as bay windows, exclusive of foundations, shall be allowed to encroach into the required rear yard provided such projection does not exceed a depth of forty two inches (42") or a width of ten feet (10').
 3. Unsheltered decks, supported by posts and which are less than thirty inches (30") above the ground or greater than eighty four inches (84") above the ground but, not greater than the uppermost floor level, shall be allowed to project into the required rear yard a maximum of twelve feet (12').
- C. **Front Yards:**
 1. On corner lots, the least of the two (2) front yards shall be a minimum of twenty feet (20') and the combination of the two together shall total a minimum of fifty feet (50').
 2. In cases where the average of the front yards of the existing buildings between two (2) street intersections is less than the required thirty feet (30') and more than fifty percent (50%) of the block frontage has been developed, the minimum front yard may be reduced to the average of the existing buildings but in no case less than twenty feet (20').
- D. **Lot Reduction:** Parcels of land divided into two (2) to four (4) lots after the adoption of the ordinance codified in this chapter must meet all regulations of the zone with the exception that a ten percent (10%) reduction may be granted to regulations of width and area for one divided lot. All buildings placed upon said lots must meet front, rear and side yard requirements.
- E. **Accessory Buildings:** One accessory building may be used in conjunction with a home occupation/sales, potentially disruptive or nondisruptive provided the accessory building is not more than one story and not larger than five hundred (500) square feet or one-half (1/2) the area of the main floor of the dwelling excluding attached garage, whichever is smaller.

17.60 RM MULTIPLE-FAMILY RESIDENTIAL ZONE

[17.60.010 PURPOSE](#)
[17.60.020 ALLOWED USES](#)
[17.60.030 AREA, WIDTH, DENSITY AND YARD REGULATIONS](#)
[17.60.040 HEIGHT REGULATIONS](#)
[17.60.050 MODIFYING REGULATIONS](#)
[17.60.060 GROUP DWELLING STANDARDS](#)

17.60.070 PARKING, LOADING AND ACCESS
17.60.080 LANDSCAPING
17.60.090 ARCHITECTURAL DESIGN GUIDELINES
17.60.100 TRASH

17.60.010 PURPOSE

The purpose of the multiple-family residential zone is to provide areas of the community which shall be characterized by low rise multiple-family and apartment development. This zone is intended to provide an attractive setting for multiple-family apartments, condominiums, and one- and two-family dwellings which will be harmoniously blended together.

17.60.020 ALLOWED USES

Those uses which are allowed in the multiple-family residential zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.60.030 AREA, WIDTH, DENSITY AND YARD REGULATIONS

A. Minimum Yard Requirements: Minimum yard requirements shall be as follows:

Width (In Feet)	Front (In Feet)	Side (In Feet)	Rear (In Feet)
75	30	20 x 20	30

Minimum area requirements for the first dwelling unit shall be seven thousand five hundred (7,500) square feet and four thousand (4,000) square feet for each additional dwelling unit up to ten (10) units, then ten (10) units/acre maximum density thereafter. For example:

Single dwelling	7,500 square feet
Duplex	11,500 square feet
Fourplex	19,500 square feet
Sixplex	27,500 square feet
Eightplex	35,500 square feet
10 units	1 acre
15 units	1.5 acres, etc.

B. Density: Density shall be based on the gross area of the property being developed exclusive of any public rights of way.

C. Density Bonus And Incentives: The city council, upon recommendation of the planning commission, may determine the density bonus upon the city council's acceptance of the design options, as set forth below. The actual bonus awarded for each incentive shall be reflective of the effort made by the developer to meet the intent of the incentive and shall be determined by the city council.

Density Bonus/ Incentives	Design Options
Additional open space - up to a maximum 10% bonus	Developments which provide greater than the required base open space, shall be awarded a 1% bonus for each 1% of the total project area in common open space
Provision of recreation and site amenities - up to a maximum 10% bonus	Density bonus may be awarded for the provision of major recreation facilities and site amenities such as swimming pools, tennis courts, playgrounds, or similar facilities
Parking - up to a maximum 10% bonus	Density bonus may be awarded for the following covered and enclosed parking structures:
	Detached garages - 5%
	Detached carports - 3%
	Attached single car garage - 5%
	Attached double car garage - 10%
	Attached carport - 3%
	Garages designed within the primary building - 10%
Exterior building materials - up to a maximum 10% bonus	Masonry - Brick or stone. For every 10% of the total building surface of primary and accessory buildings which are finished with masonry, a 1% density bonus will be granted
	Stucco - A density bonus of 4% will be granted if entire building surface is stucco
	Allowances for a combination of masonry and stucco will be determined on individual basis
Pedestrian and bicycle circulation - up to a maximum 5% bonus	In addition to sidewalks required along public streets, pedestrian and bicycle trails provided in conjunction with the development's open space network may receive a 5% density bonus

Fencing - up to a maximum 5% bonus	All perimeter fencing shall be uniform in design including architecturally designed brick or masonry, vinyl with brick or stone columns, solid or semiprivate vinyl fencing, and open fencing such as vinyl rail or wrought iron may be used in conjunction with landscaping
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17.60.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than two and one-half (2¹/₂) stories or thirty five feet (35'), whichever is greater, to be measured from the threshold of the lowest main entrance. Accessory buildings and other buildings shall not be erected to a height greater than the dwelling, but in no case shall it exceed twenty feet (20') in height.

17.60.050 MODIFYING REGULATIONS

Modifying regulations in the R-1 single-family residential zone are as follows:

- A. **Front Yards:** On corner lots, the least of the two (2) front yards shall be a minimum of twenty feet (20') and the combination of the two (2) together shall total a minimum of fifty feet (50').
- B. **Side Yards:** Main buildings other than dwellings shall have a minimum side yard of twenty feet (20'). Private garages and other accessory buildings located at least ten feet (10') behind the main building may have a side yard of three feet (3'), except that the street side yard on a corner lot shall be a minimum of thirty feet (30') for main and accessory buildings.
- C. **Rear Yards:**
 - 1. Private garages and accessory buildings located at least ten feet (10') behind the main building may have a rear yard of three feet (3') provided that on corner lots rearing on the side yard of another lot, the minimum rear yard for all buildings shall be ten feet (10').
 - 2. A maximum of two (2) architectural projections or pop outs such as bay windows, exclusive of foundations, shall be allowed to encroach into the required rear yard provided such projection does not exceed a depth of forty two inches (42") or a width of ten feet (10').
 - 3. Unsheltered decks, supported by posts and which are less than thirty inches (30") above the ground or greater than eighty four inches (84") above the ground but, not greater than the uppermost floor level, shall be allowed to project into the required rear yard a maximum of twelve feet (12').
- D. **Dwelling Area:** Each dwelling unit shall contain a minimum of eight hundred fifty (850) square feet of living area.

17.60.060 GROUP DWELLING STANDARDS

The following provisions shall apply to the development of group dwellings as defined in SMC 17.04 of this title:

- A. **Group Dwellings:** Group dwellings shall be owned by one person, partnership, or legal entity and shall not be divided and sold as individual buildings.
- B. **Open Space:**
 - 1. Open space shall be provided and shall not cover less than fifty percent (50%) of the gross site area. The required open space shall be land areas that are not occupied by buildings, structures, parking areas, streets or alleys. Said open space shall be devoted to landscaping, preservation of natural features, patios and recreational areas.
 - 2. At least fifty percent (50%) of the required open space shall be designated for use as common open space for common enjoyment and use for all residents of the development. Private open space (that provided for each dwelling unit for personal use) shall be located immediately adjacent to, attached to, or within the dwelling unit it is designed to serve and shall be for the exclusive use of the residents of that dwelling unit. Landscaped roof areas or decks attached to individual units may not be calculated as part of the required common open space.
- C. **Building Orientation:** No residential building shall face the rear of another building on the development site.
- D. **Side By Side Buildings:** A separation of at least twenty feet (20') shall be maintained between buildings which are located side by side.
- E. **Buildings Facing One Another:** The minimum distance between the fronts of buildings which face one another shall be thirty feet (30').
- F. **Additional Conditions:** The planning commission may impose other reasonable conditions as may be necessary to accomplish the purpose of this title.

17.60.070 PARKING, LOADING AND ACCESS

- A. Each lot or parcel in the RM zone shall provide minimum ten foot by eighteen foot (10' x 18') parking stalls located and in numbers as described below.
- B. All parking spaces shall be paved with asphaltic cement or concrete, and shall be provided with paved access from a public street.
- C. Parking spaces shall not be provided within a required front yard.
- D. Each dwelling unit shall be provided with at least two (2) parking spaces of which one and one-half (1¹/₂) spaces per unit shall be covered. The covering provided shall be a permanent structure of such size as to provide protection from the weather. Materials shall be such that the structure will be compatible with the dwelling units and not detract from the overall appearance of the development.
- E. There shall be provided one-fourth (1/4) parking spaces per unit for guest parking.
- F. All parking areas, covered or open, shall have a minimum four foot (4') landscaped buffer adjacent to any public right of way, private accessway, or sidewalk.

17.60.080 LANDSCAPING

The following landscaping provisions shall apply in all multiple housing developments within the RM zone:

- A. All open space shall be maintained with suitable landscaping of plants, shrubs, trees, grass and similar natural landscaping materials.
- B. Initial landscaping shall include at least one tree per two (2) units, half of which shall be coniferous and half deciduous, and one shrub for each ten (10) linear feet of the perimeter of the property.
- C. There shall be provided a minimum of three feet (3') of landscaped area around the front foundation of all buildings dedicated to foundation planting, ground covers or natural landscaping such as lava rock or bark. In areas where natural landscaping is used a weed barrier or block shall be used to prevent the encroachment of weeds or

grass into the landscaped area.

- D. In required landscaped areas, all trees shall be a minimum two inch (2") caliper trunk, and all shrubs shall be a minimum of five (5) gallon size.
- E. All areas to be landscaped with sod shall have sprinklers and/or irrigation systems. All other landscaped areas shall be provided with drip or other approved irrigation systems as approved by the planning commission.
- F. The area between the curb or street line and the public sidewalk shall be landscaped and maintained by the owner of the property fronting the street.
- G. All landscaped areas shall be kept free of weeds and be maintained in a healthy condition. All required vegetation that dies shall be promptly replaced during the current growing season.

17.60.090 ARCHITECTURAL DESIGN GUIDELINES

Multiple housing areas have historically been perceived as being unsightly, unkempt and a detraction to the community. In an effort to promote and preserve areas for multiple housing basic minimum architectural standards are established as a means of ensuring such developments will be compatible, blend in with surrounding residential areas, and be acceptable to the public in general. With that goal in mind, the following minimum standards are set forth:

- A. Mechanical Equipment: All electrical service equipment and subpanels and all mechanical equipment, including, but not limited to, air conditioners, pool equipment, fans and vents, utility transformers (except those owned and maintained by public utility companies) and solar panels, shall be painted to match the surrounding wall color or painted or screened to blend with the surrounding natural terrain. Roof mounted equipment and vents shall be painted to match the roof and/or adjacent wall color and shall be screened or integrated into the design of the structure.
- B. Facade Length And Variations:
 - 1. Structures greater than sixty feet (60'), but less than one hundred twenty feet (120') in length must exhibit a prominent shift in the facade of the structure so that no greater than seventy five percent (75%) of the length of the building facade appears unbroken. Each shift shall be in the form of either an accumulative eight foot (8') change in building facade alignment or an accumulative eight foot (8') change in roofline height, or a combination change in facade and roofline height totaling eight feet (8').
 - 2. Structures which exceed one hundred twenty feet (120') in length on any facade shall provide a prominent shift in the mass of the structure at each one hundred twenty foot (120') interval (or less if the developer desires) reflecting a change in function or scale. The shift shall be in the form of either an accumulative sixteen foot (16') change in building facade alignment or an accumulative sixteen foot (16') change in roofline. A combination of both a roofline and facade change is encouraged and to that end, if the combination occurs at the same location in the building plane, a sixteen foot (16') total change will be considered as full compliance.
 - 3. In addition to meeting the requirements established herein for buildings which exceed one hundred twenty feet (120'), the provisions established in SMC B1 of this section shall also be satisfied for those building intervals created through adherence to SMC B2 of this section.

17.60.100 TRASH

Trash shall not be stored in an open area. All trash containers shall be screened from public streets and adjacent properties with a six foot (6') sightproof fence or wall. Openings of trash enclosures shall be oriented away from public view or screen with sturdy gates wide enough to allow easy access for trash collection. No trash containers or trash enclosures may be located within a required front yard or street side yard setback.

17.63 CP COMMERCIAL PROFESSIONAL ZONE

17.63.010 PURPOSE

17.63.020 ALLOWED USES

17.63.030 AREA, WIDTH AND YARD REGULATIONS

17.63.040 HEIGHT REGULATIONS

17.63.050 DEVELOPMENT STANDARDS

17.63.060 SPECIAL PROVISIONS

17.63.010 PURPOSE

The commercial professional zone is established to provide a buffer zone between the typical commercial zones and the residential zones. Where it is common to see commercial uses transition into residential use the commercial professional provides a location for uses which are more compatible with residential uses. Less impactful in nature, commercial professional uses typically generate less traffic and noise, are more heavily landscaped especially when adjoining residential neighborhoods and are more visually compatible with residential neighborhoods.

17.63.020 ALLOWED USES

Those uses which are allowed in the CP commercial professional zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.63.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the CP commercial professional zone are as follows:

- A. Area: No minimum.
- B. Width: One hundred feet (100').
- C. Front yard: Thirty feet (30').
- D. Side yard: None except ten feet (10') where the side yard abuts a residential zone.
- E. Rear yard: None except thirty feet (30') where the rear yard abuts a residential zone.

17.63.040 HEIGHT REGULATIONS

Height regulations in the CP commercial professional zone are as follows:

- A. No building or structure shall be erected to a height greater than two and one-half (2¹/₂) stories or thirty five feet (35').

17.63.050 DEVELOPMENT STANDARDS

- A. Before any building is constructed, enlarged, expanded, or experiences a change in land use, a site development plan shall be prepared and approved in accordance with SMC 17.100 of this title.
- B. Whenever possible, parking lots shall be located to the rear of businesses and away from any adjoining residential areas or uses.
- C. Perimeters of parking lots, driveways, sidewalks, and planter areas shall be bound by a minimum six inch (6") concrete curb.
- D. All parking lots and driveways shall be constructed of new bituminous asphalt or concrete of sufficient thickness to adequately accommodate the loads anticipated.
- E. Driveways from adjoining businesses shall be consolidated when possible.
- F. Trash storage and dumpsters shall be located in an area convenient for pick up and shall be screened from view by a six foot (6') sightproof fence.
- G. All new utility transmission lines shall be placed underground. Transformers, meters and similar apparatus shall be at or below ground level and shall be screened from public view by a wall or fence, landscaping, earth berming, or an acceptable architectural treatment.
- H. This zone is established as a buffer between more intense commercial uses and residential uses. As such, buildings should be constructed in harmony with the character of the adjacent residential neighborhoods. Heavier landscaping should be incorporated into site plans for those developments which border neighborhoods including such features as berms, rows of trees, and automotive headlight plantings.

17.63.060 SPECIAL PROVISIONS

Special provisions in the CP commercial professional zone are as follows:

- A. The uses, stores, shops or businesses specified in this chapter shall be permitted only under the following conditions:
 - 1. Such uses and businesses shall be conducted wholly within an enclosed building except for the parking of automobiles and service to persons in automobiles, where allowed, and except for periodic, reasonable sidewalk displays and sales.
 - 2. All products, whether primary or incidental, shall be sold and displayed inside main building on the premises except as provided in SMC A1 of this section.
 - 3. There shall be no outside storage of materials or equipment except as specifically approved by the planning commission in conjunction with a conditional use permit.
 - 4. All uses shall be free from objectionable or excessive odor, dust, smoke, noise, radiation or vibration.
- B. A single-family or multiple-family dwelling unit shall be allowed with a conditional use permit in this zone only if the dwelling is part of a new or preexisting commercial building and if the following conditions are met:
 - 1. The dwelling area shall be constructed in conformance with all applicable codes, ordinances, rules and regulations, whether of this city or other applicable agency.
 - 2. The dwelling area use shall be secondary, subordinate and incidental to the primary, permitted or conditional commercial use of the building, and cannot exceed more than fifty percent (50%) of the total footage.
 - 3. The dwelling area or unit and such use shall be made and kept separate from the commercial area and use of the building and the dwelling area and unit shall be used exclusively for dwelling purposes.
 - 4. Entrances separate from the commercial entrances shall be provided for each dwelling unit.
 - 5. A minimum one hundred fifty (150) square feet of landscaped open space per multiple-family dwelling unit and three hundred (300) square feet for each single-family dwelling unit, in addition to that required by SMC 17.100 of this title, shall be provided. The open space shall be combined in such a manner as to enhance its use and enjoyment by the residents of the development.
 - 6. There shall be no outside storage of vehicles including RVs and other equipment, except for a maximum of two (2) cars and/or light duty trucks per dwelling unit.
 - 7. A minimum of two (2) parking stalls per dwelling unit shall be required in addition to any parking stalls required by SMC 17.24 of this title for the commercial uses. Each parking stall shall be a minimum nine feet by twenty feet (9' x 20'), one hundred eighty (180) square feet.

17.64 CB CENTRAL BUSINESS DISTRICT ZONE

17.64.010 PURPOSE

17.64.020 ALLOWED USES

17.64.030 AREA, WIDTH AND YARD REGULATIONS

17.64.040 HEIGHT REGULATIONS

17.64.050 DEVELOPMENT STANDARDS

17.64.060 SPECIAL PROVISIONS

17.64.010 PURPOSE

The central business district zone is established to provide locations for convenient shopping in a downtown pedestrian oriented atmosphere. The zone encompasses the traditional commercial activity core of the city. Central business district uses are encouraged to develop in a manner which is architecturally compatible with the historical flavor that exists within the zone.

17.64.020 ALLOWED USES

Those uses which are allowed in the CB central business district zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.64.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the CB central business district zone are as follows:

- A. Area: No minimum.
- B. Width: No minimum.
- C. Front yard: None.
- D. Side yard: None except ten feet (10') where the side yard abuts a residential zone.

- E. Rear yard: None except ten feet (10') where the rear yard abuts a residential zone.

17.64.040 HEIGHT REGULATIONS

- A. Height regulations in the CB central business district zone are as follows:
B. No building or structure shall be erected to a height greater than two and one-half (2¹/₂) stories or thirty five feet (35').

