NORTH OGDEN CITY

SETTLED 1851

CITY COUNCIL MEETING AGENDA
NOVEMBER 14, 2023, AT 6:00 PM
505 EAST 2600 NORTH
NORTH OGDEN, UT 84414

PUBLIC CAN ATTEND:
In-person OR: Click the link below to join the webinar: https://us02web.zoom.us/j/82326715381 Webinar ID: 823 2671 5381
Or Telephone Dial: 1 346 248 7799 or 1 669 900 9128 or 1 253 215 8782
YouTube: https://www.youtube.com/channel/UCrigbePBxTucXEzRr6fclhQ/videos

Welcome: Mayor Berube

Invocation/Thought & Pledge of Allegiance: Council Member Eckstrom

CONSENT AGENDA

1. Call for Conflict of Interest Disclosure
2. Discussion and/or action to consider the September 12, 2023, City Council Meeting Minutes
3. Discussion and/or action to consider the September 19, 2023, Special City Council Meeting Minutes
4. Discussion and/or action to consider the September 26, 2023, City Council Meeting Minutes
5. Discussion and/or action to consider the October 3, 2023, City Council Work Session Minutes
6. Discussion and/or action on the Conditional Acceptance of Montgomery Farm Subdivision
   Presenter: Dylan Hill, Public Works Inspector

ACTIVE AGENDA

7. Public Comments*
8. Discussion and/or action on the Real Estate Sales Agreement for the transfer of ownership of Parcel 16-049-0057
   Presenter: Scott Hess Community and Economic Development Director
9. Discussion and review of North Ogden City Code Title 1, Chapter 1
   Presenter: Jon Call, City Attorney/City Manager
10. Discussion and/or action to amend the North Ogden City Code to reflect the new Federal Flood Insurance Standards
    Presenter: Jon Call, City Attorney/City Manager

Please see notes regarding Public Comments rules and procedure

The Council at its discretion may rearrange the order of any item(s) on the agenda. Final action may be taken on any item on the agenda. In compliance with the Americans with Disabilities Act, needing special accommodation (including auxiliary communicative aids and service) during the meeting should notify the City Recorder at 801-782-7211 at least 48 hours prior to the meeting. In accordance with State Statute, City Ordinance, and Council Policy, one or more Council Members may be connected via speakerphone or may by two-thirds vote to go into a closed meeting

CERTIFICATE OF POSTING
The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda were posted within the North Ogden City limits on this 9th day of November 2023 at North Ogden City Hall, on the City Hall Notice Board, on the Utah State Public Notice Website, and at http://www.northogdencity.com. The 2022 meeting schedule was also provided to the Standard-Examiner on December 16, 2022. Rian Santoro, City Recorder

11. Council Department Reports:
    a. Council Member Cevering – Police
    b. Council Member Eckstrom – Public Works
    c. Council Member Barker – Parks and Recreation
    d. City Attorney/Manager Jon Call - Capital Projects

12. Mayor/Council/Staff Comments

13. Public Comments*

14. Adjournment

Public Comments/Questions

a. Time is made available for anyone in the audience to address the Council and/or Mayor concerning matters pertaining to City business.

b. When a member of the audience addresses the Mayor and/or Council, he or she will come to the podium and state his or her name and city residing in.

c. Citizens will be asked to limit their remarks/questions to five (5) minutes each.

d. The Mayor shall have discretion as to who will respond to a comment/question.

e. In all cases the criteria for response will be that comments/questions must be pertinent to City business, that there are no argumentative questions and no personal attacks.

f. Some comments/questions may have to wait for a response until the next regular Council Meeting.

g. The Mayor will inform a citizen when he or she has used the allotted time.

NORTH OGDEN CITY COUNCIL
MEETING MINUTES

September 12, 2023

The North Ogden City Council convened in a Council meeting at 6:00 p.m. on September 12, 2023, at the North Ogden City Office at 505 East 2600 North. The meeting was also on Zoom. Recording can be found on YouTube: https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on September 8, 2023. Notice of the annual meeting schedule was published in the Standard-Examiner on December 16, 2022.

PRESENT:	S. Neal Berube	Mayor	
	Ryan Barker	Council Member	
	Blake Cevering	Council Member	
	Jay D Dalpias	Council Member	
	Charlotte Ekstrom	Council Member	(Excused)
	Phillip Swanson	Council Member	(Joined via Zoom)

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Rian Santoro	City Recorder
	Scott Hess	Planning Director
	Dave Espinoza	Assistant City Manager/Public Works Director
	Eric Casperson	City Engineer
	Bryce Nelson	Treasurer
	Jami Jones	Finance Director
	Dirk Quinney	Chief of Police
	Clark Crowther	Lieutenant
	Jake Holmes	Detective

VISITORS:	Kevin Burns	Tim Billings	
	Brenda Ashdown	Reed Miller	
	Merrill Sunderlund	Attwood	(Joined via Zoom)
	Steve Davies	Wendy	(Joined via Zoom)
	Stefanie Casey	Cheryl Stoker	(Joined via Zoom)
	Christina Watson	Charlotte Ekstrom	(Joined via Zoom)
	Chris Pulver		

Mayor Berube called the meeting to order. Council Member Barker offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. SWEARING IN OF NEW POLICE OFFICER, JADEN HAMMER

Police Chief Quinney introduced Police Officer Jaden Hammer and provided a brief overview of his professional experience; he stated the Department is pleased to have Officer Hammer as a part of their team.

City Recorder Santoro administered the Oath of Office to Officer Hammer.

2. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. No declarations were made.

3. DISCUSSION AND/OR ACTION TO CONSIDER THE JULY 25, 2023, CITY COUNCIL MEETING MINUTES

Council Member Dalpias offered a few grammatical corrections for the minutes and asked that the errors be corrected.

Council Member Cevering motioned to approve the July 25, 2023, City Council Meeting minutes, as amended. Council Member Barker seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion passed unanimously.

ACTIVE AGENDA

4. PUBLIC COMMENTS

Christina Watson, North Ogden resident, referenced agenda item 10 regarding the use of Redevelopment Agency (RDA) funds and noted she thought there was going to be a work session about that issue. She asked if she had missed a work session, after which she offered her opinion regarding the matter. She noted that she speaks with many residents throughout the City, and most are concerned any time there is a need for more money for the Barker Park project.

If the City decides to fund a project at North Ogden Plaza, which includes resurfacing the creek that runs through the property, she is concerned that this will become a repeat of the Barker Park project where the City must continually add more money to the project. She noted that she does not fully understand the value of the project but is concerned the City does not have enough funding to start and finish the project. Christina said she is a supporter of using some of the money to make needed improvements at the North Shore Aquatic Center and to take care of Bicentennial Park. She said she understands that the City has funding to redo a playground in the park each year, but the costs increase each year, and it has been necessary to supplement the funds with grant funding, when available. If there is extra money available in the City, she would like to set aside some of it to cover the Lomond View Playground project or augment the playground project planned for next year. She added there has been mention in previous meetings of the need to repair parks in the City that were damaged by flooding this spring; she is still worried about having insufficient money for those efforts because many of the parks are in very poor condition and in order to use them in a meaningful way in the next few years, they will need to be reseeded.

Mayor Berube noted the City has not held the work session referenced by Ms. Watson, but it will be scheduled soon.

5. DISCUSSION AND/OR ACTION ON CITY CODE 8-8 PRIVATE LANDSCAPING ON PUBLIC PROPERTY

Council Member Cevering stated that this is an issue that City staff and the Council have been discussing over the past year; there is an ongoing discussion about fencing on land that is owned by the City, but leased by a private resident. One component of that discussion is whether privacy fencing can be used in this scenario, and he asked that the Council discuss the matter to determine if it is something that should be addressed in the City Code.

Mayor Berube offered his opinion and noted that he does not feel that any City-owned property should be fenced, even if it is leased by a private resident. Public property should be publicly accessible. The current ordinance allows for fending that is 75 percent transparent, so at present, the only types of fencing that could be used are chain link or wrought iron.

The Council engaged in philosophical discussion of the matter of fencing a City property that is leased by a private resident; there was a debate about whether the requested ordinance amendment is general in nature or if it is specific to one property or resident in the community. Council Member Swanson stated he feels the public deserves to know the resident who raised this point with Council Member Cevering and Council Member Cevering disagreed; he feels he is fulfilling his duty as a Council Member and does not believe he needs to disclose the name of the resident.

Council Member Barker stated that instead of tying fencing standards to opacity, he feels it should be tied to the quality of fencing materials to be used; he believes vinyl fencing is higher quality than chain link and would prefer that the ordinance require the most transparent available building materials for fencing.

Council Member Barker motioned to postpone action on a proposed ordinance amending City Code 8-8, Private Landscaping on Public Property to have more discussion. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion to postpone passed unanimously.

6. DISCUSSION AND/OR ACTION TO CONSIDER THE VILLAGE AT PROMINENCE POINTE DEVELOPMENT AGREEMENT AMENDMENT

Community and Economic Development Director Hess explained on October 11, 2022, the City Council approved the latest version of the Development Agreement for the Village at Prominence Point. This latest version amended several items related to the housing elements, but largely kept the commercial portion the same as it has been. The developer has been working to find suitable tenants for the commercial spaces along Washington Boulevard and has a tenant who would like to bring a drive-thru use to the City. Page 19 of the Development Agreement specifically states that "drive-thru businesses where the drive-thru lane is located between the building and the public street" are not permitted. The Developer is asking for the City's consideration of an amendment to permit drive-thru uses with lanes between the building and the street as shown in the image below:

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On August 15, 2023, the Planning Commission considered the developer's request, and made a recommendation to the City Council regarding permitting drive-thru uses where the lane resides between the building and the public street. The Planning Commission heard from staff and the applicant and discussed commercial uses at Village at Prominence Point as well as along Washington Boulevard. A motion was made by Planning Commissioner Cody Watson to recommend to the City Council that drive-thru lanes be allowed between the building and public road with a minimum three-foot tall, landscaped berm located between the drive-thru and the roadway. The motion was seconded by Planning Commissioner Nissa Green, with all Commissioners voting in favor.

Mayor Berube recalled an action taken by the Council that ceded authority to amend these types of development agreements to himself and the Community and Economic Development Director. Mr. Hess stated that is correct, but only if a change adjusts the master plan for the subject development by less than five percent. He felt this change was greater than five percent. He added that this is a change to a very clear exception list in the development agreement and the City's Master Planned Community (MPC) ordinance.

Mayor Berube invited input from Steve Davies, the other party to the development agreement. Mr. Davies referenced the image of the site and indicated that the drive-through could conceivably be changed to another location, but he feels the proposed location will be more attractive from the Washington Boulevard side of the project and will not have an impact on parking areas.

Mayor Berube stated he is hesitant to approve any other development agreement amendments until hearing from the residents of Village at Prominence Point. Mr. Davies stated he would be meeting with the residents in two weeks after the occupancy permit is issued for the clubhouse on the property.

Council Member Dalpias asked if drive-thru uses are permitted in the project area, but they were not permitted in the area that the applicant had requested.

Mr. Hess stated that is the case; they were permitted in other areas of the site, but not permitted in an area where the drive-thru lane would be between the building and a public street. Council Member Dalpias stated the Council has received some emails with concerns about this application; some residents feel the drive-thru will increase traffic on the small street to the west of the car wash. Mr. Hess stated that unless the Council prohibits all drive-thru uses, the City must permit use that meets ordinance standards. The only difference for this application is that it will allow for a drive-through in an area where one was previously prohibited for aesthetic reasons. The site plan will be presented to the Planning Commission.

Council Member Dalpias motioned to approve A10-2023 Amendment 9, the final acceptance of the Village at Prominence Pointe Development Agreement to allow the drive-thru lane between the building and the public street unless a three-foot landscaped berm is located between the drive-thru lane and the public street. Approval of the amendment is conditioned upon Mr. Davies holding a meeting with residents in the Village at Prominence Point community. Council Member Barker seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**nay**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**nay**
Mayor Berube	**aye**

The motion passed on a 3 -2 vote.

7. DISCUSSION AND/OR ACTION ON THE NORTH OGDEN POLICE TASER PURCHASES

Police Chief Quinney explained the Police Department currently issues Conducted Energy Devices (CED) to our front-line officers and supervisors for daily carry. The CED is an important tool utilized in de-escalating hostile situations or effecting arrests against a combative subject. Before CEDs were available, these situations would require hands-on physical force which often would end up in someone getting hurt or even escalating into deadly force situations. Public safety officials have found the CEDs to be a valuable tool and resource that has helped keep officers and subjects they encounter safe. Axon, Inc., is the only manufacturer of these devices. North Ogden's current tasers are a 15-year-old technology and are being phased out. The new tasers are being introduced with a new program and a new way to pay for it. The City's old tasers were rotated in and out on a set schedule as they expired. The budget was determined for each year's needs and included in the yearly budget process. The new taser program is a five (5) year program.

Over the five years, Axon will keep officers equipped with working tasers, taser cartridges, batteries, holsters, and training. If it breaks or gets used, the taser is replaced at no additional cost. There is a cost difference, which is the cost of the new technology. The cost of the program is spread over a five-year period. The City would, to an extent, be committing to the program for five years. He offered a comparison of the cost of the old program versus the new program; the first-year cost of the program is lower than what was budgeted for taser costs for FY24.

Council Member Cevering motioned to approve the North Ogden Police Taser Agreement. Council Member Dalpias seconded the motion.

Voting on the amendment to the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion passed unanimously.

8. DISCUSSION AND/OR ACTION ON THE INTERLOCAL AGREEMENT WITH WEBER SCHOOL DISTRICT FOR THE NORTH OGDEN POLICE DEPARTMENT SCHOOL RESOURCE OFFICER PROGRAM

Police Chief Quinney reported the contract for School Resource Officers in the community expired at the end of the last school year; parties to the agreement have been working to negotiate a new agreement including a formula to calculate the costs for the employee split between the cities and the School District. The full-time employee costs have been adjusted to reflect actual costs of $170,000 per year. The agreement term is three years and the ratio by which the costs will be split will change in each year of the contract, with the cost for the employee being increased annually based upon the consumer price index (CPI). He feels comfortable recommending approval of the contract, which he feels benefits both the City and the District.

Council Member Swanson asked if the School Resource Officer can be pulled away from their assigned school location in the event of a major incident in the City. Chief Quinney answered yes and noted that they will also have time for annual training requirements and vacation/sick leave. Council Member Swanson thanked Chief Quinney for the manner in which he negotiated the agreement; he added he personally believes the School District should pay 100 percent of the cost of the officer for the time that they are in the school to which they are assigned. Chief Quinney stated that was discussed by the group that assembled to negotiate the agreement, but the cities acknowledged that the officer also benefits the community through their service to the school.

Council Member Barker motioned to approve the Interlocal Agreement A11-2023 with Weber School District for the North Ogden Police Department School Resource Officer Program. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION ON THE NORTH OGDEN POLICE DEPARTMENT TOWING AGREEMENTS

Police Chief Quinney stated that prior to three years ago the City 'piggy-backed' on Ogden City's towing agreement, but eventually issued a Request for Proposals (RFP) to secure private contractors to perform towing services for the North Ogden Police Department. Five vendors were selected to be placed in a rotation for towing services and the Department would like to extend the agreement with each of the vendors for an additional two years.

Mayor Berube asked if the Department monitors the rotation. Chief Quinney stated the rotation is monitored by Weber County Dispatch and he is confident their practices are fair.

Council Member Dalpias motioned to approve North Ogden Police Department Towing Agreements #A12-2023, #A13-2023, #A14-2023, #A15-2023, #A16-2023 with Lost Recovery Towing, Ride Haulers Towing, Stauffer's Towing, True Towing Extension, and Zac's Towing. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion passed unanimously.

10. DISCUSSION AND/OR ACTION ON THE GRANT PROGRAM FOR THE RDA AREA

City Manager/Attorney Call reported the Council is being asked to determine the best way to utilize the existing RDA funds in order to program the money to benefit the RDA area and complete the requirements for the RDA program. Mr. Call stated that an RDA retreat needs to be held to go into depth on the issues. It was explained that North Ogden City set up a Redevelopment Agency in the 1990s and since that time, has been collecting tax increments. Lees Marketplace commercial area, North Shore Aquatic Center, and Smith's Marketplace are some of the projects and improvements that have been funded by the RDA. He explained that the RDA is getting ready to close out at the end of this year and the city has lots of options for projects; noting this will be the third or fourth time the Council discusses it. The goal is to narrow down the project list and then set up a longer Work Session during afternoon hours to go through the narrowed-down projects and select the path forward. Mr. Call summarized a few of the proposed projects to be discussed tonight:

- Redevelopment of Bicentennial Park to include upgrades to the plaques honoring veterans, benches, light poles, and landscaping improvements.
- Refitting aquatic center with a replacement playground, bowery, parking lot repairs, and other capital needs.
- Washington Blvd improvements to sidewalks, landscaping, and other items to help improve the image of the city.
- Assist in the redevelopment of the South Town area/North Ogden Plaza including the possible daylighting of Coldwater Creek.

Mayor Berube facilitated discussion of the projects among the Council to determine a prioritization of the projects or changes/additions of other projects. The top priority was the North Shore Aquatic Center, second was the South Town area of the City, third was Bicentennial Park, and fourth was Washington Boulevard improvements. Mr. Call stated that during the upcoming work session, staff will be prepared with cost estimates for the projects mentioned in order for the Council to understand the amount of money that will be left and available for other projects once prioritization has been finalized.

11. DISCUSSION AND/OR ACTION ON THE OFFICIAL NAMES OF CITY PROJECTS

City Manager/Attorney Call explained the City has been planning several new projects and many have been given placeholder names, but not official names. The administration wanted to discuss the various projects to determine the appropriate names for them. He provided a list of the various city projects which do not have an official name from the City:

- Community Pond Project
- 2750 Trailhead Project
- Water Works Project
- Pickleball Courts
- 2100 Water Tank
- Disc Golf Course

In general, North Ogden City tries to not name things after specific individuals to avoid giving some expectations of how the project will be treated in the future. The question was asked if naming could be delegated to Department Heads in charge of the various projects. Staff recommends the Council determine the correct name or provide some guidance on the right way to create a naming system.

Mayor Berube facilitated discussion among the Council regarding the issue, and the group concluded that they have no concerns about the names that have been listed above and they do not feel the Council needs to be part of the decision-making process for project naming, but they agreed that projects should not be named after individuals.

12. DISCUSSION AND/OR ACTION ON CITY COUNCIL RULES AND PROCEDURES

Council Member Dalpias stated a few months ago the majority of the Council did not want to allow a resident presentation during a Council meeting, and one Council Member wanted to allow it. He has received suggestions that the Council consider changing its Rules of Order and Procedure to address this issue if it arises again in the future. His recommended change to the Rules of Order and Procedure is that a resident presentation be approved by at least two Council Members. The policy does not apply to presentations from elected leaders or staff.

Mayor Berube asked how the change would apply to him. City Manager/Attorney Call stated that the Mayor is technically a member of the Council, just a non-voting member.

Council Member Dalpias motioned to approve Resolution 05-2023 amending the City Council Rules and Procedures. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion passed unanimously.

13. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING CITY CODE 5-3 SOUND REGULATIONS AS IT PERTAINS TO CONSTRUCTION

City Manager/Attorney Call explained the City Noise Ordinance currently prohibits all construction noise between the hours of 10 p.m. and 7 a.m. The City has found certain situations where there may be a necessity to pour concrete before 7:00 a.m. to make sure that projects are correctly constructed. For example, the City is in the process of completing a water tank on the east side of the City. To complete this tank, there will be a very large floor poured for the bottom of the tank. Because of the design of the facility, the concrete will need to be poured in one large pour and be at the correct temperature to help with proper curing. Since this project is a necessity for the city and it requires a monolithic pour, the only way to accomplish this is to work prior to the construction hours outlined in the code. The proposed ordinance language would allow for this concrete pour to occur and to be in compliance with the City Code. Staff recommends the council determine the correct language to include in the code for these types of situations.

Council Member Cevering motioned to approve Ordinance 2023-18 amending City Code 5-3 Sound Regulations as it pertains to construction activities. Council Member Barker seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused**
Council Member Swanson	**aye**

The motion passed unanimously.

14. COUNCIL DEPARTMENT REPORTS:

a. COUNCIL MEMBER DALPIAS – BUILDING AND PLANNING

Council Member Dalpias stated that the Community and Economic Development Department is expecting a report from the consultant working on the south town area of the City and their recommendations will be helpful as the Council proceeds with their discussion of the use of RDA monies. He then noted that the Community Economic Development Director and his staff participated in an Active Transportation Tour today and they will be providing a report of that tour soon. He concluded that in the near future, he will be providing a final report on building permits issued in the last fiscal year (FY).