17.64.050 DEVELOPMENT STANDARDS

- A. Before any building is constructed, enlarged, expanded, or experiences a change in land use, a site development plan shall be prepared and approved in accordance with SMC 17.100 of this title.
B. The central business district zone shall consist of developments which are pedestrian friendly. Buildings shall be arranged on sites in such a manner that pedestrian access will be enhanced. Barriers between buildings which would impede free pedestrian movement from one building or business to another should be avoided.
C. In situations where access to a building or business from an adjoining parking lot would necessitate pedestrian travel within an access roadway or driveway, a minimum five foot (5') wide pedestrian sidewalk shall be provided along such roadway or driveway.
D. Perimeters of all parking lots, driveways, sidewalks, and planter areas shall be bound by a minimum six inch (6") concrete curb, except when providing for free pedestrian movement as described in SMC B of this section.
E. All parking lots, roadways and driveways shall be constructed of new bituminous asphalt or concrete of sufficient thickness to adequately accommodate the loads anticipated.
F. Driveways from adjoining businesses shall be consolidated when possible.
G. Trash storage and dumpsters shall be located in an area convenient for pick up and shall be screened from view by a six foot (6') sightproof fence or wall.
H. All new utility transmission lines shall be placed underground. Transformers, meters and similar apparatus shall be at or below ground level and shall be screened from public view by a wall or fence, landscaping, earth berm, or an acceptable architectural treatment.

17.64.060 SPECIAL PROVISIONS

Special provisions in the CB central business district zone are as follows:

- A. Uses, stores, shops or businesses specified in this chapter shall be office or retail establishments and shall be permitted only under the following conditions:
1. Such uses and businesses shall be conducted wholly within an enclosed building except for the parking of automobiles and service to persons in automobiles, where allowed, and except for periodic, reasonable sidewalk displays and sales, and activities customarily allowed outside, such as associated with a sidewalk cafe, newsstand, fruit and vegetable stand, etc.
 2. All products, whether primary or incidental, shall be sold and displayed inside the main building on the premises, except as allowed in SMC 1a of this section; no entertainment except music shall be permitted in cafes, restaurants, confectioneries or refreshment stands.
 3. All uses shall be free from objections because of odor, dust, smoke, noise, vibration or other causes, including visual blight.
 4. The exterior of all new buildings and the exterior of remodeled buildings shall provide an architectural style consistent with the predominate style of this district.
- B. A single-family or multiple-family dwelling unit shall be allowed with a conditional use permit in this zone only if the dwelling is part of a new or preexisting commercial building and if the following conditions are met:
1. The dwelling area shall be constructed in conformance with all applicable codes, ordinances, rules and regulations, whether of this city or other applicable agency.
 2. The dwelling area use shall be secondary, subordinate and incidental to the primary, permitted or conditional commercial use of the building, and does not exceed more than fifty percent (50%) of the total footage.
 3. The dwelling area or unit and such use shall be made and kept separate from the commercial area and use of the building and the dwelling area and unit shall be used exclusively for dwelling purposes.
 4. Entrances separate from the commercial entrances shall be provided for each dwelling unit.
 5. A minimum one hundred fifty (150) square feet of landscaped open space per multiple-family dwelling unit and three hundred (300) square feet for each single-family dwelling unit, in addition to that required by SMC 17.100 of this title, shall be provided. The open space shall be combined in such a manner as to enhance its use and enjoyment by the residents of the development.
 6. There shall be no outside storage of vehicles including RVs and other equipment, except for a maximum of two (2) cars and/or light duty trucks per dwelling unit.
 7. A minimum of two (2) parking stalls per dwelling unit shall be required in addition to any parking stalls required by SMC 17.24 of this title for the commercial uses. Each parking stall shall be a minimum nine feet by twenty feet (9' x 20'), one hundred eighty (180) square feet.

17.68 CC COMMUNITY COMMERCIAL ZONE

17.68.010 PURPOSE

17.68.020 ALLOWED USES

17.68.030 AREA, WIDTH AND YARD REGULATIONS

17.68.040 HEIGHT REGULATIONS

17.68.050 DEVELOPMENT STANDARDS

17.68.060 SPECIAL PROVISIONS

17.68.010 PURPOSE

The purpose of the community commercial zone is to provide areas for community retail and service in locations convenient to serve the resident.

17.68.020 ALLOWED USES

Those uses which are allowed in the CC community commercial zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.68.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the CC community commercial zone are as follows:

- A. Area: No minimum.
- B. Width: No minimum.
- C. Front yard: Thirty feet (30').
- D. Side yard: None except ten feet (10') where the side yard abuts a residential zone.
- E. Rear yard: None except thirty feet (30') where the rear yard abuts a residential zone.

17.68.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35').

17.68.050 DEVELOPMENT STANDARDS

- A. **Plan Approval:** Before any building is constructed, enlarged, expanded, or experiences a change in land use, a site development plan shall be prepared and approved in accordance with SMC 17.100 of this title.
- B. **Outside Storage:** No outside storage shall be permitted except as expressly approved by the planning commission.
- C. **Screening:**
 - 1. Any area outside of a building and visible from a public street which is used for any activity other than landscaping, off street parking and loading shall be completely enclosed within an approved fence or wall or approved landscaping of a height sufficient to completely screen such activity from the street or from adjoining parcels.
 - 2. Garbage or other refuse shall be screened from public view by a sightproof fence or masonry wall, or may be completely within an enclosed building. Trash dumpsters shall be located a minimum of twenty feet (20') from any common boundary with a noncommercial zone or public right of way.
 - 3. Where any commercial lot shares a common boundary with a residential zone, a six foot (6') sightproof fence or wall shall be provided along such boundary.
 - 4. All mechanical equipment, including heating and air conditioning units, shall be completely screened from surrounding properties by use of a sightproof fence or wall or shall be enclosed within a building. Roof mounted equipment shall be screened by parapet walls or other approved means.
- D. **Nuisances:** All uses shall be free from objectionable odors, noises, hazards or other nuisances.
- E. **Perimeter Curbs:** Perimeters of parking lots, driveways, sidewalks, and planter areas shall be bound by a minimum six inch (6") concrete curb.
- F. **Paving Materials:** All parking lots and driveways shall be constructed of new bituminous asphalt or concrete of sufficient thickness to adequately accommodate the loads anticipated.
- G. **Utility Lines:** All new utility transmission lines shall be placed underground. Transformers, meters and similar apparatus shall be at or below ground level and shall be screened from public view by a wall or fence, landscaping, earth berm, or an acceptable architectural treatment.

17.68.060 SPECIAL PROVISIONS

- A. The uses, stores, shops or businesses specified in this chapter shall be permitted only under the following conditions:
 - 1. Such uses and businesses shall be conducted wholly within an enclosed building except for the parking of automobiles and service to persons in automobiles, where allowed, and except for periodic, reasonable sidewalk displays and sales, and activities customarily allowed outside, such as associated with a sidewalk cafe, newsstand, fruit and vegetable stand, etc.
 - 2. All products, whether primary or incidental, shall be sold and displayed inside main building on the premises, except as allowed in SMC A1 of this section; no entertainment except music shall be permitted in cafes, restaurants, confectioneries or refreshment stands.
 - 3. There shall be no outside storage of materials or equipment, other than motor vehicles licensed for street use, except as specifically approved by the planning commission in conjunction with a conditional use permit.
 - 4. All uses shall be free from objections resulting because of odor, dust, smoke, noise, vibration or other causes, including visual blight.
- B. A single-family or multiple-family dwelling unit shall be allowed with a conditional use permit in this zone only if the dwelling is part of a new or preexisting commercial building and if the following conditions are met:
 - 1. The dwelling area shall be constructed in conformance with all applicable codes, ordinances, rules and regulations, whether of this city or other applicable agency.
 - 2. The dwelling area use shall be secondary, subordinate and incidental to the primary, permitted or conditional commercial use of the building, and cannot exceed more than fifty percent (50%) of the total footage.
 - 3. The dwelling area or unit and such use shall be made and kept separate from the commercial area and use of the building and the dwelling area and unit shall be used exclusively for dwelling purposes.
 - 4. Entrances separate from the commercial entrances shall be provided for each dwelling unit.
 - 5. A minimum one hundred fifty (150) square feet of landscaped open space per multiple-family dwelling unit and three hundred (300) square feet for each single-family dwelling unit, in addition to that required by SMC 17.100 of this title, shall be provided. The open space shall be combined in such a manner as to enhance its use and enjoyment by the residents of the development.
 - 6. There shall be no outside storage of vehicles including RVs and other equipment, except for a maximum of two (2) cars and/or light duty trucks per dwelling unit.
 - 7. A minimum of two (2) parking stalls per dwelling unit shall be required in addition to any parking stalls required by SMC 17.24 of this title for the commercial uses. Each parking stall shall be a minimum nine feet by twenty feet (9' x 20'), one hundred eighty (180) square feet.

17.72 GC GENERAL COMMERCIAL ZONE

17.72.010 PURPOSE

17.72.020 ALLOWED USES

17.72.030 AREA, WIDTH AND YARD REGULATIONS

17.72.040 HEIGHT REGULATIONS

17.72.050 DEVELOPMENT STANDARDS

17.72.060 MODIFYING REGULATIONS

17.72.010 PURPOSE

To provide areas, in appropriate locations, where a combination of business, retail commercial, entertainment, and related activities may be established, maintained and protected. Regulations for this district are designed to provide a suitable environment for those commercial and service uses which are vital to economic life.

17.72.020 ALLOWED USES

Those uses which are allowed in the GC general commercial zone either as a permitted use or a conditional use shall be as specified in SMC17.120, "Use Matrix Table", of this title.

17.72.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the GC general commercial zone are as follows:

- A. Area: No minimum.
- B. Width: No minimum.
- C. Front yard: Thirty feet (30').
- D. Side yard: None except ten feet (10') where the side yard abuts a residential zone.
- E. Rear yard: None except thirty feet (30') where the rear yard abuts a residential zone.

17.72.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than two and one-half (2¹/₂) stories or thirty five feet (35').

17.72.050 DEVELOPMENT STANDARDS

- A. **Plan Approval:** Before any building is constructed, enlarged, expanded, or experiences a change in land use, a site development plan shall be prepared and approved in accordance with SMC 17.100 of this title.
- B. **Outside Storage:** No outside storage shall be permitted except as expressly approved by the planning commission.
- C. **Screening:**
 - 1. Any area outside of a building and visible from a public street which is used for any activity other than landscaping, off street parking and loading shall be completely enclosed within an approved fence or wall or approved landscaping of a height sufficient to completely screen such activity from the street or from adjoining parcels.
 - 2. Garbage or other refuse shall be screened from public view by a sightproof fence or masonry wall, or may be completely within an enclosed building. Trash dumpsters shall be located a minimum of twenty feet (20') from any common boundary with a noncommercial zone or public right of way.
 - 3. Where any commercial lot shares a common boundary with a residential zone, a six foot (6') sightproof fence or wall shall be provided along such boundary.
 - 4. All mechanical equipment, including heating and air conditioning units, shall be completely screened from surrounding properties by use of a sightproof fence or wall or shall be enclosed within a building. Roof mounted equipment shall be screened by parapet walls or other approved means.
- D. **Nuisances:** All uses shall be free from objectionable odors, noises, hazards or other nuisances.

17.72.060 MODIFYING REGULATIONS

Individual storage units shall maintain a minimum setback of two hundred feet (200') from the Main Street right of way line.

17.80 M-1 MANUFACTURING ZONE

17.80.010 PURPOSE

17.80.020 ALLOWED USES

17.80.030 AREA, WIDTH AND YARD REGULATIONS

17.80.040 HEIGHT REGULATIONS

17.80.050 DEVELOPMENT STANDARDS

17.80.060 MODIFYING REGULATIONS

17.80.010 PURPOSE

To provide areas in appropriate locations where light manufacturing, industrial processes and warehousing may be established with sensitive relationship to adjacent agricultural, residential and commercial land uses.

17.80.020 ALLOWED USES

Those uses which are allowed in the M-1 manufacturing zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.80.030 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the M-1 manufacturing zone are as follows:

- A. Area: No minimum.
- B. Width: No minimum.
- C. Front yard: Thirty feet (30').
- D. Side yard: None except thirty feet (30') where the side yard abuts a residential zone.
- E. Rear yard: None except thirty feet (30') where the rear yard abuts a residential zone.

17.80.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than sixty feet (60'), except that within one hundred feet (100') of the boundary of any adjoining zone, no building shall exceed the height limit established for main buildings in such adjoining zone.

17.80.050 DEVELOPMENT STANDARDS

- A. **Plan Approval:** Before any building is constructed, enlarged, expanded, or experiences a change in land use, a site development plan shall be prepared and approved in accordance with this section.
- B. **Screening:**
 - 1. Any area outside of a building and visible from a public street which is used for any activity other than landscaping, off street parking and loading shall be completely enclosed within an approved fence or wall or approved landscaping of a height sufficient to completely screen such activity from the street or from adjoining parcels.
 - 2. Garbage or other refuse shall be screened from public view by a sightproof fence or masonry wall, or may be completely within an enclosed building. Trash dumpsters shall be located a minimum of twenty feet (20') from any common boundary with a noncommercial zone.
 - 3. Where any manufacturing lot shares a common boundary with a residential zone, a six foot (6') masonry wall shall be provided along such boundary. In those cases where the comprehensive plan indicates the adjoining land use may be other than residential in the future, the planning commission may allow a six foot (6') sightproof fence to be substituted for the masonry wall.
 - 4. All mechanical equipment, including heating and air conditioning units, shall be completely screened from surrounding properties by use of a sightproof fence or wall or shall be enclosed within a building. Roof mounted equipment shall be screened by parapet walls or other approved means.
- C. **Offensive Use Unlawful:** No land or building in the M-1 zone shall be used or constructed or operated so as to create any noxious, offensive, objectionable, dangerous, or other undesirable effect on persons or property outside the lot line by virtue of emission of smoke, particulate matter, noise, fumes, odor, vibrations, glare, liquid, and solid waste, heat, and explosive materials.
- D. **Lot Area:** No building, structure, or accessory buildings shall cover more than seventy percent (70%) of the total lot area.

17.80.060 MODIFYING REGULATIONS

- A. Minimum Setback For Individual Storage Units: Individual storage units shall maintain a minimum setback of two hundred feet (200') from the Main Street right of way line.
- B. Minimum Setback For Sexually Oriented Businesses: Sexually oriented businesses shall maintain a minimum setback of six hundred feet (600') from the Main Street right of way line.

17.82 I-1 INSTITUTIONAL ZONE

17.82.010 PURPOSE

17.82.020 ALLOWED USES

17.82.040 HEIGHT REGULATIONS

17.82.050 AREA, WIDTH AND YARD REGULATIONS

17.82.010 PURPOSE

The purpose of the I-1 institutional zone is to provide areas where buildings, facilities and parks necessary and beneficial to operation of the city government and relevant to the well being of Smithfield City may locate and operate. The regulations of the zone are designed to protect and preserve the environment of the zone, adjacent area and the entire county.

17.82.020 ALLOWED USES

Those uses which are allowed in the I-1 institutional zone either as a permitted use or a conditional use shall be as specified in SMC 17.120, "Use Matrix Table", of this title.

17.82.040 HEIGHT REGULATIONS

No building or structure shall be erected to a height greater than three (3) stories or fifty feet (50'), whichever is greater.

17.82.050 AREA, WIDTH AND YARD REGULATIONS

Area, width and yard regulations in the I-1 institutional zone are as follows:

Area (Square Feet)	Width (In Feet)	Front (In Feet)	Side (In Feet)	Rear (In Feet)
No minimum	No minimum	None	None except 10 feet where side yard abuts agricultural or residential zone and 20 feet where yard is adjacent to a street	None except 10 feet where rear yard abuts residential or agricultural zone

17.84 INTRABLOCK DEVELOPMENT

17.84.010 PURPOSE OF CHAPTER

17.84.020 PROVISIONS

17.84.030 SUBDIVISION REQUIREMENTS

17.84.040 DEVELOPMENT PLAN

17.84.050 PUBLIC HEARING

17.84.060 PERFORMANCE BOND

17.84.070 FEES

17.84.010 PURPOSE OF CHAPTER

The city recognizes the importance of development within the intrablocks as a means of eliminating visual blight, maximizing the use of existing utilities, reducing potential fire hazards associated with uncontrolled vegetation, and reducing the potential for urban sprawl. Therefore the purpose of this chapter is to provide, through conditional use process, a means by which the interior area of the ten (10) acre square blocks within the city can be developed in an efficient and orderly manner, when no other reasonable means is available, provided such development does not create undue hardship on the city.

17.84.020 PROVISIONS

The requirements of this title shall not prevent the development of a single-family dwelling or multiple-family dwellings on an individual intrablock lot, as defined in SMC 17.04 of this title. Whenever possible, intrablocks shall be developed by meeting the requirements of this title and SMC 16 of this code, the subdivision ordinance, provided the following conditions are satisfied:

- A. That the intrablock lot is allowed as a conditional use in the zone in which the lot is located;
- B. Private access roads will be permitted only in cases where public streets or portions of public streets are not possible or, when they are not financially feasible because of the need to remove a dwelling or other primary structure. When permitted, the private access for one housing unit shall have a minimum right of way width for ingress-egress of twenty feet (20'); the private access for two (2) or three (3) housing units shall have a minimum right of way width of twenty six feet (26'); and the private access for four (4) or more housing units shall have a minimum right of way width of thirty feet (30'). Private access roads shall be constructed with a gravel base, concrete or asphalt surface, and gravel shoulders which shall be a minimum three feet (3') in width on each side of the concrete or asphalt surface, and free of any trees or large shrubs. The concrete or asphalt surface on private roads shall be a minimum fourteen feet (14') wide for access to one housing unit, twenty feet (20') wide for access to two (2) or three (3) housing units, and twenty four feet (24') wide for access to four (4) or more housing units. The private road shall be located within the right of way so as to allow for the minimum gravel shoulders;
- C. When the undeveloped intrablock is owned by multiple property owners, each with the potential to develop intrablock lots, placement of the access right of way shall be such that it can be used by multiple property owners. In the event only one of the multiple intrablock property owners is seeking intrablock development approval, consideration shall be given to the placement and width of the access road to accommodate potential future intrablock lots. In no case shall the developing property owner be required to provide and improve an access road right of way in excess of that required for the lots being developed. However, the city may require the initial developer or developers of the intrablock to grant a right of way to other property owners within the intrablock for their future use. In turn, future developers of the intrablock may be required to grant similar rights of way to previous developers or owners of the intrablock property if additional right of way width is necessary. In doing so, multiple accesses can be minimized in favor of a single jointly used access;
- D. That the private right of way shall not be included in or allowed to be a part of the required lot area, or front, rear, or side yard space, of any proposed lot or existing lot. Except, private right-of-ways may encroach up to fifty percent (50%) into the required side yard of any existing dwelling but in no case shall the right-of-way be closer than five feet (5') to any existing dwelling.
- E. That any private right of way shall be granted to and for the use of the owners of the intrablock lots through a dedication appearing on a final plat as required under SMC 17.84.030A of this chapter;
- F. That the owner or developer will be responsible for the extension of all utilities, roadways, drainage improvements and other improvements necessary and/or required for the development of the intrablock property. All construction shall be subject to approval and inspection by Smithfield City;
- G. That consideration be given to the placement of proposed dwellings so as to ensure compatibility with surrounding neighborhoods and to guard against unnecessary privacy encroachment of existing homes.
 1. Within ninety (90) days after receiving final approval of an intrablock development, any property owner who is adjacent to an intrablock lot, and who feels his/her privacy is being imposed upon, the city may require the construction of a six foot (6') privacy fence between the two (2) properties. The existing property owner and the intrablock developer shall decide the style of fence and shall share equally in the cost of installing the fence. The quality or cost of the fence shall not be required to exceed that which is comparable to a six foot (6') solid white vinyl fence;
 2. Whenever possible, proposed intrablock dwellings shall be placed such that front yards do not face rear or side yards of other intrablock lots or existing lots;
 3. Buildings, including dwellings in excess of one story or twenty five feet (25') shall not be permitted;
- H. That the minimum width of any intrablock lot shall not be less than the minimum frontage for lots in the zone in which the intrablock lot is located;
- I. That for purposes of setback, buildings shall be placed so as to maintain the required setback distances established for the zone with minimum setbacks from private driveways being equal to those of a public street.