15. PUBLIC COMMENTS

Brenda Ashdown, North Ogden resident, referenced the Council's action to change their Rules of Procedure pertaining to citizen presentations; the change does not address a resident's ability to make a presentation during the public comment period of each meeting. She then referenced the annual Chalk It Up Contest and noted there has been no information published about the winners of the contest this year. Additionally, the City donated $5,000 dollars to the event, and she would like to know if the money was actually used for the event or if was just kept as a contribution to the charity that organizes the event. If it is a donation to a charity, she wondered why the City does not support other charities in a similar fashion. She then noted there was a time in the past when each agenda included a time for the City Manager to provide a report regarding the status of ongoing projects.

Chris Pulver, North Ogden resident, stated over the last few weeks he has heard several comments from residents. Many residents are supportive of a bubble over the Aquatic Center in the winter months. Others would like shade over playground structures to keep metal from getting too hot and burning children. Some residents would like a longer season at the Green Waste Facility. One person cited a safety concern at the corner of 2750 N. 500 E.; having seen many children almost struck by vehicles at the intersection and she asked for a four-way stop sign. He added there are signs advertising the available parking spaces for the library and he asked if that is being enforced. Mayor Berube stated the City's agreement with the library designated a certain number of spaces for the library during construction. Mr. Pulver then noted that many residents would like a steakhouse and a breakfast restaurant in the community. Finally, he asked if there was a penalty for early payment of the Public Safety Building Bond. Mayor Berube answered no, but the interest rate adjusts over the life of the bond.

Kevin Burns, North Ogden resident, addressed drive-thru uses on the Village at Prominence Point project and noted he was reminded of things he has observed at the local food pantry/exchange. He asked that the City consider safety and opportunities for reducing traffic congestion when the site plan application is submitted to the City.

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Ms. Ashdown reapproached and stated that two weeks ago, her husband asked the City to spray weeds along the trail on Pleasant View Drive and two days later the City sprayed the weeds; she thanked the City for responding so quickly.

16. COUNCIL/MAYOR/STAFF COMMENTS

City Manager/Attorney Call reminded the Council of their Special Meeting scheduled for next week to canvass the results of the Municipal Primary Election. He then addressed the question about donating money to non-profit entities; this is an issue that will be considered in the next budget year process, he recommends the Council consider a policy governing donations or some type of grant application program. Mayor Berube stated it would be best to start with the Council's ideas for a policy that would govern donations.

Council Member Barker reported on the success of the clean-up project at Oaklawn Park.

Council Member Cevering stated that he and other Council Members are concerned about the recent discussions of the closure of the trail at Coldwater Canyon and whether there is a prescriptive easement for that trail. Mr. Call stated that Administration is working towards scheduling a meeting with the property owner and they are being careful in their communication so that the property owner does not believe the City is preparing to file a lawsuit on the matter. Council Member Cevering then stated he has the same concern as Mr. Burns regarding the food pantry in the community; he has witnessed a few 'near misses' that could have been tragic for individuals trying to cross the street near the business. He then presented photos of signs that will be installed in the hollow at Barker Park, a bridge across the stream, and an old wagon in the Barker Park preserve area.

Mayor Berube inquired as to the status of the Public Safety Impact Fee. Mr. Call stated that the City is waiting for a final document from the consultants working on the matter. Mayor Berube then noted that on September 15, 2023 will receive a visit from the Weber Area Council of Governments (WACOG), which is the body that allocates different funding sources, and they will be inspecting a project for which the City has requested funding. The project is the continued widening of 450 East up to 3100 North. He concluded by noting he is working with Mr. Call to negotiate a formal contract for the pickleball court project in the City.

17. ADJOURNMENT

Council Member Cevering motioned to adjourn the meeting.

The meeting adjourned at 7:56 P.M.

_____
S. Neal Berube, Mayor

_____
Rian Santoro
City Recorder

_____
Date Approved

DRAFT

NORTH OGDEN CITY COUNCIL
SPECIAL MEETING MINUTES

September 19, 2023

The North Ogden City Council convened in a special meeting at 6:02 p.m. on September 19, 2023 at the North Ogden City Office at 505 East 2600 North. The meeting was also on Zoom. Recording can be found on YouTube: https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on September 14, 2023. Notice of the annual meeting schedule was published in the Standard-Examiner on December 16, 2022.

PRESENT:	S. Neal Berube	Mayor	
	Ryan Barker	Council Member	
	Blake Cevering	Council Member	Excused
	Jay D Dalpias	Council Member	
	Charlotte Ekstrom	Council Member	
	Phillip Swanson	Council Member	
STAFF PRESENT:	Jon Call	City Manager/Attorney	
	Joyce Pierson	Deputy City Recorder	
VISITORS:	Chris Pulver		

Mayor Berube called the meeting to order. Council Member Barker offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. No declarations were made.

ACTIVE AGENDA

2. PUBLIC COMMENTS

There were no public comments.

3. CANVASS OF THE PRIMARY ELECTION RESULTS

Deputy City Recorder Pierson referenced the official canvass statistics and summary report for the 2023 Municipal Primary Election; if the results are accepted by the Council, acting as the Board of Canvass, they will become official. She stated there are 12,209 registered voters in North Ogden and 3,790 ballots were cast, which is a 31.04 percent turnout. She cited the reasons that 40 ballots were not counted, after which she reported the results:

- Christina Watson – 1,817
- Ryan Barker – 1,749
- Chris Pulver – 1,593
- Tim Billings – 1,358
- Phillip Swanson – 1,150
- Merrill Sunderland – 1,122
- Reed Miller – 949

She stated that the statistics for voter turnout by voting precinct has been provided to each Council Member, along with a precinct map. Of the seven candidates for City Council, the top six will move on to the General Election.

a. Discussion and/or action to approve the results of the 2023 Municipal Primary Election Canvass

Council Member Ekstrom motioned to approve results of the 2023 Municipal Primary Election Canvass. Council Member Dalpias seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**absent**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**aye**

The motion passed unanimously.

4. PUBLIC COMMENTS

Chris Pulver, North Ogden resident, asked if the City is charged for all ballots mailed or if the charge is reduced for ballots that were returned as undeliverable. Mayor Berube stated he was unsure, but noted the City paid $25,000 for the administration of the Primary Election. Mr. Pulver asked if the statistics would be published on the City's website tomorrow, to which Ms. Pierson answered yes.

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5. COUNCIL/MAYOR/STAFF COMMENTS

Council Member Barker reported that Chief Wade of North View Fire District is retiring and all are invited to attend his retirement open house.

6. ADJOURNMENT

Council Member Ekstrom motioned to adjourn the meeting.

The meeting adjourned at 6:10 p.m.

_____
S. Neal Berube, Mayor

_____
Rian Santoro
City Recorder

_____
Date Approved

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NORTH OGDEN CITY COUNCIL
MEETING MINUTES

September 26, 2023

The North Ogden City Council convened in a Council meeting at 6:00 p.m. on September 26, 2023 at the North Ogden City Office at 505 East 2600 North. The meeting was also on Zoom. Recording can be found on YouTube: https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on July 21, 2023. Notice of the annual meeting schedule was published in the Standard-Examiner on December 16, 2022.

PRESENT:	S. Neal Berube	Mayor	
	Ryan Barker	Council Member	Excused
	Blake Cevering	Council Member	
	Jay D Dalpias	Council Member	
	Charlotte Ekstrom	Council Member	
	Phillip Swanson	Council Member	
STAFF PRESENT:	Jon Call	City Manager/Attorney	
	Rian Santoro	City Recorder	
	Jami Jones	Finance Director	
	Scott Hess	Planning Director	
	Bryce Nelson	Administrative Services Manager/Treasurer	
	Dave Espinoza	Public Works Director/Assistant City Manager	

VISITORS: Kevin Burns
Ben Sehy
Ivan Barker
Brenda Ashdown
Chris Pulver
Tim Billings
Peggy Barker
Reed Miller
Christina Watson
Rod Barker
Greg Cronin
Steve Davies
Grant Protzman

Mayor Berube called the meeting to order. North Ogden Resident Kevin Burns offered the thought and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. No declarations were made.

2. DISCUSSION AND/OR ACTION TO CONSIDER THE AUGUST 8, 2023, CITY COUNCIL MEETING MINUTES

Council Member Ekstrom cited a clerical error in the minutes, a misspelled name that she asked to be corrected.

Council Member Dalpias also clarified some information included in the section of the minutes regarding the Cherry Days Committee presentation; the minutes indicated that $19,000 would be returned to the City from the Committee, but the money was never actually in the Committee's possession because they never needed it. Also, page seven references work being done on 1700 North and the estimate for the work to cost $500,000. He wanted to note that the actual engineer's estimate is $106,000 and he would like that documented in case anyone reviews the previous minutes regarding the matter. He also offered one minor typographical error correction on page four of the minutes; the document states the Mayor was 'taken back' and it should be changed to 'taken aback'.

Mayor Berube added that section of the minutes was related to storage units in a certain project in the City and clarified that he was surprised that the matter was coming back to the Council again after approval had already been granted and was not surprised that there would be storage units at the site.

Council Member Eckstrom motioned to approve the August 8, 2023; City Council Meeting minutes as amended. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Barker	**excused**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**aye**

The motion passed unanimously.

ACTIVE AGENDA

3. PUBLIC COMMENTS

Grant Protzman, North Ogden resident, submitted to the Council a handout regarding the Barker Park project, including team efforts to build the preserve area over the last 2.5 years. He reviewed the handout as follows:

1. Since the purchase of the Barker Park Farm area, comprehensive development stalled after the amphitheater was built.
2. Seeing the lack of potential city funding and not wanting to suggest Bonding or a Tax Increase, in 2019 Councilman Blake Cevering created a 501c3 Charitable Foundation "Build Barker Park" to fund park improvements.
3. Grant and Linda Protzman have sponsored several volunteer Barker Park Cleanups over the years.
4. Blake and the Protzman's joined forces to move this forward with volunteer labor and funding using very few North Ogden City funds and resources.
5. To date, thousands of volunteer hours as well as private equipment have been donated to work on the Hollows areas and the Chicken Coop Trail Area.
6. The Build Barker Park has representatives of the two Barker families that sold the property, a famous landscaper, The master docent of the Ogden Botanical Garden, and others with key talents who want this finished.

North Ogden City has been very helpful to the Build Barker Park Team as projects to clear the Hollows areas and the Chicken Coop Trail have been completed. The only plan formally adopted by the City Council was the 2002 Grassli Plan. The 2015 Barker Park Committee Plan was discussed but a review of Council Minutes for a year prior to and a year following that presentation shows it was never approved by Council vote. Mr. Protzman presented multiple plans for Barker Park to illustrate the variations to the project over the years, dating back to 2015, noting the Build Barker Park Team has developed a plan that combines the best of both the 2002 approved plan and the 2015 discussed plan. The grassli landscaping is contained in organized thematic flower beds and gardens such as native plants, pioneer imports, and Grandma exchange gardens. The open concept of the 2015 plan includes added Indigenous Peoples and Pioneer Thematic Playgrounds, tables, Benches, Observation Points, Descriptive Signage, a Pioneer Splash Stream, and even a Pickle Ball Court that is a descendent of Badminton which Pioneers could Play on uneven grassy areas rather than smooth tennis courts. The Team is still working to raise funds for the project and is grateful to the many sponsors that have already participated.

Reed Miller, North Ogden resident, stated there is a gentleman named Mark Cook from Colorado who is a cyber security expert. He has quit his job and is dedicating his life to developing election security measures. He has annotated over 50 different ways that the government has allowed fraud and corruption of the election system. He will be in Utah on October 11, 2023, and elected leaders can visit with him to learn of his findings. The election of 2020 is an example of

how elections can go awry, and he indicated he will be the point of contact for coordinating a meeting with Mr. Cook.

Chris Pulver, North Ogden resident, stated that the Build Barker Park information is spectacular, and he has gotten involved as much as possible in those efforts. It is going to take a lot to get the project done, but it is something that will greatly benefit the City once it is completed. He added he has been considering the issue of fencing of public property for personal use and he feels that it is improper for someone to fence an area of public property or close it off so that no one can see into it.

4. DISCUSSION AND/OR ACTION ON ORDINANCE AMENDING CITY CODE 8-8 PRIVATE LANDSCAPING ON PUBLIC PROPERTY

Council Member Cevering stated there are not a great number of instances where a private resident is leasing land from the City, but he has discussed the issue with Council Member Barker and it is their thought that if the City trusts someone enough to lease land to them, there may not be a need for a transparent fence. He has not heard an answer as to why a transparent fence would be needed and he wants to have more discussion about the matter. Mayor Berube stated that during the last Council meeting, this matter was postponed. The decision before the Council was to adjust the transparency level for fencing from 75 percent to 65 percent; the current ordinance allows for fencing, but it must be 75 percent transparent or greater. The issue on the agenda tonight is whether to adjust the transparency level. This led to a high-level discussion among the Council regarding the types of fencing materials that could be used for different transparency levels.

Council Member Swanson summarized past discussions of fencing public properties that are leased by private residents; the Council debated whether public property should be fenced at all, even if it is subject to a lease with a private property owner.

Council Member Ekstrom motioned to amend City Code 8-8 Private Landscaping on Public Property, to disallow fencing of public property by private residents. Council Member Dalpias seconded the motion.

Voting on the motion:

Council Member Barker	**excused**
Council Member Cevering	**nay**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**nay**
Mayor Berube	**aye**

The motion passed three to two with the Mayor voting to break the tie vote.

5. DISCUSSION AND/OR ACTION ON A SITE PLAN FOR A DRIVE-THROUGH BUSINESS AT THE VILLAGE AT PROMINENCE POINT PROJECT, LOCATED AT APPROXIMATELY 1871 NORTH WASHINGTON BOULEVARD

Community and Economic Development (CED) Director Hess explained the City Council approved a request on September 12, 2023, to amend the Village at Prominence Point Project Development Agreement to allow a change in the orientation of drive-thru uses in the commercial area. The City Council is the land use authority for commercial site plan reviews as per the Development Agreement. He summarized the pertinent sections of the Development Agreement for this project and provided staff's analysis of compliance with the Development Agreement, Zoning Ordinance, and General Plan. This included discussion of building placement and massing, building orientation, building height, buffering, architectural design and materials, open space, landscaping, pedestrian access, and outdoor lighting.

Mayor Berube asked if the Council is considering a variance to the Master Planned Community (MPC) Ordinance or an Amendment to the Ordinance itself that would apply to all MPC properties. Mr. Hess stated that the way the MPC Code is worded is that an applicant must meet a specific set of requirements unless there is a development agreement for the project. In this case, there is a development agreement, and the Council has some latitude in its decision-making process.

Council Member Dalpias stated that he is concerned about a sidewalk that is sandwiched between the car wash and the drive-through for the subject property; he asked the developer to comment on that aspect of the plan. He also noted the use of two drive-through lanes for the site and asked the developer to address that matter as well.

Council Member Ekstrom asked if a tenant had been secured for the site. She also indicated that she does not believe there is a sufficient parking area for a restaurant. She stated that promoting pedestrian activity is great, but most people will still drive to this site to patronize it. She concluded she feels a restaurant needs a drive-through in order to be successful, though she understands that some residents living near the subject property are not supportive of a drive-through.

Mayor Berube invited input from the developer.

Greg Cronin thanked the Mayor and Council for considering this application; he referenced a few recommendations included in Mr. Hess's staff report and indicated he is willing to accept the conditions. He does feel there will be a significant amount of pedestrian activity as the people who live in the residential areas of Village at Prominence Point to the west will walk to and from the commercial areas of the site. He has done what he can to improve the appearance of the back and front of the buildings to make them more aesthetically pleasing.

He addressed parking and noted there is a shared parking agreement for areas throughout the complex to provide overflow parking to the southwest of the commercial sites. He is looking for a specific type of restaurant for the site but noted that it is not large enough to accommodate Chick-fil-A or In-N-Out Burger. He has considered a double-lane drive-through, but there is not enough room for two lanes. He feels there is sufficient space for vehicles stacking around the building, however, the building is large enough to accommodate two different businesses. He cannot disclose the potential tenants, but he is pleased with the users who are interested in locating at the site.

The Council and Mr. Cronin engaged in a high-level discussion regarding general traffic circulation at the Village at Prominence Point project; the potential development of the 'Gateway' site on the corner of 1700 North and Washington Boulevard.

Council Member Swanson motioned to approve a site plan as discussed for a drive-thru business at the Village at Prominence Point project, located at approximately 1871 North Washington Boulevard. Council Member Eckstrom seconded the motion.

Voting on the motion:

Council Member Barker	**excused**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**aye**

The motion passed unanimously.

6. DISCUSSION ON PLAN FOR BARKER PARK PROPERTY

City Manager/Attorney Call explained Barker Park has been in planning and construction for the past 20 years. The concept of the park was most recently formally presented to the Council in 2015 by the Barker Park Committee organized by the City to come up with a recommended plan to follow in the future phases of the park. The City has seen a lot of exciting things happening in the park since that presentation. The amphitheater has been reconstructed and lights and sound are currently being installed. We have also seen a significant number of volunteer hours in the park cleaning it up and getting the northern areas of the park ready for use and enjoyment. The staff has been proceeding forward with the plan approved by the Barker Park Committee and presented to the Council in 2015. Some have questioned whether that plan is official since the plan was never officially voted on by the Council and only the areas south of the Hollow have received official approval in the land use process.

There isn't any official requirement that the Council approve plans for parks or other projects, though larger plans have normally been presented and reviewed by the Council as budget requests are approved. There are several other plans out there, but in general, there are only two plans that really have the type of work completed and which were presented to the Council in a way that would be of value to this discussion. The 2015 Barker Park Committee Plan was presented to the Council and the 2002 Grassli Plan. It would be helpful for the Council to weigh in on which plan should be moved forward with, understanding the plans don't necessarily conflict, given that the Grassli Plan has significant portions of the plan constructed and the two plans have several overlapping components. This park is not planned to be a facility with organized sports like soccer, football, or baseball but instead will include other types of activities. Not all those activities are represented on either map as it has been viewed as a guiding document with the specific program and themes to be determined as components are included. A good example of this is that the volunteers have suggested that a pioneer theme be incorporated into more components in the park with locations for traditional pioneer games and activities which could be easily incorporated into the 2002 or 2015 plans. Essentially, this conversation is intended to start the process of fine-tuning the proposed designs in a way that we can begin a plan to implement and construct this park as funds are made available. We have several projects which are being funded through donated money and time and some of those projects need more support from the city to be successful. For example, there is a bridge crossing proposed which technically needs a Stream Alteration Permit to be installed. If the City sponsors that request, the cost and timeframe are significantly less. Staff also recognizes that this is a sensitive topic for some, and the goal of the discussion is to find a path forward to park completion and not to change and modify the types of things that have already been planned and constructed on the property. The preference for this discussion is that we focus on the future of the park and not necessarily on what has happened in the past with the various disagreements on the property. Staff recommends the Council discuss the plan moving forward but put off any decisions for a future meeting so we can make sure any stakeholders and interested parties are involved in the conversation.

Mayor Berube facilitated a discussion between Mr. Call and the Council regarding the original plan for the project, previous cost estimates for the project, the need to formalize a committee working on the project, and the phasing of the project. The Council decided to postpone the matter to give the Mayor time to formalize recommendations for committee members, which will be brought back to the Council at a future meeting.

> **Council Member Swanson motioned to postpone the plan for Barker Park Property. Council Member Eckstrom seconded the motion.**

Voting on the motion:

Council Member Barker	**excused**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**aye**

The motion passed unanimously.

7. DISCUSSION ON CITY INVESTMENTS

Administrative Services Manager Nelson stated he and the Mayor have met with different investment partners to explore investment options for the City; he would like to move forward with longer-term investment and create a five-year investment plan for the City. He is recommending the City contract with Meeder Public Funds to invest public funds. No formal approval is necessary, but he wanted to inform the Council of his plans before proceeding. There was a brief discussion among the Council regarding the source of the funds that will be used for investment purposes; the City's access to the funds once they are invested; the total amount the City can reasonably invest from year to year; and the types of investment products available to municipalities. The Mayor and Council also heard from a representative of Meeder Public Funds regarding their public investment structuring strategies.

8. COUNCIL DEPARTMENT REPORTS:

a. COUNCIL MEMBER BARKER – PARKS & RECREATION – Postponed as Council member Barker was excused.

b. COUNCIL MEMBER EKSTROM – PUBLIC WORKS

Council Member Ekstrom provided a status report for various public works projects underway.

c. COUNCIL MEMBER CEVERING - POLICE

Council Member Cevering stated the Police Chief wanted to thank the community for its efforts over the past summer to help decrease crime rates; he also reminded residents to keep an eye open for suspicious activities when they are driving through the City. He also noted the Public Safety Project is progressing and asphalt will be laid in the parking area next week.

e. COUNCIL MEMBER SWANSON - FINANCE

Council Member Swanson provided the Sales Tax Report through the month of July and a report of tax revenues for the month of August, noting those collections are still incomplete. He also reported on the hiring of a new employee in the Finance Division and indicated this individual will be working on a depreciation program for the City. The Division is also preparing for the annual audit.

Mayor Berube commented on tax revenue forecasts for the State of Utah; a Legislator recently wished cities luck in balancing their budget this year given receding tax revenues.