17.84.030 SUBDIVISION REQUIREMENTS

- A. For intrablock developments, the provisions of the subdivision ordinance shall be satisfied upon obtaining the approval of a final plat as required under SMC 16.12 of this code. The submitting and approval of a concept drawing or preliminary plat shall not be required.
- B. All required subdivision improvements outlined in SMC 16.20 of this code shall be constructed. However, upon recommendation by the planning commission, the city council may waive certain improvements if deemed to be in the best interest of the city and the developer. All requested waivers must be submitted by the

owner/developer as part of the application process.

C. Public owned improvements constructed as a requirement of this chapter shall be designed by a registered civil engineer.

17.84.040 DEVELOPMENT PLAN

The developer or owner shall prepare an intrablock development plan and schedule to meet with the Subdivision Technical Review Committee (STRC) as outlined in Section 16.05.040, prior to submittal to the Smithfield City planning commission and city council. The proposed plan shall provide the following information:

- A. The development plan shall be drawn to scale of at least one inch equals fifty feet (1" = 50') and should contain the north arrow point;
- B. All property boundaries, easements and rights of way, and owners of parcels or lots in the block where the intrablock development is proposed;
- C. All existing streets and the location of the proposed access to the development including any future roadway extensions for further block development;
- D. The location and dimensions of all proposed lots, streets and easements;
- E. All existing structures adjacent to the development and the tentative location, orientation, and dimensions of proposed dwellings clearly designating the location and dimension of all required yard spaces;
- F. All existing irrigation ditches and drainageways and the proposed method of disposal of surface drainage;
- G. The location of existing and proposed utilities;
- H. The location and type of existing and proposed fences;
- I. Any other information pertaining to the proposed development as requested by the planning commission.

17.84.050 PUBLIC HEARING

A public hearing shall be held by the planning commission after public notice has been given in the local newspaper or as provided in the Utah Code Annotated.

17.84.060 PERFORMANCE BOND

A building permit shall not be issued for any dwelling or structure to be placed in the intrablock development unless the owner or developer shall furnish the city a form of security which will ensure the proper and prompt installation of all improvements as required by this chapter. Forms of acceptable security and amounts of said security shall be limited to those which are listed in SMC 16.22.010 of this code.

17.84.070 FEES

Any and all persons requesting approval on an intrablock development shall first have paid all fees set forth by the most recent prevailing fee schedule adopted by resolution of the Smithfield City council. In the event the original submittal is not approved and a second, third, etc., submittal is required, a fee shall be paid to the city on an hourly basis for the time incurred in checking and approving the submittal. All hourly fees shall be based on the most recent prevailing fee schedule adopted by Smithfield City.

17.88 PLANNED UNIT DEVELOPMENTS

17.88.010 PURPOSE OF CHAPTER

17.88.020 DEFINITIONS

17.88.030 USE IN COMBINATION

17.88.040 ZONES WITH WHICH THE PLANNED UNIT DEVELOPMENT ZONE MAY BE COMBINED

17.88.050 PERMITTED USES

17.88.060 APPLICATION OF PUD TO UNDERLYING ZONE

17.88.070 OPEN SPACE REQUIRED

17.88.080 STREETS, CIRCULATION AND PARKING

17.88.090 APPROVAL PROCESS

17.88.100 APPROVAL OF CONCEPTUAL PLAN REVIEW AND PUD OVERLAY ZONE

17.88.110 SUBDIVISION CONCURRENT WITH PUD APPROVAL

17.88.120 PRELIMINARY PUD PLAN APPROVAL

17.88.130 FINAL PUD PLAN APPROVAL

17.88.140 GUARANTEES AND COVENANTS

17.88.150 FAILURE TO PERFORM

17.88.010 PURPOSE OF CHAPTER

The purpose of the planned unit development overlay zone is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to ensure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the creation and consolidation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within Smithfield City. A planned unit development (PUD) is a residential or commercial development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open spaces, diversity of lot design, amenities, a well planned circulation system, and attractive entrances as part of the design. The incorporation of one or two (2) of these elements into a development does not make a PUD. The combination of all these elements is necessary for the development of a PUD. Because of the substantial public advantages of a planned unit development, it is the intent of this chapter to allow development hereunder where tracts suitable in size, location and character for the uses and structures proposed are planned and developed as units for a unified and coordinated manner. In such circumstances, where municipal planning and private development may effectively proceed together, it is necessary and appropriate that there be requirements and regulations other than on a lot by lot or subdivision basis so as to provide flexibility and innovation in site planning and land use relationships while also ensuring substantial compliance with the intent, objectives and purposes of this title and the city's general plan.

17.88.020 DEFINITIONS

For the purposes of this chapter:

BASE DENSITY: The maximum number of residential units per acre of developable land in the PUD that could be achieved, without a density bonus, by conventional development of the property in the zone within which the PUD is proposed to be applied.

BONUS DENSITY: The maximum number of residential units per acre of developable land within the PUD allowed when the project complies with the bonus density design requirements of this chapter.

COMMON AREA: All land, buildings or structures intended or reserved for the common use of the residents and owners of the planned unit development.

DEVELOPABLE LAND: Land under thirty percent (30%) slope which can effectively be used in conjunction with landscaping, recreational facilities, buildings, or parking. Land devoted to street usage (the right of way for public streets and the area from back of curb to back of curb for private streets) shall not be considered developable land, and must be subtracted out of the total acreage before the density calculation is made. (Access aisles in parking lots and driveways shall not be considered private streets for purposes of this definition.)

DRIVEWAY: A paved area used for ingress or egress of vehicles, and allowing access from a street to one building, structure, or facility.

GROSS ACREAGE: The total amount of land in a PUD development.

NET ACREAGE: The total amount of land in a PUD development excluding rights of way or roads.

PARKING LOT: A paved open area, other than a street or alley, used for the parking of more than four (4) automobiles whether for free, or for compensation. Parking spaces, within a parking lot, shall not be provided within a required front yard or side yard adjacent to the street on a corner lot.

PARKING LOT AISLE: The traveled way by which cars enter and depart parking spaces. Aisle width standards are set forth in SMC 17.24.020 of this title. Parking aisles shall not be considered streets for purposes of this chapter.

PLANNED UNIT DEVELOPMENT: A PUD is a master planned, architecturally designed development in which the regulations of the underlying zone, in which the development is situated, may be negotiated and modified to allow flexibility and initiative in site and building design and location, in accordance with an approved PUD plan and requirements of this chapter.

17.88.030 USE IN COMBINATION

The planned unit development (PUD) overlay zone may be used in combination with existing conventional zones as designated herein, and the provisions of the PUD overlay zone shall become supplementary to the provisions of the zone with which it is combined. The PUD zone shall not be applied to a land area as an independent zone. Property to which the PUD zone has been applied shall be developed only in conformance with an approved project plan. When used in combination with the designated zones, the planned unit development overlay zone designated (PUD) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. When applied to land area, said combined designation shall be shown on the zone map of Smithfield City as set forth in the following example:

Example: If the planned unit development overlay (PUD) zone were being combined with the single-family residential zone (R-1-10), it would be designated on the zoning map of Smithfield City as "R-1-10(PUD)".

17.88.040 ZONES WITH WHICH THE PLANNED UNIT DEVELOPMENT ZONE MAY BE COMBINED

The planned unit development overlay (PUD) zone may be combined with the following zones: RA, R-1, RM, CC, CG, M-1 zones.

17.88.050 PERMITTED USES

Uses permitted in the planned unit development overlay (PUD) zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the PUD zone has been combined, except as follows:

- A. In single-family zones, dwelling units may be clustered in common wall construction with a maximum of two (2) consecutively attached units. Such buildings shall be single-story construction with no units being placed above another. Accessory apartments may only be established in PUDs if they have been individually approved as part of the final plan.
- B. In multiple-family zones, dwelling units may be clustered in common wall construction with a maximum of six (6) consecutively attached units. Such buildings may be single-story or two-story construction, however, no units may be placed above another.
- C. Accessory uses may be included in planned unit developments to provide necessary services to the occupants of the development as determined by the planning commission; provided that agreements and restrictive covenants controlling the proposed uses, ownership, characteristics and design are filed by and entered into by the developer and approved by the planning commission and city council to assure that the approved necessary services are maintained.
- D. In a residential zone a PUD may provide offices and professional service uses in a planned environment. Where a PUD proposes a mix of residential and office uses, the planning commission and city council should make the following findings as part of the approved preliminary and final PUD plan:
 1. The proposed PUD will provide a pleasant and attractive environment in which the relationship of land uses is properly planned to assure a harmonious development;
 2. The proposed PUD will create no detriment to adjacent properties or to the general area in which it is located; and that it will be in harmony with the characteristics of the community and the existing development in the area; and
 3. The proposed PUD will provide for the efficient utilization of land and the open space in reasonable proportion to residential densities and the intensity of office and professional service uses.
- E. In considering nonresidential land uses as part of a residential PUD plan, the planning commission and city council shall address the following:
 1. Size Of Project: The proposed PUD must propose a minimum of fifty (50) units and be at least forty (40) acres in order for the planning commission and city council to consider office and professional service uses as part of the PUD plan. Office and professional service uses shall not occupy more than ten percent (10%) of the PUD project site.

2. **Architecture:** The proposed nonresidential structures should be complementary to the surrounding and historic architecture in terms of scale, massing, roof shape, exterior materials, etc. New buildings should not create large bulky masses, but should be scaled down into groupings of smaller attached structures.
3. **Building Height:** Buildings should be limited to two (2) stories or thirty five feet (35').
4. **Parking:** Large expanses of asphalt should be reduced and broken into smaller parking lots. Parking lots should include ample landscaping to buffer cars from neighboring properties.
5. **Access:** Adequate vehicular and pedestrian access must be provided. Access from an arterial or collector street to the office and professional service uses must be provided. A traffic impact study shall be required, as part of the preliminary PUD plan, to project auto and truck traffic generated by the uses proposed. The traffic impact study must be prepared by a licensed professional engineer qualified to conduct such studies. The traffic study shall include an analysis of on site circulation, capacities of existing streets, number of additional trips which will be generated, origin/destination studies and peak traffic generation movements.
6. **Rooflines:** Flat or low pitched roofs should be avoided and rooflines should blend in with surrounding and historic buildings.
7. **Materials:** New buildings should blend with the materials of surrounding and historic buildings.
8. **Signage:** Signage for the nonresidential buildings should be part of a coordinated signage system for the entire PUD project. Signage should help unify the project and provide a positive image. Natural materials such as wood, stone, rock, and metal with external illumination are encouraged. All freestanding signs shall be monument signs not to exceed a height of six feet (6').
9. **Lighting:** All outdoor lighting shall conform to SMC 9.24, "Outdoor Lighting", of this code.
10. **Buffers:** A buffer between residential and nonresidential uses within and adjacent to the PUD shall be a minimum of at least sixty feet (60'). Said buffer may include open space areas, pedestrian trails and landscaped areas and may be counted toward the base open space requirement for the PUD project.

17.88.060 APPLICATION OF PUD TO UNDERLYING ZONE

- A. **Variations:** Upon combining the PUD overlay zone with an appropriate existing zone, variations from the development standards of the underlying zone may be permitted by the planning commission and city council provided the variations are specifically adopted by the planning commission and city council as part of the approved PUD plans. Variations, however, shall not include changes in the uses allowed by the zone with which the PUD zone has been combined, except as provided for in SMC 17.88.050 of this chapter. Variations in yard setbacks from streets in residential areas as established in this chapter for PUDs shall not be permitted.
- B. **Approval Of Variations:** The planning commission and city council may, in the process of approving preliminary or final PUD plans, approve the variations from the minimum standards of the underlying zone where there is sufficient evidence that the variations will not adversely affect neighboring property.
- C. **Yard Setbacks:** In residential PUDs where individual lot lines exist, the minimum front yard setback from a forty-five foot (45') street shall be twenty feet (20') from the property line. The minimum side yard setback shall be six feet (6') with a minimum distance between buildings being fifteen feet (15'). The minimum rear yard shall be twenty feet (20') except when adjacent to a single-family residential zone that is situated outside a PUD overlay zone in which case the minimum rear yard shall be thirty feet (30').
- D. **Common Area Yard Setbacks:** In residential PUDs where buildings are located in areas designated as "common area" the side to side separation between residential structures shall be fifteen feet (15'). The minimum side to front, side to rear separation between residential structures shall be thirty feet (30'). The minimum front to rear and rear to rear separation shall be forty feet (40'). The minimum front to front separation between residential structures shall be fifty feet (50'). The minimum rear yard when adjacent to a single-family residential zone that is situated outside a PUD overlay zone shall be thirty feet (30').
- E. **Base Density:** The base density of a PUD shall be based on the density of the underlying zone. If the PUD is located in more than one residential zone, the total number of units for the PUD is calculated by adding up the number of units allowed by each zone, with the applicable density bonus. However, the dwelling units may be placed without regard to zone boundaries.
- F. **Density Analysis:** When topography would dictate a lower density than the base residential density of the underlying zone, a density analysis, specific to the site, shall determine the base density for the PUD.
- G. **Density Bonus:** The inclusion of certain amenities or design options may result in an allowed increase in density, referred to as a density bonus. The total density bonus shall not exceed fifty percent (50%). An example of the base residential density and the maximum fifty percent (50%) density bonus is as follows:

Zone	Base Density	Density With 50 Percent Bonus
RA-1	1 unit per acre	1.5 units per acre
RA-2	0.5 units per acre	0.75 units per acre
R-1-10	3.5 units per acre	5.25 units per acre
R-1-12	3 units per acre	4.5 units per acre
R-1-20	2 units per acre	3 units per acre
RM	10 units per acre	15 units per acre

- H. **Density Bonus And Incentives:** The city council, upon recommendation of the planning commission, may determine the density bonus upon the city council's acceptance of the design options, as set forth below. The actual bonus awarded for each incentive shall be reflective of the effort made by the developer to meet the intent of the incentive and shall be determined by the city council.

Density Bonus/ Incentives	Design Options
Additional open space - up to a maximum 10 percent bonus	Developments which provide greater than the required base open space, shall be awarded a 1 percent bonus for each 1 percent of the total project area in common open space.
Provision of recreation and site amenities - up to a maximum 10 percent bonus	Density bonus may be awarded for the provision of major recreation facilities and site amenities such as swimming pools, tennis courts, playgrounds, or similar facilities.
Parking - up to a maximum 10 percent bonus	Density bonus may be awarded for the following covered and enclosed parking structures: - Detached garages - 5 percent - Detached carports - 3 percent - Attached single car garage - 5 percent

	Attached double car garage - 10 percent
	Attached carport - 3 percent
	Garages designed within the primary building - 10 percent
Exterior building materials - up to a maximum 10 percent bonus	Masonry - Brick or stone. For every 10 percent of the total building surface of primary and accessory buildings which are finished with masonry, a 1 percent density bonus will be granted. Stucco - A density bonus of 4 percent will be granted if entire building surface is stucco. Allowances for a combination of masonry and stucco will be determined on individual basis.
Pedestrian and bicycle circulation - up to a maximum 5 percent bonus	In addition to sidewalks required along public streets, pedestrian and bicycle trails provided in conjunction with the development's open space network may receive a 5 percent density bonus.
Fencing up - to a maximum 5 percent bonus	All perimeter fencing shall be uniform in design including architecturally designed brick or masonry, vinyl with brick or stone columns, solid or semiprivate vinyl fencing, and open fencing such as vinyl rail or wrought iron may be used in conjunction with landscaping.

17.88.070 OPEN SPACE REQUIRED

- A. PUDs shall provide a minimum open area for residents and/or occupants of such development. The required base open space shall be areas that are not occupied by buildings, structures, parking areas or streets.
- B. Required "base" open space areas shall be contiguous, not a collection of remnants. Such areas shall include:
1. Open space shall be land areas that are not occupied by buildings, structures, parking areas (including private driveways), streets or alleys. Said open space shall be devoted to landscaping, preservation of natural features, uncovered patios, open pavilions, and recreational areas.
 2. Streetscape improvements including those along public streets that are incorporated into the design of the PUD and which are maintained by the homeowners' association.
 3. Areas with natural features worthy of preservation, which are not buildable, such as canyons or slopes, ridgelines, wetlands, stream or creek corridors, utility corridors, wildlife habitat, geologically sensitive areas, and significant views and vistas. Utility corridors shall only be counted toward the open space requirement if improved as an accessible amenity to the project or the community as a whole.
 4. The base open space requirement for each zone shall be as follows:

Zone	Base Open Space
RA-1, RA-2	60 percent
R-1-20, R-1-12, R-1-10, RM	50 percent
CC, CG, M-1	25 percent

- C. At least fifty percent (50%) of the required open space shall be designated for use as common open space for common enjoyment and use for all users of the development. Private open space (that provided for each dwelling unit or business for personal use) shall be located immediately adjacent to, attached to, or within the dwelling unit or business it is designed to serve and shall be for the exclusive use of the residents or tenants of that building. Decks attached to individual units may not be calculated as part of the required common open space.
- D. The base open space requirement in any residential zone may be reduced five percent (5%) if all of the following conditions are met:
1. No additional density beyond the base in the zone is requested;
 2. The street cross section provides amenities which allow for more landscaping and better separation of pedestrian and vehicular traffic (beyond the typical public street); and
 3. The common open space provided shall be integrated into the PUD project and accessible to all residents of the PUD community via pedestrian corridors or via enhanced pedestrian systems, which minimize the need to cross streets.
- E. The base open space requirement in the single-family residential zones may be reduced to thirty five percent (35%) for PUDs where all of the dwelling units are detached, single-family structures with attached double car garages.
- F. The following criteria should be considered when granting a density bonus for additional open space as described in SMC 17.88.060 of this chapter:
1. The open space should be held in common via public ownership or by a homeowners' association with a permanent open space easement;
 2. The open space should be large enough for the use of all residents of the project or the general public. Such spaces should include improvements such as playgrounds, pathways, pavilions, play courts, ball fields, as well as informal spaces which encourage the use and enjoyment of the open space. Such areas may include lands, which are buildable, such as prominent ridgelines, views and vistas, and areas of significant native vegetation.
- G. The planning commission and city council shall decide and require the preservation, maintenance and ownership of all open space through one, or a combination of the following:
1. Dedication of the land as a public park or parkway system;
 2. Dedication of the land as permanent open space on the recorded plat; or
 3. Granting the city a permanent open space easement on the open spaces to guarantee that the open spaces remain perpetually in recreation use, with ownership and maintenance being the responsibility of a homeowners' association.
- H. In the event the common open space and other facilities are not maintained in a manner consistent with the approved final PUD plan, the city may at its option cause such maintenance to be performed and assess the costs to the affected property owners or responsible association, as provided in SMC 17.88.140 of this chapter.
- I. Any changes in use, or arrangement of lots, blocks, and building tracts, or any changes in the provision or type of common open spaces must be submitted for review and approval by the city council upon recommendation of the planning commission.