9. PUBLIC COMMENTS

Chris Pulver, North Ogden resident, stated that as the City is looking forward and planning for the needs of the community, he would suggest consideration of the expansion of public safety services and revenue. He then asked if the leaf truck would be operating anytime soon in the community. Mayor Berube answered yes. Mr. Pulver then referenced the discussion regarding City investments and noted that he did not hear any mention of the amount of money the City will pay to Meeder Public Funds for their service. Mayor Berube stated the annual cost of the service is estimated at $8,000 per year, which is minimal when compared to the potential return on the investments.

Grant Protzman, North Ogden resident, thanked the Council for their warm reception of the hours and hours of work that have gone into the Barker Park project; some changes will be made to the Grassli Plan to incorporate waterwise landscaping considering the recent drought.

Christina Watson, North Ogden resident, asked if a leased public property is one that the public can enter and use while it is being leased since fences will no longer be allowed on leased properties. She then referenced the Amendment to the Development Agreement for the Village at Prominence Point to allow a drive-through; she is concerned that the overflow parking in the project area will only appear to be available to residents and the public will not realize there is available overflow parking. She suggested signage so that it is obvious that there is other parking available. She then noted that she loves the work that is being done at Barker Park, but she would hate for the progression of the Committee to be halted if they are forced to get approval for every little thing they are trying to do at the Park. She noted that the Committee is raising private funds to complete the project and she does not think the City should be holding them back. Mayor Berube stated the Council is responsible for the use of City property and if something improper is done to the property, the Council will be responsible. He does not want the Council to micromanage the project, but it is important for them to give certain approvals for them to proceed. Ms. Watson stated whatever the outcome of that discussion is, she hopes the Committee will have some latitude to continue to meet and discuss the project and make progress. Mayor Berube agreed.

Council Member Swanson added that if the City allows private control of one park, it would need to allow private control of any other park if a resident group requested it. The City must maintain some level of control over what is happening on City property for that reason. He stated the Council does not want to get in the way.

John Burns, North Ogden resident, referenced the discussion about City investments; he asked where the money goes that the City raises on its various utility taxes and fees. City Manager/Attorney Call stated the City receives just over $1 million per year for franchise taxes and it is deposited into the General Fund to be used for things like funding public safety service. Mr. Burns stated that a public safety impact fee has been discussed a few times and he asked if that is still under consideration. Mr. Call stated that he spoke with the City's financial advisor last week and they are working on a recommendation for the public safety and parks impact fees, as well as an update to the water, sewer, and storm drain impact fees. The public safety and parks fees should come before the Council within the next six weeks.

Reed Miller, North Ogden resident, mentioned the matter of fencing public property that is subject to a private lease; residents have unalienable rights of life, liberty, and the pursuit of happiness. Liberty is the freedom to do things and if the Council has enough trust to grant a lease of public property, it is important to be aware of their desires to use the property. Perhaps instead of prohibiting fencing, the City could allow fencing, but include language in the lease requiring the other party to remove the fence at the termination of the Lease or if any provision of the Lease Agreement is broken.

10. COUNCIL/MAYOR/STAFF COMMENTS

Assistant City Manager/Public Works Director Espinoza reported all military banners have been taken down from the poles along Washington Boulevard; families of the honorees can be contacted to pick them up, or the City can deliver them to the appropriate recipient.

City Manager/Attorney Call stated he is working with the Police Department to get the Crime Bulletin placed back on the City's website. Also, he will provide his Capital Project update at the first meeting in October.

Council Member Swanson asked if the streets in Legacy Two are public or private. Mr. Call indicated they are public, though Legacy One is private. Council Member Swanson stated that he was contacted by a resident who is concerned about the cracks in the road being a trip hazard for elderly residents. Mr. Espinoza indicated he would look into the issue.

Council Member Dalpias asked if the Special Work Session to discuss Redevelopment Agency (RDA) funds and projects will be held next Tuesday, to which Mr. Call answered yes at 6:00 p.m.

Council Member Cevering asked for an update on the Pickleball Court Project. Mr. Call stated that based on the contractor that was selected, the project will not be finished until June 2024. Council Member Cevering stated he would be supportive of amending the Master Planned Community (MPC) Zone to allow the Mayor and Community and Economic Development (CED) Director to approve Amendments to Development Agreements that are greater than a five percent increase. Mayor Berube stated he could work with staff to bring that issue before the Council.

Mayor Berube then referenced recent comments about the maintenance of detention basins in the community; citizens are asked to maintain their property and the City should live by that same expectation. He has spoken with Mr. Espinoza, and he is working to do the best they can with the resources they have.

Council Member Ekstrom asked for an update on needed repairs to the flag poles. Mr. Espinoza indicated they should be repaired in the next couple of weeks.

11. ADJOURNMENT

Council Member Eckstrom motioned to adjourn the meeting.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**aye**

The motion passed unanimously.

The meeting adjourned at 8:09 p.m.

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_____
S. Neal Berube, Mayor

_____
Rian Santoro
City Recorder

_____
Date Approved

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NORTH OGDEN CITY COUNCIL
WORK SESSION MEETING MINUTES
October 3, 2023

The North Ogden City Council convened in a Council meeting at 6:00 p.m. on October 3, 2023, at the North Ogden City Office at 505 East 2600 North. The meeting was also on Zoom. Recording can be found on YouTube: https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on September 28, 2023. Notice of the annual meeting schedule was published in the Standard-Examiner on December 16, 2022.

PRESENT:	S. Neal Berube	Mayor
	Ryan Barker	Council Member
	Blake Cevering	Council Member
	Jay D Dalpias	Council Member
	Charlotte Ekstrom	Council Member (Arrived at 6:40 PM)
	Phillip Swanson	Council Member

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Rian Santoro	City Recorder
	Jami Jones	Finance Director
	Scott Hess	Planning Director
	Dave Espinoza	Public Works Director/Assistant City Manager
	Bryce Nelson	Administrative Services Manager/Treasurer (Zoom)

VISITORS:

Kevin Burns	Christina Watson
Stefanie Casey	Jason Hadley
Chris Pulver	Susan Kilborn
Merrill Sunderlund	Larry Hill

Mayor Berube called the meeting to order. Council Member Swanson offered the thought and led the audience in the Pledge of Allegiance.

Mayor Berube noted he recently received photographs of vandalism at a North Ogden City park; he also received a report from the Police Chief about an assault that occurred recently in the City where an adult assaulted a young man who may have been doing something he should not have been doing. Additionally, he received a report from a resident whose pride flag was stolen from their property. He hopes these instances are not a new trend for North Ogden City; he has always been proud to live in North Ogden and proud of the safety of the community and he asked residents to keep their eyes open for things that are happening in the City that should be reported to the Police Department.

CONSENT AGENDA

1. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. No declarations were made.

2. DISCUSSION AND/OR ACTION TO CONSIDER THE AUGUST 15, 2023, CITY COUNCIL TRUTH IN TAXATION MEETING MINUTES

Council Member Dalpias identified an error in the minutes; the name Clake Cevering was listed in the visitor section of the minutes and that should be removed.

Council Member Cevering motioned to approve the August 15, 2023, City Council Truth in Taxation Meeting minutes as amended. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**excused (arrived at 6:40 PM)**
Council Member Swanson	**aye**

The motion passed unanimously.

ACTIVE AGENDA

3. PUBLIC COMMENTS

There were no public comments.

4. DISCUSSION AND/OR ACTION ON THE REDEVELOPMENT AGENCY (RDA) PROJECTS

City Manager/Attorney Call referenced the discussion of this matter during the September 12, 2023, City Council Meeting; the City needs to determine the best way to utilize the existing RDA funds in order to program the money to benefit the RDA area and complete the requirements for the RDA program. Several items/projects have been discussed and the Administration needs formal direction from the Council at this time in order to prepare for final action on allocation of the RDA funds before the end of the calendar year. Projects that have been discussed in the past include:

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- Refitting the Northshore Aquatic Center with a replacement playground, bowery, parking lot repairs, and other capital needs.
- Redevelopment of Bicentennial Park to include upgrades to the plaques honoring veterans, benches, light poles, and landscaping improvements.
- Assist in the redevelopment of North Ogden Plaza including the possible daylighting of Coldwater Creek or other infrastructure to create a sense of place in North Ogden City.

Mayor Berube asked Mr. Call to define the areas in the City that qualify for RDA funding. Mr. Call stated that the requirements have been loosened a bit and, in general, the projects to be completed must benefit the RDA area, which 'crisscrosses' Washington Boulevard. The focus should be the commercial district along Washington Boulevard. Mayor Berube asked if there is a specific redevelopment area boundary. Mr. Call presented a map of the redevelopment project area but noted that the funds do not need to be spent in that area only and can be used on any project that benefits the redevelopment area. Mayor Berube asked for a definition of the term 'benefit' in relation to this matter. He also asked for an estimate of the total amount of RDA funding available and how much money the Community Development Area (CDA) owes the RDA. Mr. Call noted the removal of blight would meet the definition of benefiting the RDA; the idea is that any project should help to reinvigorate a property to generate tax increment in the RDA. He is not sure of the total amount of RDA funds available, but the best estimate at this time is over $2.5 million; the CDA owes the RDA $300,000. Mayor Berube asked how much will remain in the CDA budget once the $300,000 debt is repaid. Mr. Call stated the total budget for the list of projects to be completed in the CDA is $5.2 million, but this is based on estimates from 2018.

Assistant City Manager/Public Works Director Espinoza expounded on the project related to the Aquatic Center. He presented a list of work that could be completed at the facility to improve it beyond its original condition; he noted most of the finishes and equipment at the facility are original and need to be replaced or improved. Maintenance of the pool has been wonderful, but some of the equipment is 20 years old, and replacing it will allow for increased efficiencies at the pool.

Council Member Dalpias noted that many of the items included on the list presented by Mr. Espinoza will not be visible to the public; he asked that the Council be given a tour of the facility to understand the proposed improvements and how they will improve the facility. Mr. Espinoza indicated staff is willing to provide such a tour.

Mayor Berube wondered if any of the projects at the facility would qualify for Recreation, Museum, Arts, Parks (RAMP) grant funding. Kevin Burns, who serves as the Parks and Recreation Chair on the RAMP Tax Advisory Board and was in attendance answered yes, noting that he would need to look at it more closely to provide a definitive answer. He indicated there will be a RAMP training event in the coming weeks and he will ask about the Aquatic Center projects at that event.

The Mayor and Council then engaged in high-level discussion with Mr. Espinoza about the scope of many of the projects included on the list and whether there is any flexibility in the cost of any of the projects.