17.88.080 STREETS, CIRCULATION AND PARKING

- A. The design of public streets within a PUD shall follow the applicable city standards for width of right of way and construction. Generally, all streets within a PUD in a residential zone shall be public streets, except private streets may be used at the discretion of the planning commission and city council for direct access from public streets to not more than four (4) individual units or two (2) multiple-unit facilities, and private streets may also be approved for other purposes within the discretion of the planning commission and city council. Private streets shall not exceed one hundred fifty feet (150') in length measured from the curb line of the public street to the point at which the street is no longer used for multiple-unit access. The design of public streets within a PUD shall follow the applicable standards adopted by the city for width of right of way and construction including an optional fifty foot (50') PUD right of way which may only be allowed at the discretion of the planning commission and city council. Public streets shall not terminate in a dead end, but shall terminate in a cul-de-sac with a minimum curb radius of forty three feet (43') or thirty five feet (35') in the case of the optional fifty foot (50') PUD street right of way.
- B. The design of private streets within a PUD when allowed in a residential zone shall be bound by a minimum twenty four inch (24") integral concrete curb and gutter with a minimum width of twenty eight feet (28') from back of curb to back of curb. Streets within a PUD in a commercial zone may be private. The design of private streets within a commercial zone shall be based on the needs of the development and shall be at the discretion of the planning commission and city council.
- C. Designation of streets within a PUD as being either public or private shall be at the discretion of the city council.
- D. All private streets within a PUD shall be dedicated as public utility easements and all underground improvements shall be constructed per Smithfield City standards.
- E. Points of primary vehicular access to a PUD shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian and bicycle traffic. Points of intersection between internal and external circulation systems shall be so arranged that both systems function in a safe and efficient manner.
- F. The required off street parking shall be distributed throughout the PUD and provide reasonable access to all residential structures within the project. The required number of off street parking stalls shall be in conformance with SMC 17.24 of this title. The city council may require off street parking or vehicle storage areas beyond those stated in SMC 17.24 of this title if in the opinion of the city council a reasonable need exists.
- G. Individual private parking stalls and parking structures shall avoid direct access to public streets classified as collector and above in the Smithfield transportation master plan. Driveways serving three (3) units or more may be allowed to access such streets, provided they are located a minimum of three hundred feet (300') from another driveway, private street, or public street when measured from the centerline of the driveway to the centerline of another driveway or street.
- H. Within residential zones, PUDs should incorporate walking and biking trails and pathways for the use and enjoyment of residents. These trails and pathways may vary in width from five (5) to ten feet (10') depending on their intended use. Consideration shall be given for their connectivity or inclusion into the citywide network of trails identified in the city's general plan. Where appropriate, equal consideration for trails and pathways shall be given within nonresidential zones.

17.88.090 APPROVAL PROCESS

A PUD is reviewed in a three (3) step process: conceptual plan review and overlay zoning, preliminary plan review, and final plan review.

17.88.100 APPROVAL OF CONCEPTUAL PLAN REVIEW AND PUD OVERLAY ZONE

- A. Any request for the approval of a PUD overlay zone designation must be made concurrently with the review of a conceptual PUD plan.
- B. The conceptual PUD plan review examines the PUD concept plan with respect to such items as density, including the number, type, and location of dwelling and nondwelling units; parking and circulation; adequacy of services; and the impact of the proposed PUD on surrounding areas.
- C. All requests for a PUD overlay zone by the planning commission shall be in accordance with SMC 17.08.040 of this title. Following the planning commission's review of the PUD overlay zone request and the conceptual plan, the planning commission shall forward a recommendation to the city council.
- D. The city council shall review the proposed rezone and conceptual PUD plan request in accordance with SMC 17.08.040 of this title.
- E. Conceptual approval and PUD overlay zoning will only be granted when there is a reasonable certainty that the PUD will fulfill the requirements of the general plan, this code and the city development guidelines and design standards.
- F. The conceptual plan shall be submitted to and approved by the planning commission and city council as outlined above and shall contain the following information:
 - 1. A legal description.
 - 2. Lot configurations, lot area, lot slope and buildable area if applicable.
 - 3. Contour lines.
 - 4. Street configuration, centerline slope, and cross section.
 - 5. Location of all cuts and fills.
 - 6. Existing public utilities.
 - 7. Proposed stormwater, culinary and irrigation water, and sanitary sewer systems.
- G. Approval of a conceptual PUD plan shall require the following findings:
 - 1. The proposed development is consistent with the standards of the general plan;
 - 2. In cases of a residential PUD, the proposed development will provide a more pleasant and attractive living environment than a conventional residential development established under the provisions of the underlying residential zone;
 - 3. The proposed development creates no detriment to adjacent properties nor to the general area in which it is located; and it will be in substantial harmony with the character of existing development in the area;
 - 4. The PUD project will provide more efficient use of the land and more usable open space than a conventional development permitted by the underlying zone;
 - 5. Any variations allowed from the development standards of the underlying zone will not create increased hazards to the health, safety, or general welfare of the public within the proposed planned unit development or adjacent areas; and
 - 6. The application of a density bonus of up to fifty percent (50%) will be compensated by better site design and by increased amenities.

17.88.110 SUBDIVISION CONCURRENT WITH PUD APPROVAL

Subdivision approval may be considered concurrent with the PUD review and approval process. Subdivision review shall follow all subdivision standards as outlined in SMC 16 of this code and the development standards and design guidelines.

17.88.120 PRELIMINARY PUD PLAN APPROVAL

- A. The preliminary PUD plan shall be submitted to the planning commission for consideration. Following their review, the planning commission shall forward the preliminary PUD plan to the city council with their recommendation. Said preliminary PUD plan shall contain the following information:
 - 1. A complete and accurate legal description of the property which is the subject of the planned unit development. A preliminary title search showing legal ownership

- of the property. If the developer is not the property owner, written proof that said developer has sufficient legal claim on the property, and each parcel therein, or authority to represent its owners, must be provided to proceed with development plans;
2. Topographic maps of the entire site, including contour intervals no greater than two feet (2');
 3. A tabulation of the total acreage of the site and the percentages thereof to be designated for various uses, i.e., parking, buildings, residential units, open space, streets, etc.;
 4. Proposed circulation pattern including private driveways, public and private streets, and pedestrian and bicycle paths;
 5. Parks, common open spaces, playgrounds, school sites, and other public or private recreation facilities and improvements proposed within the PUD;
 6. General locations of all buildings including dwellings and other structures in the planned unit development. For residential planned unit developments, an indication of proposed population densities and building densities (units per acre), including tables or graphs showing the percentages of each dwelling type proposed;
 7. Proposed location of parking, ingress and egress;
 8. A general landscaping plan showing what areas are to be landscaped and what types of plants and materials are contemplated;
 9. Preliminary elevations or perspectives of all building types proposed within the development;
 10. If the site is being divided, the information required to be included in a preliminary subdivision plat showing a general layout of all proposed lots as outlined in SMC 16 of this code. Provided all required preliminary subdivision plat information is included, the preliminary PUD plan approval shall also be deemed as approval of the preliminary subdivision plat;
 11. A preliminary public utility plan showing the manner in which adequate sewage disposal, storm drainage, and water services are to be provided, including the point from which said services are to be extended or connected; and
 12. A geotechnical report if deemed necessary by the city council or planning commission.
- B. In considering the preliminary PUD plan, the planning commission shall hold a public hearing after giving notice as required under section 10-9a-207 of Utah Code Annotated for the purpose of gathering public input prior to rendering a decision on the final plan request.
- C. The planning commission may impose such conditions on a preliminary PUD plan as it may deem appropriate to meet the goals and objectives of this chapter and the general plan.

17.88.130 FINAL PUD PLAN APPROVAL

- A. Following the approval of the preliminary PUD plan and prior to the construction of any building or structure in the PUD overlay zone, a final PUD plan shall be submitted for consideration by the planning commission and city council. Final plans may be submitted in phases, provided each phase can exist as a separate project capable of independently meeting all of the requirements of this chapter and of the underlying zone with which the PUD zone has been combined. The separate development of said phases shall not be detrimental to the PUD nor to the adjacent properties in the event the remainder of the project is not completed. The final PUD plan shall be drawn to scale and shall contain the following information:
1. All of those requirements designated for submission with preliminary PUD plans;
 2. A certified survey of the property showing any survey conflicts with adjoining properties, any discrepancies between the survey descriptions and existing fence lines, and overlaps with adjoining property descriptions;
 3. Tabulations of all dwelling units to be constructed by types and the anticipated number of bedrooms per unit;
 4. Detailed development plan with completed dimensions showing locations of all buildings and structures, lot or parcel sizes and locations, designations of common open spaces and special use areas, detailed circulation pattern including proposed ownership and typical cross section of streets;
 5. Final exterior design for all building types presented as exterior perspectives or exterior elevations;
 6. Detailed landscaping plans showing the types and sizes of all plant materials and their locations, decorative materials, recreation equipment, special effects, and sprinkler irrigation systems;
 7. Dimensioned parking layout showing location of individual parking stalls and all areas of ingress or egress;
 8. Detailed engineering plans showing site grading, street improvements, drainage, and public and private utility locations, and submission of engineering feasibility studies, stamped by a licensed professional engineer, if required by the city engineer;
 9. Fully executed declaration of covenants, conditions, and restrictions (CC&Rs), together with open space easements and other guarantees, or agreements as required herein or, as may have been recommended by the planning commission and deemed necessary by the city council to meet the objectives of this chapter;
 10. A time schedule for the completion of landscaping, parking, street improvements and other improvements and amenities which are guaranteed by bonds or other securities; and
 11. An acknowledgment that all water distribution and sewage collection main lines are the property and responsibility of the city. All storm sewer lines and appurtenances are the property and responsibility of the city, except landscaped areas that have been established and set aside for stormwater retention or detention which shall be the responsibility of the PUD.
- B. Any failure to receive final PUD plan approval from the city council within two (2) years of the approval of the conceptual PUD plan shall terminate all proceedings and render the conceptual PUD plan null and void.

17.88.140 GUARANTEES AND COVENANTS

- A. Adequate guarantees shall be provided for permanent retention and maintenance of all open space areas (which, for purposes of this title, shall include all common areas and facilities and/or limited common areas) created within a PUD. Final plan approval will not be granted until all required guarantees have been submitted to and approved by the planning commission. Said open space guarantees may include the following:
1. The city may require the developer to include with the recorded covenants, conditions and restrictions (CC&Rs) language which will guarantee the retention of the open land area(s) and which grants beneficial use rights in the open space area(s) to all owners or occupants of the land within the PUD, or the city may require the creation of a corporation or other entity, to own title to the open space area(s) and to grant beneficial use rights in the open space area(s) to all owners or occupants of land within the development.
 2. The developer shall be required to develop and provide for the maintenance of all open space area(s), unless part of or all of the open space area(s) are contiguous to and are made a part of an existing public park, and the city accepts dedication and approves the annexation of the open space area(s) to said public park.
 3. In the case of private ownership of open space area(s), the open space area(s) to be reserved shall be protected against building development by conveying to the city as part of the condition of project approval, an open space easement over such open space area(s), restricting the area(s) against any future building or use, except as approved on the project plan.
 4. The care and maintenance of the area(s) within such open space shall be ensured by the developer by establishing a private association, corporation, or other entity responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the PUD. Ownership and tax liability of private

open space area(s) shall be established in a manner acceptable to the city and made a part of the conditions of the final plan approval.

5. Maintenance of open space area(s) shall be managed by a person or persons, a partnership, a corporation or other entity in which there is adequate expertise and experience in property management to assure the maintenance is accomplished efficiently and at a high standard of quality.
6. The following provisions shall apply to each PUD for which the developer establishes a private association, corporation, or other entity (hereafter "homeowners' association" or "HOA") which holds the title to and is responsible for open space area(s) and the associated maintenance and costs. The HOA shall be formed and operated under the following or reasonably similar provisions:

- a. The developer shall provide covenants, conditions and restrictions (CC&Rs) of the HOA, including its bylaws, articles of incorporation and methods for maintaining the open space area(s). The CC&Rs shall be reviewed and approved in content and form by the city. Acceptance of the CC&Rs by the city will be contingent upon meeting the intent and conditions required by this code. The CC&Rs will be approved by the city prior to filing the final plat. The CC&Rs will be recorded at the county recorder's office concurrently with the filing of the final plat.
- b. The HOA shall be organized by the developer and be operated with financial subsidization by the developer, before the sale of any lots within the development.
- c. Membership in the HOA shall be automatic (mandatory) for all purchasers of homes, lots or other property interests in the PUD and their successors. The conditions and timing of transferring control of the HOA from developer to homeowners shall be identified in the CC&Rs.
- d. The HOA shall be responsible for maintenance of insurance and taxes on open space area(s).
- e. The members of the HOA shall share equitably the costs of maintaining and developing all open space area(s). Fees shall be determined by the HOA and assessed and deposited in an appropriate HOA account.
- f. The developer of the subdivision shall endow the HOA with funds equivalent to ten percent (10%) of the development cost for all common improvements, which shall be used by the HOA to operate, maintain and insure the HOA for the first year that the association begins to operate independently of the developer, unless other appropriate funding is supplied by the developer and approved by the city. Funds shall be deposited in the HOA account in the name of the HOA within ten (10) days after the day on which the HOA begins to operate independently of the developer.
- g. All improvements to the open space area(s) held in common or intended to be held in common by the HOA shall be installed, completed and accepted prior to the beginning of the second phase of construction or eighteen (18) months after completion of the public improvements in the first phase of the PUD, whichever date occurs first; or if the project is not phased, prior to sale of all lots or eighteen (18) months after completion of the public improvements in the PUD, whichever date occurs first. If phasing of the improvements to the open space area(s) is required by the developer, all incomplete improvements for the open space area(s) shall be secured through a bond posted by the developer, in the same manner as set forth in SMC 16.22 of this code.
- h. The HOA shall have a qualified person or persons or shall hire a qualified property manager or company to administer and maintain all open space area(s).
- i. Upon application by the developer, with the recommendation of the planning commission and the permission of the city council, an HOA may transfer title to the open space area(s), and/or its maintenance responsibilities, to a private nonprofit organization, among whose purposes it is to conserve undivided land, such as the open space area(s); provided that:

- (1) The organization is acceptable to the planning commission and the city council, and is a bona fide conservation organization with perpetual existence;
- (2) The conveyance contains appropriate provision for proper reverter or retransfer in event that the organization becomes unwilling or unable to continue carrying out its functions; and
- (3) A maintenance agreement acceptable to the planning commission and the city council is entered into by the developer and the organization.

- j. The following notation shall be recorded on the face of the final plat:

Smithfield City shall have the right, but not the duty, to require, and if necessary, perform or cause to be performed, at the expense of the owner of the open space and other private area(s), including clubhouse, pool and other recreation facilities, (HOA, hereafter), all landscaping, snow removal, and other upkeep and maintenance services, as applicable, within the open space area(s), if the HOA fails adequately to perform such tasks. The city may take these actions when asked to assume responsibility for such upkeep and maintenance tasks by the HOA and the city council may also take such actions when it determines the need based on a pattern of neglect and lack of maintenance and after meeting the procedures outlined in the Covenants, Conditions and Restrictions (CC&Rs), recorded concurrently with this final plat. In the event Smithfield City exercises this right, the city shall be entitled to assess and collect the necessary HOA fees and recover any associated costs and attorney fees. This notation shall not be amended or deleted without the approval of Smithfield City.

7. The HOA or other owner of the open space area(s) shall be responsible for the assessment and collection of all funds required for the operation and maintenance of the open space area(s) and the physical improvements to the open space area(s).
8. In the event that the HOA, or any successor entity, at any time after establishment of the PUD, shall fail to maintain the open space area(s) in reasonable order and condition in accordance with the development plan and customary practices for the type of real property and improvements involved, or if the city shall receive notice of three (3) complaints concerning upkeep of the open space area(s) or structures from members of the HOA, or notice of insurance default on any portion of the property in which the HOA has secured an insurance policy, the HOA shall be deemed in default of the CC&Rs and the CC&Rs shall provide for the city to serve written notice upon the agent or officer of the HOA or upon the members of the HOA, setting forth the manner in which the HOA has failed to maintain the open space area(s) and directing the HOA to cure the failure. In the event the HOA fails to remedy the failure to maintain the open space area(s) and improvements, within thirty (30) days after the date of the notice, the city shall have the authority to assume the position of the HOA and its board of trustees for the purposes of assessing and collecting the funds necessary from the members of the HOA to either perform the necessary upkeep and maintenance services and be reimbursed for all expenses incurred, including reasonable attorney fees and costs, or to hire a private property management company to do so, and to take all other actions necessary and required to maintain said open space area(s), at the expense of the HOA and its members.

- B. In order to ensure that the PUD will be constructed to completion in an acceptable manner, the applicant (owner) shall post a performance bond in compliance with SMC 16.22 of this code.
- C. Any changes, modifications, or amendments to the approved CC&Rs which may alter the intended function, allowances, or restrictions of the PUD may only be made with the approval of the Smithfield City council. Language shall be placed within the body of the CC&Rs reflecting this requirement.

17.88.150 FAILURE TO PERFORM

In case of failure or neglect to comply with any and all of the conditions and regulations herein established, and as specifically made applicable to a PUD, such failure or neglect shall be cause for termination of the approval of the project. Failure or neglect to comply with the requirements and to maintain the buildings and premises in accordance with the conditions or approval thereafter shall also be deemed to be a violation of this chapter.

17.90 GATEWAY OVERLAY ZONE

17.90.010 PURPOSE OF CHAPTER

17.90.015 LANDSCAPING

17.90.020 SOUTH AND NORTH END GATEWAY OVERLAY ZONE BOUNDARIES

17.90.025 ARCHITECTURAL DESIGN AND MATERIALS

17.90.010 PURPOSE OF CHAPTER

It is the purpose of this overlay chapter to allow business growth on Highway 91 that is complementary to the city's goals of promoting a high quality business environment and providing an aesthetically pleasing gateway on both the south and north ends of Smithfield City.

17.90.015 LANDSCAPING

- A. A minimum twelve foot (12') landscape buffer shall be maintained from the property line abutting any public or private street, this area must be landscaped. There shall not be any encroachments into this required landscape buffer by parking, buildings, or any internal traffic circulation except for approved accesses to the property.
- B. Landscaping shall be required on a minimum of six percent (6%) of the net area of the developed site. Net area is the total site remaining after the dedication of any required right of way.
 1. The landscaped buffer area described above may not be applied toward the required six percent (6%) of net area landscaping.
 2. Landscape designs shall incorporate live plant materials.
 3. Trees, in addition to sod, shall be the predominate landscape plant in the above required area.
 - a. There shall be at least one tree incorporated in each fifty (50) linear feet of landscaped area.
 4. Trees shall be selected from a list of approved trees adopted by Smithfield City. All trees shall have access to an approved irrigation system.
 5. Gravel and cobble may be used to accent the plan but may not be used as the primary landscaping material.
 6. All landscape plans shall be provided with an underground automatic irrigation system and the health of the landscaping shall be guaranteed for a period of two (2) years from the date of installation.
 7. All landscape plans shall be prepared by a licensed landscape architect and shall incorporate water conservation designs.
 8. Parking lots in excess of twenty (20) stalls shall include landscaping on a minimum of five percent (5%) of the gross site covered by parking.
 9. The exterior of the parking area shall have a minimum six foot (6') wide landscaping strip which may not be applied to the five percent (5%) requirement of parking lot landscaping, but may be included in the overall six percent (6%) of net landscape area. This area shall be landscaped according to city standards.
 10. Trees shall be provided within the parking lot landscaped area. Trees shall be chosen from the city tree list.
 11. All required landscaping shall be kept free of weeds and in a healthy, visually pleasing condition.

17.90.020 SOUTH AND NORTH END GATEWAY OVERLAY ZONE BOUNDARIES

South end gateway overlay zone boundary: 700 South Street, south to the annexation boundary line between Smithfield City and Hyde Park. Bounded on the east for one block and on the west for one block, within this north-south corridor.

North end gateway overlay zone boundary: 800 North Street northward to County Road 7800 North. Bounded on the east of U.S. Highway 91 for one block and on the west of Highway 91 for one block, within this north-south corridor.

17.90.025 ARCHITECTURAL DESIGN AND MATERIALS

The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building site. Requirements applicable to the design and approval of buildings shall be:

A. General Requirements:

1. All sides of individual buildings shall be designed with materials, shapes, and forms consistent with one another.
2. Buildings shall be designed to relate to grade conditions with a minimum of grading and exposed foundation walls.
3. Mechanical equipment shall be located or screened so as not to be visible from public streets. Screens shall be aesthetically incorporated into the design of the building. Screen materials shall be compatible with those on the building.
4. Plans for exterior modifications to any existing structures must be submitted to the planning commission for approval and must meet the same requirements as all other structures within the overlay zone.
5. The design of all buildings shall be prepared by an architect licensed in the state of Utah.
6. All exterior building materials must be finished.
7. All buildings within the development shall possess a similar architectural theme.
8. The following finishes are not allowed in the overlay zone:
9. Corrugated or galvanized metal.
10. Unpainted or unfinished surfaces, such as masonry block, wood and/or unfinished concrete.

B. Architectural Controls:

1. Predominant exterior building materials (those materials which form the bulk of the building excluding roofs, windows, doors and trim, but including walls, parapets and other major structural features) shall be of a high quality. These may include the following in order of preference by the city:
 - a. Brick.
 - b. Sandstone, or other native stone.
 - c. Stucco.
 - d. Custom metal siding and panels in combination with other materials, as a conditional use. This provision is not intended and not to be applied to allow the construction of mass produced or standardized metal buildings, notwithstanding such buildings may contain other materials as a veneer or other application.
 - e. Tinted, textured, concrete masonry units and cinder block.
 - f. Flagstone, river rock and similar rock.

- g. Precast or tilt up concrete panels, with customized decorative features.
- h. Wood.

These materials may also be used in combination on the same structure.

- 2. Colors of predominant facade materials shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black, or florescent colors for predominant facade materials will be considered.
- 3. Building trim and accent areas may feature brighter colors.
- 4. Predominant exterior building materials shall not include the following:
 - a. Smooth faced concrete block.
 - b. Mass produced or standardized metal siding or panels.

17.91 AIRPORT LIMITATION OVERLAY ZONES

17.91.010 PURPOSE

17.91.020 GENERAL PROVISIONS

17.91.030 DEFINITIONS

17.91.040 AIRPORT ZONING COMMISSION

17.91.050 AIRPORT APPEAL AUTHORITY

17.91.060 SCHEDULE OF USES

17.91.070 AIRPORT MASTER PLAN

17.91.080 AIRPORT ZONES

17.91.090 REGULATIONS

17.91.100 NOTIFICATION

17.91.010 PURPOSE

The airport limitation overlay zones are intended to establish standards assuring the long range, safe and beneficial use of the Logan-Cache County Airport.

17.91.020 GENERAL PROVISIONS

- A. These regulations reinforce specific provisions in the Logan-Cache Airport master plan (August 11, 1992) and the Cache Countywide comprehensive plan (January 27, 1988), as amended.
- B. The boundaries of any officially recognized "airport limitation overlay zone" shall be as it appears on a map and/or other documents approved by the Smithfield City council.

17.91.030 DEFINITIONS

As used in this chapter, unless the context otherwise requires:

AIRPORT: The Logan-Cache Airport or any area of land designated and used for the landing and taking off of aircraft.

AIRPORT ELEVATION: The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is four thousand four hundred fifty seven feet (4,457') MSL as of the effective date hereof.

AIRPORT HAZARD: Any structure or use of land which actually or potentially obstructs the airspace required for the safe flight of aircraft in landing or taking off at an airport.

APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in SMC 17.91.090 of this chapter. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES: These zones are set forth in SMC 17.91.080 of this chapter.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

FAR PART 77: Federal aviation administration regulations pertaining to height and obstruction criteria within prescribed distances from an airport as these regulations currently exist and as may be amended from time to time. Part 77 regulations may also affect lands located outside the boundaries of the defined airport influence area.

HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT: For the purpose of determining the height limits in all zones set forth in SMC 17.91.090D of this chapter and shown on the zoning map, the datum shall be the mean sea level (MSL) elevation unless otherwise specified.

HELIPORT PRIMARY SURFACE: The primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

HORIZONTAL SURFACE: A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Ldn: Yearly day-night average sound level.

LARGER THAN UTILITY RUNWAY: A runway that is constructed and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds' maximum gross weight and jet powered aircraft.

MSL: Mean sea level.

NONCONFORMING USE: Any preexisting structure, object or natural growth, or use which is inconsistent with the provisions of this title or an amendment thereto.

NONPRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for which a straight in nonprecision instrument approach procedure has been approved or planned. It also means a runway for which a nonprecision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

OBSTRUCTION: Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in SMC 17.91.090D of this chapter.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assign, or a similar representative of any of them.

PRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), a precision approach radar (PAR), a global positioning system (GPS), a transponder landing system (TLS), or other systems providing both horizontal and vertical guidance. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in SMC 17.91.989E of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE: An object including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

TRANSITIONAL SURFACES: These surfaces extend outward at ninety degree (90°) angles to the runway centerline and the runway centerline extended at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of five thousand feet (5,000') measured horizontally from the edge of the approach surface and at ninety degree (90°) angles to the extended runway centerline.

TREE: Any object of natural growth.

UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds' maximum gross weight and less.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures.

17.91.040 AIRPORT ZONING COMMISSION

- A. Commission Established: The Smithfield City planning commission is designated as the "Smithfield airport zoning commission" as prescribed in Utah code 72-10-405.
- B. References To Commission: In this title and state law, any references to the "airport zoning commission" shall mean the Smithfield planning commission. If the planning commission is empowered in this chapter to take actions that are duties of the airport zoning commission as prescribed in state law, the planning commission shall be presumed to be functioning as the airport zoning commission.
- C. 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 Smithfield City council or Utah law.

17.91.050 AIRPORT APPEAL AUTHORITY

- **Appeal Authority Established:** The Smithfield City appeal authority is designated as the "airport appeal authority" as prescribed in Utah code 72-10-408.
- **References To Appeal Authority:** In this title and state law, any references to the "airport appeal authority" shall mean the Smithfield appeal authority. If the appeal authority is empowered in this chapter to take actions that are duties of the airport appeal authority as prescribed in state law, the appeal authority shall be presumed to be functioning as the airport appeal authority.
- **Duties:** The airport appeal authority shall hear issues pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Smithfield City council or Utah law.

17.91.060 SCHEDULE OF USES

The following table indicates the uses and conditions required of those uses within the designated zones for the airport.

Land Use Description	Airport Overlay Zones				
	Airport Influence Area (AIA)	Traffic Pattern Zone (TPZ)	65 Ldn Noise Area (NA)	Inner Approach Zone (IAZ)	Approach Zone (AZ)
Residential/domestic:					
Accessory apartment	C ⁶	C ⁴	-	-	C ^{3,4}
Accessory building	C ⁶	C ⁴	-	-	C ^{3,4}
Accessory, residential unit	C ⁶	C ⁴	-	-	C ^{3,4}
Bed and breakfast inn	C ⁶	C ⁴	-	-	C ^{3,4}

Boarding/rooming house	C ⁶	C ⁴	-	-	C ^{3,4}
Childcare centers	C ⁶	C ⁴	-	-	C ^{3,4}
Home occupations	C ⁶	C ⁴	-	-	C ^{3,4}
Hotel/motel	C ⁶	C ⁴	-	-	C ^{3,4}
Multiple-family dwelling	C ⁶	C ⁴	-	-	C ^{3,4}
Preschool	C ⁶	C ⁴	-	-	C ^{3,4}
Single-family dwelling	C ⁶	C ⁴	-	-	C ^{3,4}
Institutional:					
Detention facilities	C ⁶	C ⁴	-	-	C ^{3,4}
Hospital	C ⁶	C ⁴	-	-	C ^{3,4}
Library, museums, galleries	C ⁶	C ⁴	-	-	C ^{3,4}
Nursing homes	C ⁶	C ⁴	-	-	C ^{3,4}
Public administrative offices	P	C ⁶	C ¹	C ¹	C ⁴
Recreational facilities	C ⁶	C ⁴	-	-	C ^{3,4}
Residential facilities for elderly persons/persons with a disability	C ⁶	C ⁴	-	-	C ^{3,4}
Schools, colleges, university	C ⁶	C ⁴	-	-	C ^{3,4}
Utility related services:					
Communication towers	P	C ⁶	C ¹	C ¹	C ⁴
Electric substations	P	C ⁶	C ¹	C ¹	C ⁴
Radio and television stations	P	C ⁶	C ¹	C ¹	C ⁴
Utility, public/private offices	P	C ⁶	C ¹	C ¹	C ⁴
Utility shops, storage yards, and buildings	P	C ⁶	C ¹	C ¹	C ⁴
Water reservoirs/tanks	P	C ⁶	C ¹	C ¹	C ⁴
Recreational:					
Amusement parks, indoor/outdoor	P	C ⁶	C ¹	C ¹	C ⁴
Golf course	P	P	C ²	P	P
Outdoor recreational sports	P	P	C ²	P	P
Parks	P	P	C ²	P	P
Swimming pool	P	P	C ²	P	P
Commercial and industrial:					
Food service establishments	P	C ⁶	C ¹	C ¹	C ⁴
Heavy industrial	P	C ⁶	C ¹	C ¹	C ⁴
Light industrial	P	C ⁶	C ¹	C ¹	C ⁴
Manufacturing	P	C ⁶	C ¹	C ¹	C ⁴
Offices	P	C ⁶	C ¹	C ¹	C ⁴
Retail trade	P	C ⁶	C ¹	C ¹	C ⁴
Service establishments	P	C ⁶	C ¹	C ¹	C ⁴
Storage	P	C ⁶	C ¹	C ¹	C ⁴
Warehousing	P	C ⁶	C ¹	C ¹	C ⁴
Wholesale trade	P	C ⁶	C ¹	C ¹	C ⁴
Agricultural uses:					
Cropland	P	P	P	P	P
Dairy	P	C ⁶	C ¹	C ¹	C ⁴
Livestock	P	P	C ²	P	P

Open space	P	P	P	P	P
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Notes:

- A. If allowed, aviation easement and disclosure must be required as a condition of development.
- B. Any structure associated with uses allowed in the 65 Ldn noise contour must be located outside the 65 Ldn noise contour.
- C. If no reasonable alternative exists, use should be located as far from extended centerline as possible.
- D. If allowed, disclosure of airport proximity must be required as a condition of development. An aviation easement should be considered based on proximity to runway centerline.
- E. Transportation facilities in the 65 Ldn noise contour (i.e., roads, railroads, waterways) must comply with part 77 requirements.
- F. Disclosure of airport proximity should be required as a condition of development.

17.91.070 AIRPORT MASTER PLAN

All uses and regulations pertaining to the airport limitation overlay zones shall be in compliance with and subject to the provisions of the airport master plan, airport layout plan and noise contour map as adopted by the Logan-Cache Airport authority board or as amended and is incorporated into this chapter by reference as it pertains to airport land uses.

17.91.080 AIRPORT ZONES

In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Logan-Cache Airport. Such zones are shown on the Logan-Cache Airport "part 77" airspace drawing consisting of two (2) sheets prepared by Armstrong Consultants, and dated March 1997, which are attached to the ordinance codified herein and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Airport Influence Area (AIA): An area within the incorporated portions of Smithfield City, proximate to the airport, which is recognized by the city council as containing lands which might be affected by noise and/or safety hazards associated with aircraft operations associated with Logan-Cache Airport. The AIA extends from the airport to the outer edge of the conical surface.
- B. Traffic Pattern Zone (TPZ): This zone extends from the airport to the outer edge of the horizontal surface.
- C. 65 Ldn Noise Area (NA): The area within the sixty five (65) decibel yearly day-night average sound level.
- D. Inner Approach Zone (IAZ): The inner edge of this zone coincides with the width of the primary surface of runway 17/35 and is one thousand feet (1,000') wide. It extends at a uniform width of one thousand feet (1,000') to a horizontal distance of five thousand feet (5,000') from the primary surface. The centerline of the inner approach zone is a continuation of the centerline of runway 17/35.
- E. Approach Zone (AZ): The area within the FAR "part 77" approach surface for each runway.
 - 1. Runway precision instrument approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet (1,000') wide. The approach surface expands outward uniformly to a width of sixteen thousand feet (16,000') at a horizontal distance of fifty thousand feet (50,000') from the primary surface. The centerline of the approach zone is the continuation of the centerline of the runway. This is the planned condition at the approach end to runway 17.
 - 2. Runway nonprecision instrument approach zone (larger than utility aircraft): The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet (1,000') wide. The approach zone expands outward uniformly to a width of three thousand five hundred feet (3,500') at a horizontal distance ten thousand feet (10,000') from the primary surface. Its centerline is the continuation of the centerline of the runway. This is the condition at the approach end to runway 35.
 - 3. Visual runway approach zone (larger than utility aircraft): The inner edge of this approach zone coincides with the width of the primary surface and is five hundred feet (500') wide. The approach surface expands uniformly to a width of one thousand five hundred feet (1,500') at a horizontal distance of five thousand feet (5,000') from the primary surface. The centerline of the approach zone is a continuation of the centerline of the runway. This is the condition at the approach end to runway 10 and 28.
- F. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
- G. Horizontal Zones: The horizontal zone is established by swinging arcs of ten thousand feet (10,000') radii from the center of each end of the primary surface of runway 17/35 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- H. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of four thousand feet (4,000').

17.91.090 REGULATIONS

- A. **Conforming Uses Only:** All uses in the airport limitation overlay zones shall be subject to the regulations of this chapter and prescribed development standards within the airport master plan as amended.
- B. **Creation Of Airport Hazards Prohibited:** No variance, permit or use shall be allowed in the airport hazard area that would create or enhance an airport hazard.
- C. **Use And Operational Limitations Within Airport Limitation Overlay Zones:** No use shall be permitted which:
 - 1. Creates or tends to create electrical interference to navigational devices and communication between aircraft and airports.
 - 2. Creates or tends to create gas, smoke, dust, glare or other visual hazards in the atmosphere around airports or in the airport hazard area.
 - 3. Creates or tends to create structures that interfere with aircraft safety.
 - 4. Creates or tends to create any type of hazard for the airport that would inhibit or constrain safe and acceptable airport operations.
- D. **Height Limitation:** Except as exempted in SMC E of this section or otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow, in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:
 - 1. Runway precision instrument approach zone: Slopes fifty feet (50') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet (10,000') and continues on for a distance of forty thousand feet (40,000') at a slope

- of forty feet (40') outward for each foot upward along the extended runway centerline. (Approach to runway 17)
2. Runway nonprecision instrument approach zone (larger than utility aircraft): Slopes thirty four feet (34') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet (10,000') along the extended centerline. (Approach to runway 35)
 3. Visual runway approach zone: Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5,000') along the extended runway centerline. (Approach to runways 10 and 28)
 4. Transitional zones: Slope seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty feet (150') above the airport elevation. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand feet (5,000') measured at ninety degree (90°) angles to the extended runway centerline.
 5. Horizontal zone: Established at one hundred fifty feet (150') above the airport elevation or at a height of four thousand six hundred seven feet (4,607') above mean sea level (MSL).
 6. Conical zone: Slope twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation (4,607 feet MSL) and extending to a height of three hundred fifty feet (350') (4,807 feet MSL) above the airport elevation.
 7. Within ten thousand feet (10,000') of the centerline of runway 17/35 the following height limitation shall apply:
 - a. From five thousand feet (5,000') of centerline of runway, the height of all structures, uses and trees shall not exceed fifty feet (50') above the contour of the land on which it is proposed to be located.
 - b. From five thousand feet (5,000') to ten thousand feet (10,000') of centerline of runway, the height of all structures, uses and trees shall not exceed seventy five feet (75') above the contour of the land on which it is proposed to be located.
 - c. For structures or uses from five thousand feet (5,000') to ten thousand feet (10,000') of centerline of runway, may apply to the city planning commission to exceed the seventy five feet (75') height limitation if the structure or use does not pose a threat based on the conditions outlined in SMC C of this section.