Mr. Espinoza then discussed the work to be performed at Bicentennial Park and presented a rendering that identified the areas that would be converted to xeriscape. He noted that some work can be completed in-house, but the total cost estimate is $220,000, which includes design and installation.

The Council engaged in discussion with Mr. Espinoza about the design of the xeriscaping and any other improvements that could be completed at Bicentennial Park to improve its usefulness and make the area more aesthetically pleasing. The City's maintenance crew's ability to maintain the area effectively was discussed as to prevent any xeriscape areas from being overcome with weeds or becoming unsightly.

Mr. Call then discussed the North Ogden Plaza Project; he presented a signboard of the Plaza and invited the Council to participate in an interactive exercise to mark up the layout of the Plaza to indicate items of priority for them. Community and Economic Development (CED) Director Hess also added that Zion's Public Finance and the City's consultant, MHTN, has developed an existing conditions report for the Plaza to communicate the age, condition, and ownership of the buildings at the Plaza. The report is in draft form at present, but he provided the Council with a copy to aid in their discussion of this matter. He then presented cost estimates developed by the City Engineer for opening Coldwater Creek through the project area; completing landscape improvements, frontage improvements, sidewalk improvements; and maximizing the use of the space. This led to brainstorming among the Mayor and Council regarding the best use of the property; creating a site that can easily host special events while allowing the existing businesses to be successful.

Council Member Swanson questioned the appropriateness of using RDA funding for the North Ogden Plaza; he indicated that the people or entities that own the buildings in the Plaza have not asked for assistance, and they do not care about the condition of the properties because they are able to rent them to businesses. He stated he does not support using tax dollars to help build or benefit businesses when the landowners have done nothing themselves. Mr. Call stated that the City has tried to get the landowners to take the initiative to improve the area and if something is not done, there is a risk of losing all funding sources for improving the area. He compared the North Ogden Plaza project to what the City did at Lee's Marketplace; the City redeveloped the site, which spurred reinvestment at the site by other property owners, but he acknowledged Council Member Swanson's concern about the risk associated with dedicating funding to North Ogden Plaza. The only guarantee for the City would be to use the funding to buy the properties and then partner with someone on the redevelopment. Mayor Berube agreed that the City should only be trying to help property owners who want to help themselves, but he is concerned about the risk of the area becoming blighted if current conditions continue. The Council engaged in philosophical discussion and debate regarding whether the City should proceed with the consideration of the use of RDA funds for the site, with the Mayor suggesting that the City attempt to coordinate a meeting with the landowners at the Plaza to discuss their ideas and plans

for the future of the Plaza before making a decision to spend money at the site. The Council and staff supported this idea. Mayor Berube concluded the main goal of the RDA should be to facilitate business development that will result in tax generation in order to relieve the burden on residents through their property tax. Mr. Call stated that staff will report back to the Mayor and Council when they are able to schedule a meeting with the landowners at the Plaza. He suggested something like a 'food truck roundup' area where food trucks could be located at the Plaza on a regular basis.

5. PUBLIC COMMENTS

Merrill Sunderlund, North Ogden resident, stated tonight's discussion has been very useful. He agrees with the use of RDA funds for the Aquatic Center. For the area around Bicentennial Park, there are some areas that should obviously be xeriscaped to increase safety for the people who are maintaining that area, but he thinks a long-term plan would be helpful in improving all of Bicentennial Park. This is one of the areas that defines North Ogden, and it is important to preserve the history and legacy of the Park. He addressed the North Ogden Plaza discussion and indicated that whatever decisions are made, they should not prevent the future daylighting of the stream at some point in the future. He agreed with Council Member Swanson about using money when the private landowners are not interested in improving the area but indicated the Plaza is an area that the entire City cares about and improving it will only benefit the City as a whole.

Jason Hadley, Harrisville resident, stated he is representing the North View Business Alliance as the Government Relations Board Member. He indicated the Alliance will be a resource to the North Ogden, Pleasant View, and Harrisville cities and to businesses that need to communicate with their City Councils. The matters that were discussed tonight are also concerns of the Alliance and they are working on projects and programs that will help to revitalize the collective community. He provided his contact information.

Chris Pulver, North Ogden resident, stated that he noticed the City's budget includes $60,000 for the Aquatic Center and he wondered if that is separate from the projects that were discussed tonight. Mr. Call stated it is separate. Mr. Pulver stated that it is important to carefully evaluate the projects to be completed at the Aquatic Center to determine if there is a direct correlation between cost savings and revenue generation. He added that he supports the xeriscaping projects that will address safety concerns for individuals who maintain the park strips at City properties. He then noted he likes the idea of a 'food truck roundup' and has seen that be successful in other communities that he has visited.

Christina Watson, North Ogden resident, stated she was disappointed that opposing viewpoints were not explored during the discussion of the North Ogden Plaza. She acknowledged there is a risk, but this is an area that could best generate tax revenue for the City and there should be more discussion about how to proceed instead of whether to proceed. If the City helped to create an asset at the site, everyone would benefit. If the City does nothing, conditions at the site will worsen and that will be even more problematic for the community.

She offered some of her suggestions for reusing or reconfiguring the site but noted that if the City can make the frontage more beautiful and increase options at the Plaza, people will stop at the site.

Kevin Burns, North Ogden resident, stated he has visited food truck parks in other communities, and he suggested the City reach out to people from those communities to learn about their experiences. He then stated that a few years ago, he would have never supported covering the Aquatic Center, but he thinks a discussion about that type of project should now be discussed because there is such a demand for a year-round pool space and that may outweigh the cons of covering the facility.

Susan Kilborn (Via Zoom), North Ogden resident, stated that she was unable to hear the first several minutes of the meeting because the audio was unavailable. She asked the Mayor to restate the comments he made at the beginning of the meeting, which Mayor Berube did. Ms. Kilborn stated she would like to figure out a way to establish a forum where people could come together to make something good for the City. She asked if the City is able to see how many people are watching a meeting on Zoom. Mr. Call answered yes, tonight there were three. Ms. Kilborn stated she would like to volunteer to help encourage people to watch Council meetings and participate via Zoom. She asked for a partner on the City Council to help with this endeavor. She then concluded the local League of Women Voters is hosting a "Meet the Candidates" event on October 30, 2023, for the 2023 Election. She asked for help spreading the word about the event to increase participation in the Election.

6. COUNCIL/MAYOR/STAFF COMMENTS

Community and Economic Development (CED) Director Hess reported that the City has extended an offer to an individual for the Planner 1 position, and it has been accepted. Mayor Berube thanked Mr. Hess for carrying an increased workload while the position was vacant.

Council Member Dalpias stated there will be an additional debate for City Council candidates; it will be on October 25, 2023, at the Senior Center and is hosted by the Weber County Republican Party. Mayor Berube suggested that Council Members submit questions to be asked of the candidates at both the election events.

Mayor Berube asked that the Council continue to think about the use of RDA funds; it will be necessary to make some decisions regarding the use of these funds in the coming weeks.

11. ADJOURNMENT

Council Member Eckstrom motioned to adjourn the meeting.

Voting on the motion:

Council Member Barker	**aye**
Council Member Cevering	**aye**
Council Member Dalpias	**aye**
Council Member Ekstrom	**aye**
Council Member Swanson	**aye**

The motion passed unanimously.

The meeting adjourned at 8:09 p.m.

_____
S. Neal Berube, Mayor

_____
Rian Santoro
City Recorder

_____
Date Approved

DRAFT

NORTH OGDEN CITY
STAFF REPORT

TO: **NORTH OGDEN CITY COUNCIL**

FROM: **DYLAN HILL**

PUBLIC WORKS INSPECTOR

DATE: **10-13-2023**

I HAVE COMPLETED THE CONDITIONAL INSPECTION ON MONTGOMERY FARMS PHASE 1. THE IMPROVEMENTS ARE UP TO CITY CODE AND STANDARDS.

THE ORIGINAL SUM OF THE ESCROW IS $783,757.48 FOR IMPROVEMENT COSTS, WHICH HAVE BEEN RELEASED THROUGHOUT THE IMPROVEMENT PROCESS. ESCROW RELEASES SHOW A REMAINING $71,250.68 WILL REMAIN WITH THE ESCROW AGENT THROUGH THE ONE YEAR PERIOD AFTER CONDITIONAL ACCEPTANCE BY CITY COUNCIL.

Montgomery Farms Phase 1

A part of the South 1/2 of Section 32, T7N, R1W, SLB&M, U.S. Survey
North Ogden City, Weber County, Utah
August 2022

VICINITY MAP
Not to Scale

Scale: 1" = 60'

Graphic Scale

PROPERTY LINE CURVE DATA					
Curve	Delta	Radius	Length	Chord	Chord Bearing
C9	89°41'23"	10.00'	15.65'	14.10'	N 44°33'04" E
C10	91°43'01"	10.00'	16.01'	14.35'	S 45°58'21" E
C7	88°19'37"	10.01'	15.43'	13.95'	S 44°41'27" E
C8	91°40'23"	10.02'	16.04'	14.38'	S 45°41'27" W
C6	6°40'14"	230.00'	26.76'	26.76'	N 84°58'30" W
C10	12°26'20"	230.00'	49.93'	49.83'	N 75°26'14" W
C11	50°00'00"	10.00'	13.96'	13.66'	S 70°46'36" W
C12	18°13'52"	140.00'	44.53'	44.44'	S 21°39'00" W
C13	17°35'24"	170.00'	52.19'	51.99'	S 79°31'55" E
C14	101°31'09"	10.00'	17.72'	15.49'	S 19°58'39" E
C15	31°09'23"	200.96'	109.28'	107.94'	S 16°35'07" W
C16	51°25'30"	140.88'	77.27'	76.30'	N 16°43'39" E
C17	73°54'35"	10.00'	12.90'	12.02'	N 67°44'14" E
C18	9°05'04"	230.00'	36.47'	36.43'	S 79°51'00" E
C19	9°36'24"	170.00'	1.81'	1.81'	N 84°05'15" W
C20	114°33'54"	10.00'	20.00'	16.85'	N 28°30'01" W
C21	18°15'52"	200.00'	63.75'	63.49'	N 21°39'00" E
C22	55°42'38"	10.00'	29.17'	28.03'	S 67°45'10" W
C23	9°58'27"	30.00'	5.22'	5.22'	S 34°54'58" W
C24	89°47'07"	55.00'	86.19'	77.64'	S 74°48'58" W
C25	57°51'13"	55.00'	55.54'	53.21'	N 31°21'52" W
C26	58°17'40"	55.00'	55.96'	53.58'	N 28°42'35" E
C27	39°45'03"	55.00'	38.16'	37.40'	N 75°43'56" E

CENTERLINE CURVE DATA					
Curve	Delta	Radius	Length	Chord	Chord Bearing
C100	13°00'34"	200.00'	66.70'	66.40'	S 78°46'21" E
C101	15°10'26"	200.00'	52.97'	52.81'	S 76°46'18" E
C102	31°16'23"	170.92'	93.29'	92.14'	N 18°38'49" E
C103	18°15'52"	170.00'	54.19'	53.96'	N 21°39'00" E

Legend

- Monument to be set
- Found Centerline Monument
- (Rad.) Radial Line
- (N/R) Non-Radial Line
- PUE Public Utility Easement
- PU&DE Public Utility & Drainage Easement
- Fence
- Buildable Area
- Pathway
- Fault Setback
- Fault
- Easement
- Access & Utility Easement
- Buildable area
- Existing Boundary
- Set Hub & Tack
- A will be set Nail in Curb
- Extension of Property
- Set 5/8"x 24" Long Rebar & Cap w/ Lathe
- West Quarter Corner of Section 32, Township 7 North, Range 1 West, Salt Lake Base & Meridian, U.S. Survey

BOUNDARY DESCRIPTION

A part of the South Half of Section 32, Township 7 North, Range 1 West, Salt Lake Base and Meridian

Beginning at a point on the South Boundary Line of The Towns of Patriot Point Subdivision Phase 2, (Weber County Recorder's Book 90 Pages 017-018), said point being 304.53 feet North 89°55'37" West and 287.06 feet South 0°04'23" West from the Center of the said Section 32; and running thence South 89°29'41" East 1,088.14 feet along said South Boundary and the South Boundary Line of The Towns of Patriot Point Subdivision Phase 1A, (Weber County Recorder's Book 90 Pages 015-016) and the South Boundary line of The Ranches Phase 3 - A P.R.U.D. Subdivision (Weber County Recorder's Book 83 Pages 095-096) and the Southern Boundary line of Ranch View Townhomes Phase 3 (Weber County Recorder's Book 66 Page 055); thence South 80°04'39" East 269.59 feet along said Southern Boundary line; thence North 12°32'24" East 57.83 feet along the Eastern Boundary line of said Ranch View Townhomes Phase 3; thence South 80°59'22" East 398.12 feet; thence South 03°10'41" West 344.68 feet to the Northern Boundary line of Hidden Willow Estates Subdivision First Amendment (Weber County Recorder's Book 68 Pages 096-097); thence three (3) courses along said amendment as follows: (1) North 78°37'05" West 139.74 feet; (2) North 84°23'32" West 1,200.06 feet; and (3) South 89°22'43" West 445.89 feet; thence North 00°05'46" East 132.16 feet; thence South 89°59'29" East 36.62 feet; thence North 00°00'31" East 133.94 feet to the POINT OF BEGINNING.
Containing 12.0865 acres, more or less.

SURVEYOR'S CERTIFICATE

I, Andy Hubbard, do hereby certify that I am a Professional Land Surveyor in the State of Utah, and that I hold Certificate No. 6242920 in accordance with Title 58, Chapter 22, of the Professional Engineers and Professional Land Surveyors Licensing Act. I also certify that I have completed a survey of the property described hereon in accordance with Section 17-23-17 and that I have verified all measurements shown hereon this plat of Montgomery Farms - Phase 1 in North Ogden City, Weber County, Utah and that it has been correctly drawn to the designated scale and is a true and correct representation of the following description of lands included in said subdivision, based on data compiled from records in the Weber County Recorder's Office. Monuments have been found or placed as represented on this plat.

Signed this 10th day of August, 2022.

6242920
License No.

OWNER'S DEDICATION

We, the undersigned owner of the hereon described tract of land, hereby set apart and subdivide the same into Lots, Parcels and Streets as shown on this plat, and name said tract Montgomery Farms - Phase 1, hereby dedicate to North Ogden City, Weber County, Utah all those portions of said tract of land designated as Streets, the same to be used as public thoroughfares forever, and also hereby dedicate and grant to North Ogden City those parts of portions of said tract designated as Parcels and or Easements for public utility, drainage, and storm water management purposes as shown hereon, the same to be used for the installation, maintenance and operation of public utility service lines, drainage and storm water detention, as may be authorized by North Ogden City.

Signed this 10th day of August, 2022.

Century Land Holdings of Utah, LLC

Chase Turner - Authorized Signer

ACKNOWLEDGMENT

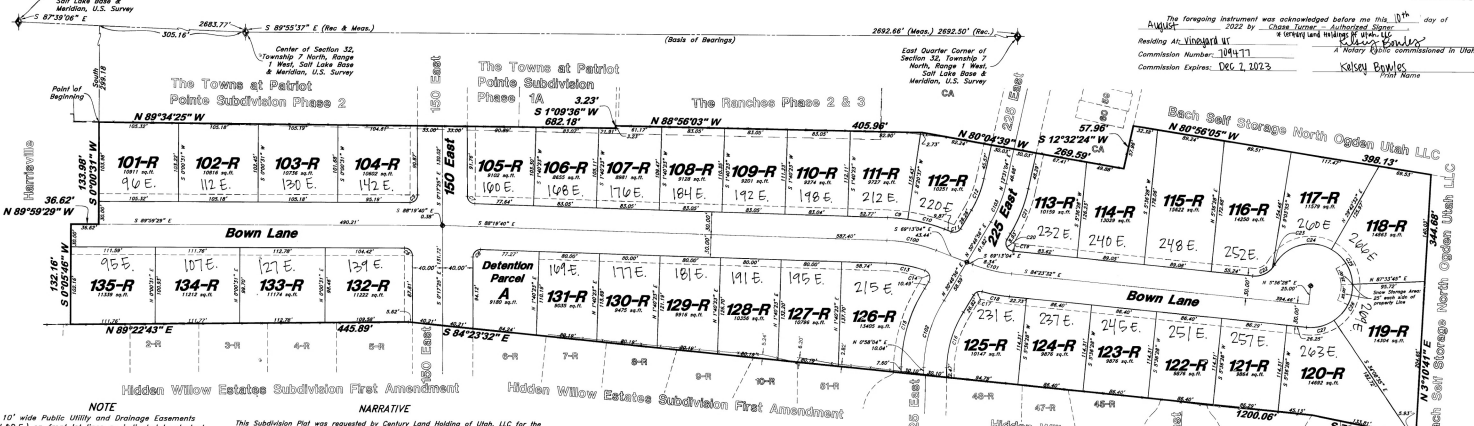
State of Utah
County of)ss

The foregoing instrument was acknowledged before me this 10th day of August 2022 by Chase Turner - Authorized Signer of Century Land Holdings of Utah, LLC

Residing At: Vineyard ut
Commission Number: 704477
Commission Expires: DEC 7, 2023

A Notary Public commissioned in Utah
Kelsey Bowles
Print Name

KELSEY BOWLES
NOTARY PUBLIC - State of Utah
Comm. No. 704477
My Commission Expires on
Dec 7, 2023



NOTE

1. 10' wide Public Utility and Drainage Easements (P.U.&D.E.) on front lot lines as indicated by dashed lines except as otherwise shown.
2. Geotechnical Evaluation performed by CMT. Report Dated 4/8/2021, CMT Project No.16211.
3. All Lots Shown with a -R designation are RESTRICTED as to the depth of basements. The requirements are established in Geotechnical report.

NARRATIVE

This Subdivision Plat was requested by Century Land Holding of Utah, LLC for the purpose of Subdividing the ground into 31 (Thirty One) Residential Lots, and a Parcel for Storm Water Detention. A line bearing South 89°55'37" East between the Center and East Quarter Corners of Section 32, Township 7 North, Range 1 West, was used as the Basis of Bearings. See E.O.S. # 2321 for complete Boundary Retracement details.
Property Corners were set as Depicted on the Drawing.

NORTH OGDEN CITY APPROVALS

This plat was approved by the City Engineer and the Community Development Director.

City Engineer — Date
Planning Director — 8-25-2022 Date

NORTH OGDEN CITY ATTORNEY

I certify that the requirements of all applicable statutes and ordinances prerequisite by the state of Utah and the ordinances of North Ogden City of the foregoing plat and dedications have been complied with.

Signed this 25 day of August, 2022.

City Attorney

LAND USE AUTHORITY

This is to certify that this plat and the dedication of this plat along with the dedication of all easements were duly approved and accepted by the Land Use Authority of North Ogden City this 25 day of August 2022.

by: Chairman
Attest: Secretary

ENGINEER:
Great Basin Engineering, Inc.
Andy Hubbard PLS
5746 South 1475 East Suite 200
Ogden, Utah 84403
(801) 394-4515

DEVELOPER:
Century Communities
10848 S. Jordan Gateway Suite 300
South Jordan, Utah 84095
801-979-4482

GREAT BASIN ENGINEERING
5746 South 1475 East Ogden, Utah 84403
Main (801)394-4515 SLC (801)521-0222 Fax (801)394-7544
WWW.GREATBASINENGINEERING.COM

6.

Page 40

Ent 3234
Date 11-15-2022
Time 3:44 PM
Book
Page
OFFICIAL RECORDER
FOR Mass
Lynn H. Kunz
WEBER COUNTY RECORDER
BY: DEPUTY

E# 3252621 PG 1 OF 7
LEANN H KILTS, WEBER CTY. RECORDER
29-AUG-22 1058 AM FEE $.00 SW
REC FOR: NORTH OGDEN CITY

W3252621

DEVELOPER'S AGREEMENT WITH NORTH OGDEN CORPORATION

This Agreement entered into this 25 **day of** August **, 2022**, between **Century Land Holdings of Utah, LLC**, County of Salt Lake City, State of Utah, or its assigns, hereinafter referred to as Developer, and NORTH OGDEN CITY CORPORATION, a municipal corporation of the State of Utah located in Weber County, hereinafter referred to as the City, hereby agrees as follows:

1. FINAL. Developer has obtained approval of a final plat from North Ogden City for the subdivision of, and construction of improvements on, certain land in North Ogden City to be known as **Montgomery Farms Subdivision**. Developer has presented to the North Ogden City Planning Commission and the North Ogden City Council a proposed final plat for the subdivision of, and construction of improvements, on the subdivision. On **September 9, 2021,** a Notice of Decision was sent and is attached hereto for convenience as Exhibit "A" (the "Notice of Decision"). As consideration for the granting of said approval and acceptance, Developer has agreed and does now agree to the provisions hereof and all other ordinances of North Ogden City.