E. Exemptions To Height Limitation:

1. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
2. Structures up to and including thirty five feet (35') in height above the ground level at its site where the ground elevation at its site is less than or equal to thirty five feet (35') below the height limitations defined in SMC D of this section, and is beyond all reasonable doubt that the structure will not adversely affect safety in air navigation. If in doubt, submission of FAA form 7460-1, notice of proposed construction (as described in SMC 17.91.100 of this chapter) shall be used to determine its effect on safety in air navigation.

17.91.100 NOTIFICATION

- A. Required:** Except as provided in SMC B of this section, and in addition to all other local notification and permitting requirements, each person who proposes any of the following construction or alteration activities shall complete and submit an FAA form 7460-1, notice of proposed construction, to Smithfield City and to the federal aviation administration in accordance with federal aviation regulation part 77, object affecting navigable airspace:

1. Any construction or alteration of more than two hundred feet (200') in height above the ground level at its site.
2. Any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of one hundred to one (100:1) for a horizontal distance of twenty thousand feet (20,000') from the nearest point of the nearest runway at the Logan-Cache Airport.

B. Exemptions From Notification:

1. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
2. Any antenna structure of twenty feet (20') or less in height, except one that would increase the height of any antenna structure.

- C. Time Of Notice:** The notice required under SMC A of this section must be submitted at least thirty (30) days before the earlier of the following dates:

1. The date the proposed construction or alteration is to begin.
2. The date an application for a construction permit is to be filed.

17.92 ACCESSORY APARTMENT

17.92.010 PURPOSE OF CHAPTER

17.92.020 CONDITIONS

17.92.030 APPLICATION PROCEDURES

17.92.010 PURPOSE OF CHAPTER

The purpose of permitting an accessory apartment is to:

- A. Provide homeowners with a means of obtaining, through tenants in an accessory apartment, rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- B. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;
- C. Make housing units available to moderate income households who might otherwise have difficulty finding homes within the city;
- D. Develop housing units in single-family neighborhoods that are appropriate for small households at a variety of stages in the life cycle, thereby lessening fluctuations in neighborhood demand for particular services.

17.92.020 CONDITIONS

A. A conditional use permit will be granted for a use to be known as an accessory apartment rental in owner occupied single-family dwellings, provided that the following standards and criteria are met:

1. The apartment will be a separate housekeeping unit that can be isolated within the original unit.
2. Only one apartment will be created within a single-family house.
3. The owner(s) of the residence in which the accessory apartment is created shall occupy at least one of the units in the dwelling, except for bona fide temporary absences determined by the zoning administrator.
4. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence. Any new entrances shall be located on the side or in the rear of the building.
5. The design and size of the apartment conforms to all applicable standards in the health, building and other codes. Certification by the health department must be issued stating that the waste disposal system is sized according to total available bedrooms in the house before a permit is granted.
6. At least three (3) off street hard surfaced parking surfaces are available for use by the owner-occupant(s) and tenant(s). Parking not to exceed twenty five percent (25%) of front or side property line.
7. Other conditions for accessory apartment:
 - a. Building permit;
 - b. Termination of conditional use permit upon sale of property.
8. Any other appropriate or more stringent conditions deemed necessary by the zoning administrator to protect public health, safety and welfare, and the single-family character of the neighborhood.

B. Accessory apartments are allowed in A agricultural zone, RA residential agricultural zone and R-1 single-family residential zone.

17.92.030 APPLICATION PROCEDURES

A. Application for a permit for an accessory apartment shall be made to the zoning administrator in accordance with the conditional use permit procedures given in this title and shall include:

1. A notarized letter accompanying the application from the owner(s) stating that the owner will occupy one of the dwelling units on the premises, except for bona fide temporary absences;
2. A floor plan of one-fourth inch ($\frac{1}{4}$ ") to the foot showing proposed changes to the building;
3. A site plan;
4. A fee as set forth by the most recent prevailing fee schedule adopted by resolution of the city council to cover the costs of processing the application and code inspection.

B. Within thirty (30) days of the receipt of an application, the zoning administrator shall review and render a decision on the application. If the application fails to meet all of the conditions listed in SMC 17.92.020 of this chapter, or if the zoning administrator determines that there are extenuating circumstances, the application shall be referred to the planning commission for consideration.

C. The purchasers of a home that had a conditional use permit for an accessory apartment who want to continue renting their apartment must reapply for a permit and must demonstrate that all conditions prerequisite to obtaining the relevant permit, in particular their residence in the home, have been met.

D. Where appropriate, the zoning administrator and the planning commission may take steps to expedite approval or to give conditional approval prior to sale in order to protect continued residence by existing tenants.

17.93 RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY

17.93.010 PURPOSE OF CHAPTER

17.93.020 DEFINITIONS

17.93.030 CONDITIONS

17.93.040 DESIGN STANDARDS

17.93.050 REASONABLE ACCOMMODATION

17.93.010 PURPOSE OF CHAPTER

The purpose of this chapter is to describe and outline the conditions and procedures to be followed in establishing a residential facility for persons with a disability.

17.93.020 DEFINITIONS

As used in this chapter:

DISABILITY: A physical or mental impairment which substantially limits one or more of a person's major life activities, including a person having a record of such impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of or addiction to any federally controlled substances as defined in section 102 of the controlled substance act, 21 USC 802, or successor law. As used in this definition:

A. "Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
3. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

B. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

C. "Has a record of such an impairment" means: Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more

major life activities.

D. "Is regarded as having an impairment" means a person who:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but is treated by another person as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments defined in SMC A of this definition but is treated by another person as having such an impairment.

REASONABLE ACCOMMODATION: A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

- A. "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
- B. "Necessary" means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.
- C. "Equal opportunity" means achieving equal results as between a person with a disability and a nondisabled person.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A residence in which not more than eight (8) persons with a disability reside and which is licensed or certified by:

- A. The Utah department of human services under Utah Code Annotated, section 62A-101 et seq., as amended, or
- B. The Utah department of health under Utah Code Annotated, section 26-21 et seq., as amended.

17.93.030 CONDITIONS

A residential facility for persons with a disability shall be allowed as a permitted use in any zone where residential dwellings that are not residential facilities for persons with a disability are allowed. All persons or entities desiring to establish a residential facility for persons with a disability shall first make application to the planning commission for a permit demonstrating zoning/land use regulation clearance. The permit shall be granted by the planning commission when compliance with the following requirements is established:

- A. **Code Compliance:** The facility shall comply with all applicable building, safety, and health regulations, the Americans with disabilities act, fire regulations, and all applicable state code standards and licensing requirements, and any standards set forth in any contract with a state agency.
- B. **Site Development; Parking:** The following site development standards and parking standards shall be applicable:
 1. Each facility shall be subject to minimum site development standards applicable to a dwelling unit in the zone in which the facility is located and SMC 17.93.040 of this chapter, except as may be modified by the provisions of this chapter; and
 2. The minimum number of off street parking spaces required for a facility shall be the same as for similar structures located in the same zoning district as defined in SMC 17.24 of this title. In addition to those listed in SMC 17.24 of this title, there shall be one parking stall per staff member at the highest number of staff that would be present in the facility at one time.
 3. An existing structure may not be utilized as a residential facility for persons with a disability, unless no structural or landscaping alterations that change the structure's residential character are required for the facility to operate. Any alterations to the structure, landscape, or site will require the approval of the appropriate land use authority and must be complete in compliance with this section.
- C. **Prohibited Persons:** No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
 1. May be determined to be or does constitute a direct threat to the health or safety of other individuals; or
 2. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- D. **Licensing:** Prior to occupancy of the facility, the person or entity licensed or certified by the Utah department of human services or the Utah department of health to establish and operate the facility shall:
 1. Provide a certified copy of such license to the city recorder and maintain said license in full force and effect at all times;
 2. Certify, in a sworn affidavit submitted with the application for a business license, compliance with the Americans with disabilities act;
 3. Certify, in a sworn affidavit submitted with the application for a business license, that all current residents/clients qualify and that all future residents/clients will qualify prior to admission to the facility;
 4. Certify that placement in a facility must be on a voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility;
 5. Certify, in a sworn affidavit submitted with the application for a business license, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, has demonstrated that such person is or may be a substantial risk or a direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others; and such a sworn affidavit or statement shall be resubmitted to the city recorder on each sixth month anniversary after the issuance of the city business license required to operate said facility, the intent being that there be such a sworn affidavit on file with the city recorder that is no older than six (6) months;
 6. Apply for, obtain and maintain a city business license in accordance with the procedures stated in SMC 5 of this code, as amended, on forms to be supplied by the city;
 7. Any business license issued in accordance with the provisions of SMC 5 of this code, as amended, may be revoked and any application denied, by reason of the failure of the applicant or licensee to comply with the provisions of this chapter, SMC 5 of this code, or any other applicable statute, ordinance, rule or regulation, by following the procedures set forth in SMC 5.04.165 of this code, as amended.
 8. Obtain and maintain the liability insurance required by the department of human services, the department of health, or as is standard in the industry in the event neither state agency requires that such insurance be obtained and maintained.
- E. **Nontransferable Use:** The use permitted by this section is nontransferable and shall terminate if:
 1. A facility is devoted to or used as other than a residential facility for persons with a disability;
 2. The license or certification issued by the department of human services, department of health or any other applicable agency, including the city, terminates or is revoked; or

3. The facility fails to comply with the conditions set forth in this section.

F. **Appeal:** Any person or entity adversely affected by a final decision of the land use authority regarding an application or request for a residential facility for persons with a disability may appeal that decision to the appeal authority as provided in SMC 17.10 of this title.

17.93.040 DESIGN STANDARDS

In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:

- A. The roof design of the proposed structure or remodel roof shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block on which the proposed building is located; and
- B. The type of exterior materials shall be of traditional home finishing materials of brick, siding, or stucco. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color and combination being uncharacteristic of the other buildings in the neighborhood.

17.93.050 REASONABLE ACCOMMODATION

- A. **Reasonable Accommodation Required:** None of the foregoing conditions shall be interpreted to limit reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for person(s) with a disability.
- B. **Application:** Any person or entity who wishes to request a reasonable accommodation shall make application to the planning commission in compliance with the Smithfield City reasonable accommodation policy. Said application shall specifically articulate, in writing, the following:
 - 1. The name, mailing address and phone number of the applicant;
 - 2. The nature and extent of the disability;
 - 3. An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;
 - 4. The applicant's proposed reasonable accommodation(s);
 - 5. A statement detailing why the proposed accommodation is reasonable and necessary in order to afford person(s) with a disability equal opportunity to use and enjoy housing; and
 - 6. The physical address of the property where the applicant intends on living.
- C. **Decision:** The planning commission shall render a decision on each application for a reasonable accommodation within ninety (90) days. The decision shall be based on evidence of record demonstrating the existence of the conditions stated in SMC C1, C2 and C3 of this section, while taking into consideration, the information stated in SMC C4 through C6 of this section, and considering other factors deemed relevant to properly evaluate the application:
 - 1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
 - 2. That but for the accommodation, one or more persons with a disability will be denied an equal opportunity to enjoy housing within the community.
 - 3. Equal results will be achieved as between the person with a disability requesting the accommodation and a nondisabled person.
 - 4. Given the scope of the accommodation requested, the impact on the immediate neighborhood will not be unreasonable.
 - 5. The accommodation will not fundamentally alter the zoning ordinance of Smithfield City and that the accommodation will not create a fundamental change in the character of a residential neighborhood.
 - 6. The accommodation will not be an undue burden or expense to the city.
- D. **Findings And Conclusions:** Written findings and conclusions of the planning commission shall be sent to the applicant within thirty (30) days after the decision by the planning commission.
- E. **Appeal:** Any person or entity adversely affected by a final decision of the planning commission regarding a request for a reasonable accommodation may appeal that decision to the appeal authority as provided in SMC 17.10 of this title.

17.94 RESIDENTIAL FACILITY FOR ELDERLY PERSONS

17.94.010 PURPOSE OF CHAPTER

17.94.020 DEFINITIONS

17.94.030 CONDITIONS

17.94.040 DESIGN STANDARDS

17.94.010 PURPOSE OF CHAPTER

The purpose of this chapter is to describe and outline the conditions and procedures to be followed in establishing a residential facility for elderly persons.

17.94.020 DEFINITIONS

ELDERLY PERSON: A person who is sixty (60) years of age or older who desires or needs to live with other elderly persons in a group setting but who is capable of living independently.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS: A single-family or a multiple-family dwelling unit that is not operated as a business, and that is owned by one of the residents or by an immediate family member of one of the residents, or shall be a facility for which the title has been placed in trust for a resident; and the facility shall be consistent with the existing zoning of applicable land use ordinances for the desired location, and shall be occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement.

17.94.030 CONDITIONS

- A. A residential facility for elderly persons shall not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
- B. A residential facility for elderly persons shall be allowed as a permitted use in any zone where residential dwellings are allowed, except in areas zoned to permit exclusively single-family dwellings, as set forth in SMC 17.48.020, 17.52.020, 17.56.020, 17.60.020, 17.63.020, 17.64.020, 17.68.020, 17.72.020 and 17.80.020 of this title where they shall be allowed as a conditional use, with a conditional use permit. All persons or entities desiring to establish a residential facility for elderly persons shall first make

application to the planning commission either for a conditional use permit as authorized under SMC 17.32 of this title or for a residential facility for elderly persons permit in areas where the facility is allowed as a permitted use. In zones where a conditional use permit is required, the right to establish a residential facility for elderly persons is subject to the granting of a conditional use permit and complying with all requirements and procedures of SMC 17.32 of this title in addition to the requirements listed below. In zones where a residential facility for elderly persons is allowed as a permitted use, the permit shall be granted by the planning commission when compliance with the following requirements is established:

1. Requirements: Residential facilities for elderly persons shall comply with all requirements of Utah Code Annotated section 10-9a-516 through 519, and also acknowledge and comply with the following requirements:
 - a. The facility shall meet all applicable building codes, safety codes, zoning (land use) regulations, the Americans with disabilities act, and health ordinances applicable to single-family or similar dwellings; except as may be modified by the provisions of this chapter.
 - b. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
 - (1) May be determined to be or does constitute a direct threat to the health or safety of other individuals; or
 - (2) Has or may engage in conduct resulting in substantial physical damage to the property of others.
 - c. Minimum site development standards shall meet the provisions of the zone in which the facility is located and of SMC 17.94.040 of this chapter, except as may be modified by the provisions of this chapter.
 - d. The facility shall be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character.
 - e. In cases where the facility will occupy an existing residential building, the facility shall be capable of being used as a residential facility for residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character.
 - f. No residential facility for elderly persons in areas zoned exclusively for single-family dwellings shall be established or maintained within three-fourths ($\frac{3}{4}$) mile of another existing residential facility for elderly persons or residential facility for persons with a disability, with the distance to be measured in a straight line between the closest property lines of the lots or parcels on which such existing and proposed facilities are or are to be located.
 - g. No person being treated for alcoholism or drug abuse shall be placed in a residential facility for elderly persons.
 - h. Placement in a residential facility for elderly persons shall be on a strictly voluntary basis and not a part of or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
 - i. Any permit granted or issued pursuant to this chapter is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or, if the structure should cease or fail to comply with the provisions of state law or of this chapter.
2. Prior To Occupancy: Prior to occupancy of the facility, the person or entity licensed or certified by the department of human services and/or the department of health to establish and operate the facility shall:
 - a. Provide a certified copy of such license to the city recorder and maintain said license in full force and effect at all times;
 - b. Submit, obtain and maintain an annual facility operation permit on forms provided by the city;
 - c. Certify in a sworn affidavit submitted with the annual facility operation permit application, compliance with the Americans with disabilities act;
 - d. Certify, in a sworn affidavit submitted with the annual facility operation permit application, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others; and such a sworn statement shall be resubmitted to the city recorder on each sixth month anniversary after the issuance of the annual facility operation permit required to operate said facility, the intent being that there be such a sworn affidavit on file with the city recorder that is no older than six (6) months;
 - e. Any annual facility operation permit may be revoked and any application denied, by reason of the failure of the applicant/licensee to comply with the provisions of this chapter, or any other applicable statute, law, ordinance, rule or regulation, by following the procedures set forth in SMC 5.0.165 of this code, and as it may be amended;
 - f. Obtain and maintain the liability insurance required by the department of human services, the department of health or as is standard in the industry, in the event neither state agency requires that such insurance be obtained and maintained.
3. Appeal: Any person or entity adversely affected by a final decision of the land use authority regarding a request or application for a residential facility for elderly persons may appeal that decision to the appeal authority as provided in SMC 17.10 of this title.

17.94.040 DESIGN STANDARDS

In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:

- A. The roof design of the proposed structure or remodel roof shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block on which the proposed building is located; and
- B. The type of exterior materials shall be of traditional home finishing materials of brick, siding, or stucco. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color and combination being uncharacteristic of the other buildings in the neighborhood.

17.96 MANUFACTURED HOUSE

17.96.010 REQUIREMENTS

17.96.010 REQUIREMENTS

The requirements of this chapter shall not prevent the placement of a single-family dwelling on an individual lot, as defined in SMC 17.04.060 of this title, provided the following conditions are satisfied:

- A. Architectural compatibility with site built housing and building code standards.
 1. Shingled pitched roof with eaves,

2. Conventional exterior siding which extends to a permanent continuous foundation of concrete or masonry with access hole. No seamless metal shells,
 3. Has permanent entrances and exits (porches and steps) which are installed according to the adopted building codes,
 4. Stamped approval by HUD (S-5402-6),
 5. Consist of two (2) or more modules not less than twenty four feet (24') total width,
 6. The minimum square footage to be not less than one thousand (1,000) square feet or the average of square footage of adjacent homes;
- B. The necessary building permits are obtained to assure that site preparation, foundations, installation, roof loads, etc. meet the appropriate codes;
 - C. Meets the waste disposal requirements of the city, county and state board of health;
 - D. Does not violate any deed restrictions or covenants in the area where the unit is to be located;
 - E. The manufactured home is recorded with the county recorder as being permanently affixed to real estate;
 - F. Meets side, rear and front yard requirements in residential zones in which they are permitted;
 - G. The manufactured house will be placed, installed and anchored according to installation codes adopted by Smithfield City or county building official and shall be inspected after the manufactured home has been installed and permanently anchored.

17.97 COMMERCIAL RECREATIONAL VEHICLE PARKS OR CAMPGROUNDS

17.100 SITE DEVELOPMENT AND LANDSCAPING

17.100.010 PURPOSE

17.100.020 DEFINITIONS

17.100.030 LANDSCAPING REQUIREMENTS IN COMMERCIAL ZONES

17.100.040 LANDSCAPING REQUIREMENTS IN MANUFACTURING ZONES

17.100.050 LANDSCAPING OF EXISTING BUILDINGS

17.100.060 ADJUSTMENT OF TIME REQUIREMENTS

17.100.070 FEES

17.100.010 PURPOSE

Because of the desire to ensure that all development is done in such a manner that it will result in an orderly and aesthetically pleasing addition to the city, requirements and guidelines are provided for all areas within the commercial and manufacturing zones of Smithfield City.

17.100.020 DEFINITIONS

For the purposes of this chapter:

LANDSCAPE: The placing or arranging of lawns, trees, bushes, etc., on a plot of ground to make it more attractive.

MEDIAN: Area within the confines of the parking area of a lot which is not utilized for vehicular parking or travel and is not occupied by any building or structure and which is bounded on all sides by a concrete curb.

PARKING AISLE: That area of parking which is occupied by a set of continuously connected parking stalls.

PARKING AREA: Area of a lot which is reserved for the storage of vehicles either on a short term or long term basis.

17.100.030 LANDSCAPING REQUIREMENTS IN COMMERCIAL ZONES

- A. **Landscaped Area:** Provisions shall be made to accommodate thirty (30) square feet of landscaped area for every required parking space within a parking lot. This area shall be in the form of medians or islands. Natural vegetation shall be used where possible. Trees in planters do not qualify for this landscaping requirement.
- B. **Planted Medians:** All planted medians shall be a minimum ten feet (10') in width.
- C. **Screening:** All parking areas shall be visually screened from main roadways by appropriate landscaping except for required clear view at intersections as provided in SMC 17.12 of this title.
- D. **Curbing:** A concrete curb shall be provided along all interior roadways and walkways to prevent vehicular intrusion. Where no curb and gutter exists along frontage streets, said curb and gutter and sidewalk shall be installed in accordance with city standards.
- E. **Building Landscaping:** Ten percent (10%) of an area with a square footage equal to a ten foot (10') wide strip around the perimeter of the building, excluding doors, loading docks, ramps, etc., shall be landscaped. This is in addition to the area required in SMC A of this section.
- F. **Trees:** One tree (minimum 1 1/2 inch caliper, 12 feet in height) shall be planted for each ten (10) parking spaces required or portion thereof; i.e., one through ten (10) spaces equals one tree, eleven (11) through twenty (20) spaces equals two (2) trees, etc.
- G. **Plan Approval:** No plans for any building, structure or other improvement shall be approved unless there shall also have been submitted separate site development and landscape plans satisfactory to the planning and zoning staff. Landscaping and site development in accordance with the plans submitted shall be installed within thirty (30) days following occupancy of the building. If said completion is impossible due to adverse weather conditions a mutually agreed upon completion date shall be determined by the planning commission and applicant, but in no case shall the completion date be more than one hundred twenty (120) days from the date of occupancy. The building contractor shall deposit with the city a performance bond which meets the provisions of SMC 16.20.010 of this code as security to assure his compliance with all landscaping and parking requirements. If the contractor or his agent fails to comply with the above provisions, the bond shall be forfeited to the city.
- H. **Areas To Be Landscaped:** All yards and setback areas not occupied by buildings or parking shall be landscaped as herein required.
- I. **Public Right Of Way Landscaping:** The area within the public right of way between the sidewalk and the curb and gutter shall also be landscaped. Said landscaping and street trees shall be according to the city tree warden. Said trees located within the public right of way shall not be in addition to the minimum tree requirement described in SMC G of this section.
- J. **Storage Prohibited:** No storage of equipment or materials shall be visible from the public right of way. Storage areas shall be screened appropriately and be within setback lines.
- K. **Loading Docks:** Loading docks and service areas shall not be visible from the public right of way.

17.100.040 LANDSCAPING REQUIREMENTS IN MANUFACTURING ZONES

- A. **Access:** One access, maximum width of thirty five feet (35') shall be allowed per lot, as they exist on the effective date hereof, or one access shall be allowed for each two hundred feet (200') of frontage. Minimum distances between accesses shall be one hundred feet (100').
- B. **Landscaped Area:** Provisions should be made to accommodate twenty (20) square feet of landscaped area for every required parking space with a parking lot. This includes only medians and islands which are not located on the public rights of way. Trees in planters do not qualify for this requirement.
- C. **Planted Median:** One planted median running the length of the aisle shall be provided for every three (3) contiguous double loaded parking aisles. Said medians shall be a minimum of ten feet (10') wide and shall be so designated to act as on site water retention facilities if required by the city engineer.
- D. **Screening:** All parking areas shall be visually screened from main roadways by appropriate landscaping except for required clear view at intersections as provided in SMC 17.12 of this title.
- E. **Building Landscaping:** Ten percent (10%) of an area with a square footage equal to a ten foot (10') wide strip around the perimeter of the building, excluding doors, loading docks, ramps, etc., shall be landscaped. This is in addition to the area required in SMC B of this section.
- F. **Plan Approval:** No plans for any building, structure, or other improvement shall be approved unless there shall also have been submitted separate site development and landscape plans satisfactory to the planning and zoning staff. Landscaping and site development in accordance with the plans submitted shall be installed within thirty (30) days following occupancy of the building. If said completion is impossible due to adverse weather conditions, a mutually agreed upon completion day shall be determined by the planning commission and applicant, but in no case shall the completion date be more than one hundred twenty (120) days from the date of occupancy. The building contractor shall deposit a performance bond which meets the provisions of SMC 16.20.010 of this code as security to assure his compliance with all landscaping and parking requirements. If the contractor or his agent fails to comply with the above provisions, the bond shall be forfeited to the city.
- G. **Storage Prohibited:** No storage of equipment or materials shall be visible from the public right of way. Storage areas shall be screened appropriately and be within setback lines.
- H. **Areas To Be Landscaped:** All yards and setback areas not occupied by building, parking, or service areas shall be landscaped as herein required.
- I. **Public Right Of Way Landscaping:** The area within the public right of way between the curb and gutter or road shoulder and sidewalk shall also be landscaped and maintained by adjacent property owner. Said landscaping and street trees shall be according to the city tree warden. Said trees located within the public right of way shall not be in addition to those required in SMC J of this section.
- J. **Trees:** One tree (minimum 1½ inch caliper, 12 feet in height) shall be planted for each ten (10) parking spaces required or portion thereof; i.e., one through ten (10) spaces equals one tree, eleven (11) through twenty (20) spaces equals two (2) trees, etc.
- K. **Curbing:** A concrete curb shall be provided along all interior roadways and walkways to prevent vehicular intrusion. Where no curb and gutter or sidewalk exists along frontage streets, said curb and gutter and sidewalk shall be installed in accordance with city standards.

17.100.050 LANDSCAPING OF EXISTING BUILDINGS

Landscaping of buildings and lots existing at the time of the adoption of this chapter shall not be required to meet the requirements of this chapter. If there should be improvements to or expansion of the buildings or grounds at any time following the adoption of this chapter, compliance with this chapter shall be required. However, the requirements of this chapter may be waived by the city council after receiving a recommendation from the planning commission.

17.100.060 ADJUSTMENT OF TIME REQUIREMENTS

The time requirements of this chapter may be adjusted by the planning commission when such adjustment would be in keeping with other pending development or improvement plans; such as the city's capital improvement plan or commitments given to the city by the Utah department of transportation.

17.100.070 FEES

Any requests for plan approval shall be accompanied by the required fee as set forth in the most recent prevailing fee schedule adopted by resolution of the city council.

17.120 USE MATRIX TABLE

17.120.010 USE ALLOWANCE MATRIX

17.120.010 USE ALLOWANCE MATRIX

The following uses shall be designated as AC, "administrative conditional"; C, "conditional"; or P, "permitted". See SMC 17.91.060 of this title for uses in the airport limitation overlay zones.

TABLE 17-1 USE ALLOWANCE MATRIX

Zoning Districts	CB	CP	CC	GC	M-1	A	RA	R-1	RM	I-1	Gateway Overlay
Residential/domestic:											
Accessory apartment	-	-	-	-	-	AC	AC	AC	AC	-	-
Accessory building	P	P	P	C	C	P	P	P	P	P	P
Accessory, residential unit	C	C	C	C	-	-	-	-	-	-	C
Assisted Living Facility, Type I Large	C		C	C							
Assisted Living Facility, Type II Large	C		C	C							
Assisted Living Facility, Type I Small			C	C					C		
Assisted Living Facility, Type II Small			C	C					C		
Assisted Living Facility, Type I Limited			C	C				C	C		
Assisted Living Facility, Type II Limited			C	C				C	C		
Bed and breakfast inn	C	C	C	C	-	-	-	-	C	-	C

Boarding/rooming house	-	-	P	C	-	C	-	-	C	-	P
Chickens								AC			
Childcare center, commercial	C	C	C	-	-	-	-	-	-	-	C
Childcare center, family group	-	-	-	-	-	AC	AC	AC	-	-	-
Childcare center, residential	-	-	-	-	-	AC	AC	AC	AC	-	-
Dwelling 1 unit, attached	C	C	C	-	-	-	-	-	C	-	C
Dwelling 1 unit, detached	-	-	-	-	-	P	P	P	P	-	-
Dwelling, 2 unit	C	C	C	-	-	-	-	-	P	-	C
Dwelling, multi-unit	C	C	C	-	-	-	-	-	P	-	C
Home occupation, disruptive	C	C	C	C	-	C	C	C	C	-	C
Home occupation, nondisruptive	P	P	P	P	-	P	P	P	P	-	P
Hotel/motel	C	-	C	C	-	-	-	-	-	-	C
Household pets	P	P	P	P	-	P	P	P	P	-	P
Kennel/cattery, noncommercial	AC	AC	AC	AC	-	AC	AC	AC	AC	-	AC
Mobile home park	-	-	-	-	-	-	-	-	C	-	-
Planned unit development	-	-	C	C	C	-	C	C	C	-	C
Preschool, commercial	C	C	C	C	-	-	-	-	-	-	C
Preschool, home	-	-	-	-	-	AC	AC	AC	AC	-	-
Stealth antennas	P	P	P	P	P	P	P	P	P	P	-
Institutional and special service:											
Airport/heliport	-	-	C	C	C	C	-	-	-	-	C
Cemetery/columbarium/mausoleum	-	-	C	C	C	-	-	-	-	C	-
Church/temple	C	C	C	C	C	C	C	C	C	C	C
Detention facility, jail	-	-	C	C	C	-	-	-	-	C	-
Foster homes	-	-	-	-	-	C	C	C	C	-	-
Fraternal and benevolent societies	C	C	P	P	-	-	-	-	-	-	-
Halfway house or similar facility for alcohol, psychiatric patients	-	-	-	-	C	-	-	-	-	-	-
Hospital (acute care)	-	-	C	C	-	-	-	-	-	-	C
Institution of religions	C	C	C	C	C	C	C	C	C	C	C
Library, art gallery, museum	P	P	P	P	-	-	-	-	-	C	P
Nursing home	-	-	C	C	-	-	-	-	-	-	C
Proctor homes	-	-	-	C	-	C	C	-	-	-	-
Public administration office	C	C	C	C	-	-	-	-	-	C	C
Recreational club facilities	P	C	P	P	P	-	-	-	C	-	P
Residential facility for elderly persons	-	P	-	-	-	C	C	C	C	-	-
Residential facility for persons with a disability	-	P	-	-	-	C	C	C	C	-	-
School, colleges, universities	C	C	C	C	C	C	C	C	C	C	C
Utility related services:											
Commercial radio or TV station	C	C	P	P	-	-	-	-	-	-	-
Electric substation	-	-	C	C	C	C	C	C	C	C	-
Gas metering and transmission station	-	-	P	P	P	C	C	C	C	-	-
Local utility distribution lines	P	P	P	P	P	P	P	P	P	P	-
Radio, TV, cellphone, or microwave tower	-	-	C	C	C	C	-	-	-	P	-
Sewage or water pump station	P	P	P	P	P	P	P	P	P	-	P
Telephone switching, relay and transmission equipment	P	P	P	P	P	-	-	-	-	-	-
Utility, public/private office	P	P	P	P	-	-	-	-	-	-	P

Utility shops, storage yards, and buildings	-	-	-	C	C	-	-	-	-	-	-
Water/sewage treatment plants	-	-	-	-	-	C	-	-	-	-	-
Water wells, reservoir, or storage tank	P	P	P	P	P	P	P	P	P	P	-
Recreation uses:											
Amusement, arcade	C	P	P	P	P	-	-	-	-	-	-
Amusement, commercial indoor	C	C	C	C	C	-	-	-	-	-	C
Amusement, commercial outdoor	C	C	C	C	C	-	-	-	-	-	C
Aquatic center	-	-	C	C	C	-	-	-	-	P	-
Golf course	C	C	C	C	C	C	C	C	C	P	-
Private swimming pool	-	-	P	P	P	P	P	P	P	P	-
Provisioning and recreational sporting goods sales	P	C	P	P	-	-	-	-	-	-	P
Public swimming pool	-	-	C	C	C	-	-	-	-	P	-
Splash pad	-	-	C	C	C	C	C	C	-	P	-
Theater, live or movie	P	C	P	P	-	-	-	-	-	-	P
Automobile related uses:											
Auto body and collision repair	-	-	-	P	P	-	-	-	-	-	-
Auto sales, new and used	-	-	P	P	-	-	-	-	-	-	P
Auto/ATV parts sales, new	P	-	P	P	-	-	-	-	-	-	P
Auto/ATV parts sales, used, indoor	-	-	P	P	P	-	-	-	-	-	P
Auto/vehicle detailing	C	-	C	P	-	-	-	-	-	-	-
Automotive glass repair	-	-	P	P	-	-	-	-	-	-	P
Car rental business	C	-	P	P	P	-	-	-	-	-	-
Car wash	-	-	P	P	-	-	-	-	-	-	P
Car wash, attached, automatic, 1 bay	C	-	-	C	-	-	-	-	-	-	-
Commercial parking structure	P	-	P	P	P	-	-	-	-	P	-
Garage for major repair	-	-	C	C	C	-	-	-	-	-	-
Garage for minor repair	-	-	C	P	P	-	-	-	-	-	C
Gasoline, petroleum products storage	-	-	-	-	C	-	-	-	-	-	-
Gasoline, retail	-	-	P	P	-	-	-	-	-	-	P
Gasoline sales, wholesale	-	-	-	-	C	-	-	-	-	-	-
Muffler and brake shop	-	-	P	P	-	-	-	-	-	-	C
RV and boat sales, new and used	-	-	P	P	-	-	-	-	-	-	C
RV park	-	-	-	C	-	-	-	-	-	-	-
Storage of vehicles	-	-	-	C	-	-	-	-	-	-	-
Tire recap and retread shop	-	-	-	C	C	-	-	-	-	-	-
Tire sales	-	-	P	P	-	-	-	-	-	-	C
Wrecking and salvage yards for auto parts	-	-	-	-	C	-	-	-	-	-	-
Retail or related uses:											
Animal clinic or pet hospital with no outdoor pens	C	-	C	C	C	C	-	-	-	-	C
Animal clinic or pet hospital with outdoor pens	-	-	-	-	C	C	C	-	-	-	-
Antique or collectible shop	P	P	P	P	-	-	-	-	-	-	P
Art supply store	P	P	P	P	-	-	-	-	-	-	P
Bakery, retail	P	P	P	P	-	-	-	-	-	-	P
Bank, credit union, or savings and loan	P	P	P	P	-	-	-	-	-	-	P
Barber or beauty shop	P	P	P	P	-	-	-	-	-	-	P
Book or stationery shop	P	P	P	P	-	-	-	-	-	-	P

Camera shop	P	P	P	P	-	-	-	-	-	-	P
Catering	P	C	P	P	-	-	-	-	-	-	P
Christmas tree sales	P	C	P	P	-	-	-	-	-	-	P
Club, private	C	C	-	-	-	-	-	-	-	-	-
Community swap meet/yard sale	-	-	-	-	C	-	-	-	-	-	-
Convenience store	C	-	P	P	-	-	-	-	-	-	P
Department or discount store	P	C	P	P	-	-	-	-	-	-	P
Farmer's market	C	-	C	C	C	-	-	-	-	C	-
Fast food establishment	P	P	P	P	-	-	-	-	-	-	P
Fireworks stand	-	-	C	C	-	-	-	-	-	-	C
Florist shop	P	P	P	P	-	-	-	-	-	-	P
Fruit/produce stand, seasonal	P	P	P	P	-	P	-	-	-	-	P
Furniture, appliance store	P	P	P	P	-	-	-	-	-	-	P
Garden shop or plant sales, nursery	P	P	P	P	C	-	-	-	-	-	P
Grocery store	P	P	P	P	-	-	-	-	-	-	P
Gun shop	C	C	C	C	-	-	-	-	-	-	C
Handicraft and art sales	P	P	P	P	-	-	-	-	-	-	P
Hardware store	P	P	P	P	-	-	-	-	-	-	P
Hobby shop	P	P	P	P	-	-	-	-	-	-	P
Kennel/cattery, boarding	-	-	-	-	C	C	-	-	-	-	-
Laboratory, medical/dental	P	P	P	P	C	-	-	-	-	-	P
Laundromat	P	C	P	P	-	-	-	-	C	-	P
Laundry/dry cleaner	P	P	P	P	P	-	-	-	-	-	P
Locksmith or key shop	P	P	P	P	-	-	-	-	-	-	P
Manufactured home sales	-	-	-	C	C	-	-	-	-	-	-
Medical appliance fitting or sale	P	P	P	P	-	-	-	-	-	-	P
Medical/dental clinic	P	P	P	P	-	-	-	-	-	-	P
Mortuary	P	P	P	P	-	-	-	-	-	-	P
Music store	P	P	P	P	-	-	-	-	-	-	P
Office, professional or general business	P	P	P	P	-	-	-	-	-	-	P
Optical lab	P	P	P	P	P	-	-	-	-	-	P
Package liquor store	-	-	P	P	-	-	-	-	-	-	P
Pawnshop	C	C	C	C	-	-	-	-	-	-	-
Personal custom services, i.e., tailor	P	P	P	P	-	-	-	-	-	-	P
Pet shop, small animals, birds, fish	P	P	P	P	-	-	-	-	-	-	P
Pharmacy	P	P	P	P	-	-	-	-	-	-	P
Reception center	C	C	P	P	-	-	-	-	-	C	P
Repair of TV, radio, appliance	P	P	P	P	-	-	-	-	-	-	P
Restaurant	P	P	P	P	-	-	-	-	-	-	P
Secondhand store	C	C	C	C	-	-	-	-	-	-	C
Shoe, boot, saddle, and other leather goods sales and repair	P	P	P	P	-	-	-	-	-	-	P
Specialty food stores, retail sales	P	P	P	P	-	-	-	-	-	-	P
Studio, artist, photo, dance, music, drama	P	P	P	P	-	-	-	-	-	-	P
Studio, decoration and display	P	P	P	P	-	-	-	-	-	-	P
Studio, health, exercise establishment or similar service	P	P	P	P	-	-	-	-	-	-	P
Tavern	C	-	-	C	-	-	-	-	-	-	-

Variety store	P	P	P	P	-	-	-	-	-	-	P
Commercial or related services:											
Bakery wholesale factory	-	-	-	C	C	-	-	-	-	-	-
Building materials sales	-	-	-	P	-	-	-	-	-	-	-
Cabinet or furniture, upholstery shop	-	-	-	P	C	-	-	-	-	-	-
Clothing or similar manufacturing	-	-	-	P	C	-	-	-	-	-	-
Contractor storage yard	-	-	C	C	C	-	-	-	-	-	-
Dairy production or ice cream plant	-	-	-	C	C	-	-	-	-	-	-
Dairy production or ice cream plant, small	C	-	C	C	P	C	-	-	-	-	C
Dance hall or nightclub	-	-	-	C	-	-	-	-	-	-	-
Flagpoles ¹	P	P	P	P	P	P	P	P	P	P	P
Glass and window sales and repair	C	-	C	C	-	-	-	-	-	-	C
HVAC sales and service	-	-	-	P	C	-	-	-	-	-	-
Heavy machine storage, sales or repair	-	-	-	C	C	-	-	-	-	-	-
Individual storage units	-	-	-	P	P	-	-	-	-	-	-
Kennel/cattery, commercial	-	-	-	-	-	C	C	-	-	-	-
Kiosk	P	P	P	P	-	-	-	-	-	-	P
Laboratory, scientific or research	-	-	-	C	C	-	-	-	-	-	-
Lithographer or print shop	P	P	P	P	P	-	-	-	-	-	P
Lumberyard	-	-	-	C	C	-	-	-	-	-	-
Open storage and sales of machinery	-	-	-	C	C	-	-	-	-	-	-
Paint store	P	C	P	P	-	-	-	-	-	-	P
Pest and weed control	-	-	C	C	-	-	-	-	-	-	-
Plumbing store	-	-	-	P	P	-	-	-	-	-	-
Railroad or bus passenger station	-	-	-	C	C	-	-	-	-	C	-
Sexually oriented business	-	-	-	-	C	-	-	-	-	-	-
Signs	P	P	P	P	P	P	P	P	P	P	P
Small engine repair	-	-	C	C	-	-	-	-	-	-	C
Smoke shop	-	-	C	C	C	-	-	-	-	-	-
Storage warehouse	-	-	-	C	P	-	-	-	-	-	-
Tattoo shop	-	-	C	C	C	-	-	-	-	-	-
Trade or vocational school	-	-	C	C	C	-	-	-	-	-	C
Trailer and mobile home sales	-	-	-	P	P	-	-	-	-	-	-
Welding or machine shop	-	-	-	C	C	-	-	-	-	-	-
Industrial and related uses:											
Animal or fowl slaughter	-	-	-	-	C	-	-	-	-	-	-
Asphalt plant	-	-	-	-	C	-	-	-	-	-	-
Athletic products manufacturing	-	-	-	-	C	-	-	-	-	-	-
Chemical and plastic manufacturing	-	-	-	-	C	-	-	-	-	-	-
Concrete batch plant	-	-	-	-	C	-	-	-	-	-	-
Extraction of soil, sand, gravel, minerals, gas, petro, or other similar substances	-	-	-	-	C	-	-	-	-	-	-
Fabricated textile products	-	-	-	-	C	-	-	-	-	-	-
Food products manufacturing	-	-	-	C	C	-	-	-	-	-	-
Furniture manufacturing	-	-	-	-	C	-	-	-	-	-	-
Household pet crematorium	-	-	-	-	C	-	-	-	-	-	-
Light manufacturing	-	-	C	C	C	-	-	-	-	-	-

Machine shop	-	-	-	C	P	-	-	-	-	-	-
Meatpacking	-	-	-	-	C	-	-	-	-	-	-
Paper products manufacturing	-	-	-	-	C	-	-	-	-	-	-
Precision instrument and jewelry manufacturing	-	-	-	-	C	-	-	-	-	-	-
Recycling collection point	-	-	-	-	C	-	-	-	-	-	-
Storage of sand, gravel, earth, or stone	-	-	-	-	C	-	-	-	-	-	-
Trucking terminal	-	-	-	-	C	-	-	-	-	-	-
Agricultural and related uses:											
Agriculture	-	-	-	-	-	P	P	P	P	-	-
Dairy	-	-	-	-	C	C	-	-	-	-	-
Farm animals	-	-	-	-	-	P	-	-	-	-	-
Farm animals, limited	-	-	-	-	-	-	P	-	-	-	-
Fowl production	-	-	-	-	C	P	-	-	-	-	-
Fur farm	-	-	-	-	C	C	-	-	-	-	-
Livestock auction	-	-	-	-	C	C	-	-	-	-	-
Livestock feed yard, private	-	-	-	-	-	C	-	-	-	-	-
Stables, private	-	-	-	-	-	P	P	-	-	-	-
Stables, public	-	-	-	-	-	C	-	-	-	-	-
Municipal and related uses:											
Municipal fire station	P	P	P	P	P	-	-	-	-	P	P
Municipal library	P	P	P	P	P	-	-	-	-	P	P
Municipal maintenance facilities	-	-	-	-	-	-	-	-	-	P	-
Municipal office building	P	P	P	P	P	-	-	-	-	P	P
Municipal parks	P	P	P	P	P	P	P	P	P	P	P
Municipal picnic pavilions and facilities	P	P	P	P	P	-	-	-	-	P	P
Municipal police station	P	P	P	P	P	-	-	-	-	P	P
Municipal recreation center	C	-	-	-	-	-	-	-	-	P	-
Municipal snack bar facilities	-	-	-	-	-	-	-	-	-	P	-
Parking lot/park and ride	P	P	P	P	P	P	-	-	-	P	C
Post office	C	-	C	-	-	-	-	-	-	-	C
Public transit facilities	P	P	P	P	P	P	-	-	-	P	P

Note:

A. Additional height requires a conditional use permit.

Benchmarks / Statistics

COVER: 0.8119154 second(s).

TOC: 2.2904697 second(s).

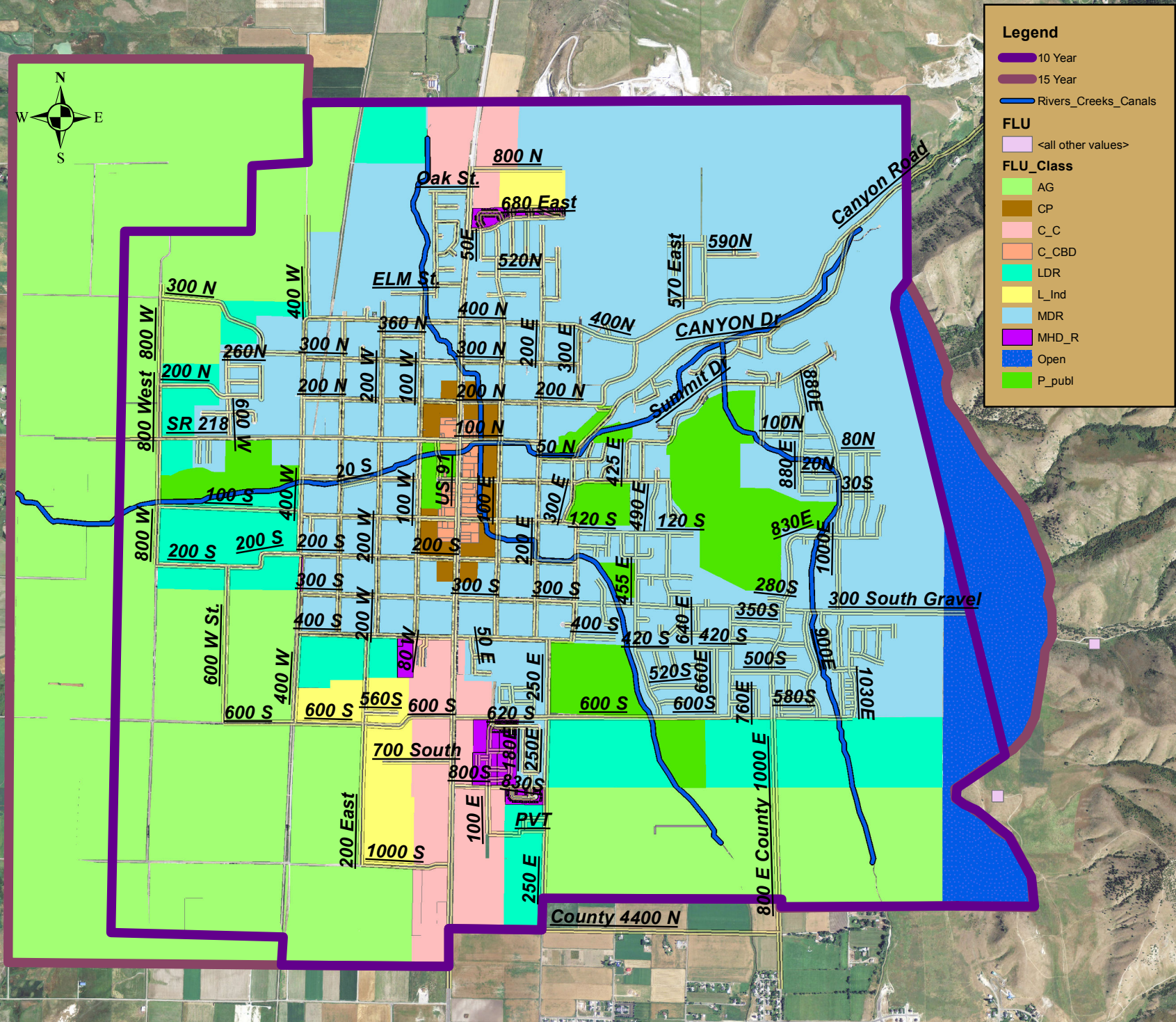
FIRST CHAIN: 0.0376633 second(s).

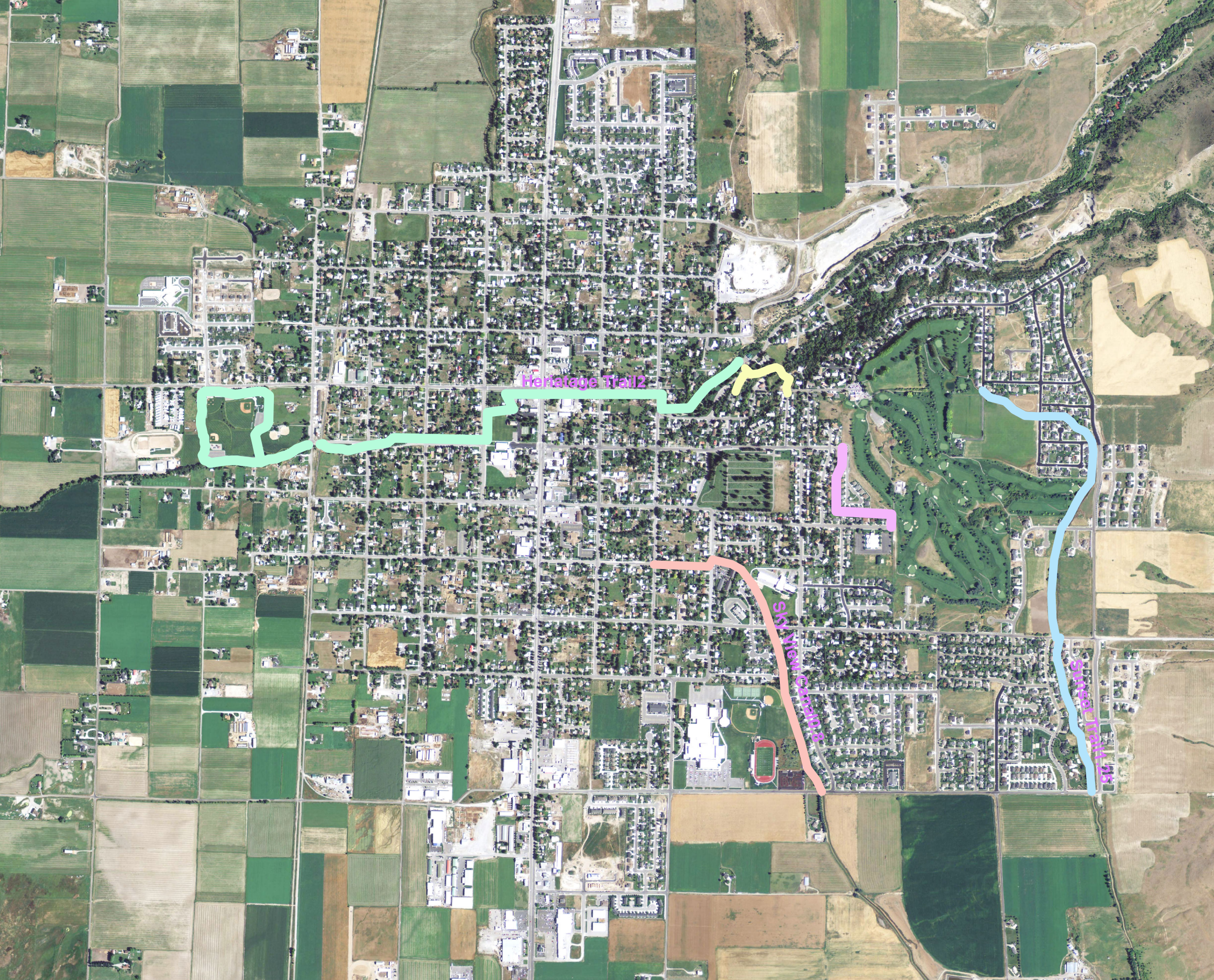
CONTENT: 39.2833193 second(s).

SECOND CHAIN: 0.3836306 second(s).

FOOTER: 0.070883 second(s).

TOTAL: 42.8778813 second(s).

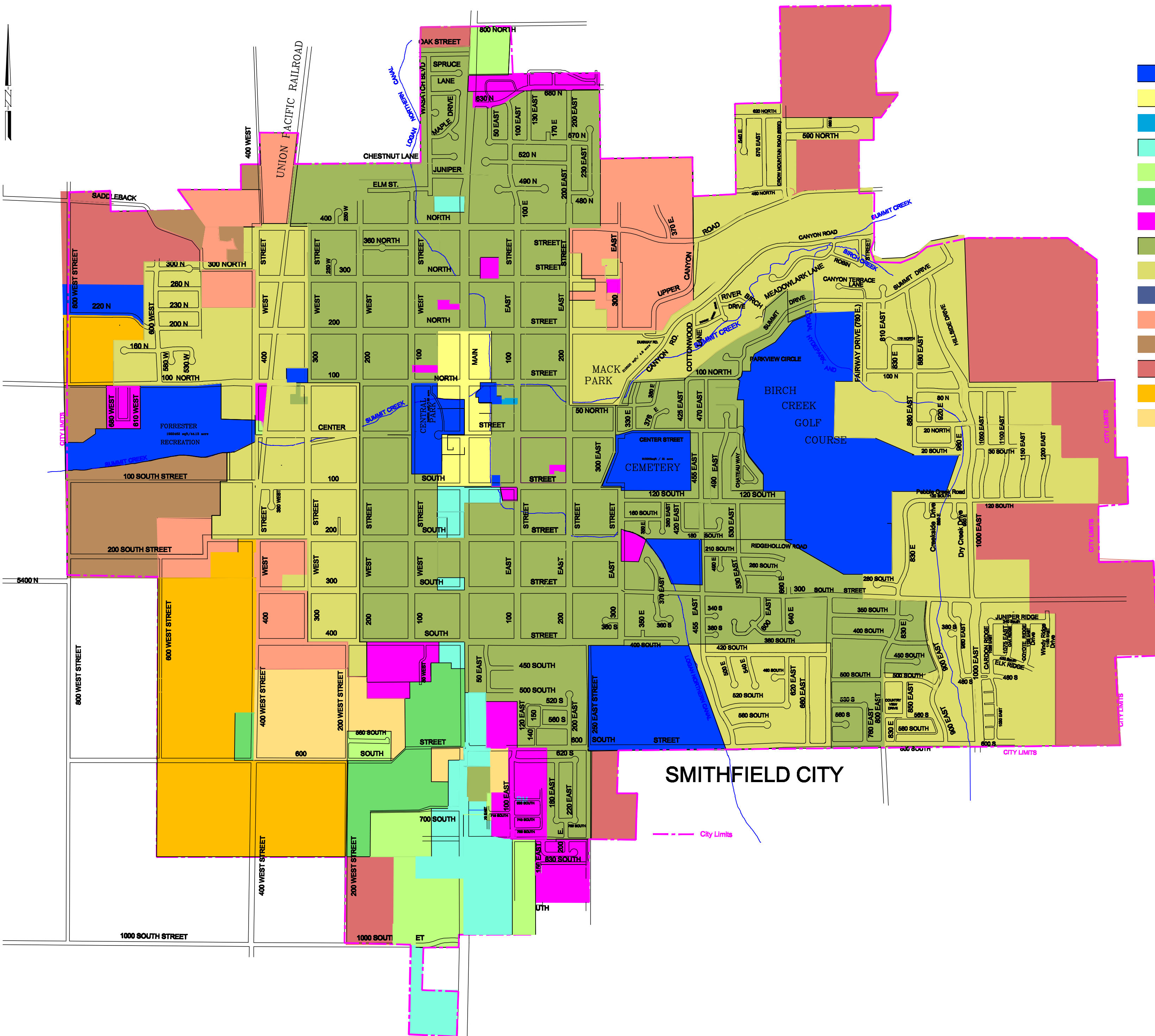




Heritage Trail 2

Ski View Center 2

Great Park 2



- I-1 Institutional
- CB Central Business District
- CP Commercial Professional
- CC Community Commercial
- GC General Commercial
- M-1 Manufacturing
- RM Multiple Family Residential
- R-1-10 Single Family Residential 10,000 sf.
- R-1-12 Single Family Residential 12,000 sf.
- R-1-20 Single Family Residential 20,000 sf.
- RA-1 Residential Agricultural - 1 Acre
- RA-2 Residential Agricultural - 2 Acre
- A-10 Agricultural - 10 Acre
- A-5 Agricultural - 5 Acre
- A-3 Agricultural - 3 Acre