2. COMPLIANCE WITH SUBDIVISION STANDARDS. Developer agrees to comply with all of the ordinances, rules, regulations, requirements and standards of the City with respect to the construction and completion of said subdivision, and particularly to install and complete all of the off-site improvements required, within the time hereinafter stated, including but not limited to the following:

A. Rough grading and finish grading and surfacing of streets.
B. Curbs, gutters, waterways, and driveway approaches.
C. Sanitary sewers, including laterals to property line of each lot.
D. Street drainage and drainage structures.
E. Water lines, including laterals to each property line of lot.
F. Fire hydrants.
G. Sidewalks and walkways.
H. Traffic control signs.
I. Street signs with numbers.
J. Screening when required.
K. Chip and seal coat on new streets.
L. Monuments.
M. Fencing.
N. Pressure irrigation, including laterals to each property line of lot.
O. 10% Contingency Fund.

Said improvements and any others designated shall be done according to the specifications and requirements of the City. All work shall be subject to the inspection of North Ogden City and any questions as to conformity with the City specifications or standards or as to the technical sufficiency of the work shall be decided by the City Engineer and his/her decision shall be final and conclusive. For convenience a plat map is attached as Exhibit "B".

Developer agrees as consideration for City issuing building permits after initial acceptance of improvements to allow the City to collect and retain utility fees for the time between initial and final acceptance of the utility lines.

Building permits will be issued on condition that all improvements necessary to satisfy fire code requirements have been installed and that enough security is held in escrow to complete all required improvements for the subdivision, including any repairs or replacement after initial installation.

3. TIME FOR COMPLETION AND EXTENSION OF TIME. All of the said off-site improvements shall be fully installed and completed within two (2) years from the date of the recordation of the Final Plat. If not completed within two (2) years, the Developer may apply to the Planning Commission and the City Council for an extension of time of one year with additional one-year extensions after the first extension if the Planning Commission and City Council agree. Said extensions shall be subject to adequate security for the completion of said improvements being made by increasing the amount of the escrow account.

4. SECURITY FOR COMPLIANCE. As security for compliance by Developer with the ordinance, rules, regulations, requirements and standards of the city and of Developer's agreements herein stated, Developer has delivered to the City an acceptable Escrow Agreement for **Montgomery Farms Subdivision**, and agrees to hold **$ 783,757.48** (which represents the cost of all required improvements as determined by the City Engineer plus 10% contingencies) in escrow for the use of the city in the event of Developer's failure or refusal to install, complete, construct, repair, or replace any off- site improvements in accordance with the provisions of this agreement, the escrow agreement and all City codes and ordinances. For convenience the Escrow Agreement is attached as Exhibit "C". The decision of the City as to whether an improvement needs to be installed, constructed, completed or replaced will be final.

Should Developer fail or refuse to complete the said off-site improvements in accordance with the provisions hereof, and particularly within the time stated, or should Developer become insolvent before a completion thereof, then the City may, at its option, determine the cost of completing said off-site improvements on the basis of reliable estimates and bids and may apply all sums deposited in escrow against the said cost of completion and may proceed to legally obtain the escrow funds and use the proceeds therefrom to pay the cost of completing the said off-site improvements and to pay all related expenses including but not limited to court cost and attorney's fees.

The 10% of above stated, shall constitute a guarantee that the said off-site improvements are installed in accordance with the subdivision standards of the City as to quality and service-ability and shall be held by the City for a period of one (1) year from the time the last improvement is "conditionally accepted" by the City or until one (1) year after the time the last improvements needing repair or placement is again accepted. At the end of the

one year period the said 10% shall be returned to Developer provided the off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, otherwise, to be applied toward construction or installation of said improvements in accordance with City standards or the repair or replacing the same so as to bring them into conformity with City standards, Developer will pay the difference to the City on demand. The city shall not issue any building permits until the improvements needing repair, replacement, etc., are completed and again accepted.

5. APPLICABILITY OF ORDINANCE. This agreement does not supersede, but implements the North Ogden City Subdivision Ordinance and all other ordinances and regulations applicable to the subdivision of land and construction of improvements thereon, and Developer agrees to comply in all respects with the provisions of said ordinances. No provision of this agreement shall limit the City in its rights or remedies under said subdivision ordinance or other applicable building ordinances.

6. SUCCESSORS ENFORCEMENT. The terms of this agreement shall be binding upon the parties hereon, their heirs, executors, administrators, assigns or any parties legally acquiring the parties interest through foreclosure, trust deed, sale, bankruptcy or otherwise. In the event either party must take legal action to enforce the terms of this agreement, the prevailing party shall have costs of court, including a reasonable attorney's fee.

7. NO REVISION OF REQUIREMENTS. Except as set forth herein, the terms of this agreement shall not be construed as amending or modifying any requirements of the ordinances of North Ogden City, or supersede or supplement any conditions of approval by the City Staff, Planning Commission, Engineer, or any other approving or advisory body which has already given approvals of **Montgomery Farms Subdivision**. Developer is still required to comply with any conditions previously imposed by the Planning Commission.

IN WITNESS WHEREOF, the undersigned parties have executed this agreement this 25 of August, **2022.**

CENTURY LAND HOLDINGS OF UTAH, LLC

Company Name

Signature, ~~Manager~~ (with Notary on next page)

VICE PRESIDENT

ACKNOWLEDGEMENT OF DEVELOPER OF CORPORATION

State of Utah }
§
County of Salt Lake }

On this 25th day of August. 2022, personally appeared before me, Chase Turner, proved to me on the basis of satisfactory evidence to be the person (s) whose name(s) is/are subscribed to on this instrument, and acknowledged that he/she/they executed the same.

DARLA K. MILOVICH
Notary Public - State of Utah
Commission Number: 726266
My Commission Expires on
October 18, 2026

Notary Public

Salt lake County, Ut
Residing at:

My Commission Expires:
10/18/26

NORTH OGDEN CITY CORPORATION

Mayor

ATTEST:

City Recorder

Exhibit A

NORTH OGDEN CITY

SETTLED 1851

NOTICE OF DECISION

September 9, 2021

John Hansen
5730 S. 1474 E. #200
Ogden, UT 84403

Re: Final Plat Approval for Montgomery Farms Subdivision

The North Ogden City Planning Commission met on September 1, 2021 and made a motion to grant Final Plat Approval to the Montgomery Farms Subdivision, subject to the following conditions:

- Requirements of the North Ogden City Engineer's Report must be met prior to final plat approval (unless superseded in the September 1, 2021 PC Staff report).
- Requirements of the Technical Review Committee Letter (unless superseded in this report).
- All will-serve letters must be submitted and their requirements for approval met prior to final approval of the Subdivision.
- The developer will be required to install off-site improvements on 250 East to complete the cul-de-sac and terminate the stub street. Lot 122 must include a note on the plat that the frontage and access must come from Bown Lane, and access will not be granted from the 250 East cul-de-sac.
- The existing structure on future Lot 120 must be removed prior to recordation of a Final Plat.
- Agreement with Harrisville City to serve western 8 Lots must be executed prior to recordation of the Final Plat.

Copies of the Engineer's Report, the Technical Review Committee Meeting Letter, and Planning Commission Staff Report are attached to the email this letter is being sent with so that you have copies of the additional conditions of approval listed in those documents.

NORTH OGDEN CITY

SETTLED 1851

If you have any questions regarding this application, please contact the Planning Department at (801) 782-7211, or at my direct number listed below.

Regards,

Scott A. Hess
Planning Director

NORTH OGDEN CITY
505 E. 2600 N.
North Ogden, Utah, 84414
Phone: (801)737-9841

www.northogdencity.com

NORTH OGDEN CITY

SETTLED 1851

DocuSign Envelope ID: 7D0BD92C-B9FC-436F-896F-6C091CEE9093

E# 3252620 PG 1 OF 7
LEANN H KILTS, WEBER CTY. RECORDER
29-AUG-22 1058 AM FEE $.00 SW
REC FOR: NORTH OGDEN CITY

W3252620

NORTH OGDEN CITY
---SETTLED 1851---

SUBDIVIDER'S ESCROW AGREEMENT

Agreement made this 24 day of August, 2022,

between North Ogden City, a municipal corporation of the State of Utah,

located in Weber County, Utah, (the "City"), and **Century Land Holdings of Utah, LLC**

of **Salt Lake County, Utah**, (the "Subdivider") and **US Title Insurance Agency, LLC,**

of Salt Lake County, Utah (the "Escrow Agent").

RECITALS

1. City and Subdivider have entered into a Developer's Agreement, dated 25 **of** August **, 2022**, attached hereto as Exhibit A, for the subdivision and construction of improvements on certain land located in the City to be known as **Montgomery Farms Phase 1 Subdivision** and has requested formal approval and acceptance thereof by the North Ogden City Council.

2. Due to financial limitations, timing, or other considerations, the Subdivider is unable to install the improvements required by the Subdivision Ordinance of the City upon the entire proposed subdivision. Subdivider has, therefore, requested the City to permit development of the Subdivision in accordance with the Subdivision Ordinance of the City whereby the Subdivider may make payments upon the proposed subdivision by filing necessary deposits in escrow to cover the improvements.

3. Subdivider now desires to enter into this Escrow Agreement as security for his compliance with the ordinances, rules, regulations, requirements, and standards of the City and of the Developer's Agreement.

AGREEMENT

NOW THEREFORE, the Parties hereto mutually agree as follows:

1. Appointment of Escrow Agent. **US Title Insurance Agency, LLC** is hereby appointed Escrow Agent and Escrow Agent shall hold, in a separate escrow account or by sufficient guarantee outlined in North Ogden City Code 12-4-1, the sum reflected in paragraph 2 hereof, subject to the terms and conditions hereinafter set forth.

2. Deposits in Escrow. The Subdivider shall deposit with Escrow Agent, or provide for sufficient guarantee as allowed under North Ogden City Code 12-4-1 the sum of **$783,757.48** representing 110% of the entire cost of all improvements enumerated in paragraph 2 of the Developer's Agreement, a copy of which is attached hereto, marked Exhibit A and incorporated herein by this reference. The cost of the improvements shall be determined by the City Engineer for each off-site improvement item.

3. Application of Escrow Funds. It is agreed by all parties to this agreement that the sum of money indicated in paragraph 2 of this agreement shall be used exclusively for the purposes of paying for the costs of materials and the construction and installation of all improvements required by the City Subdivision Ordinance. The undersigned further agrees that the money held in the Escrow Account shall be distributed to appropriate contractors and subcontractors, or released to Subdivider only upon written authorization by an authorized officer of the City. Such written authorization shall be made upon the City stationary and will bear the City's corporate seal indicating review and approval by the City.

4. Retention of Escrow Funds. A sum equal to 10% of the escrowed amount or **$71,250.68** shall remain with the Escrow Agent for a period of one year after conditional acceptance by the City, pursuant to the terms of Exhibit A.

5. Application and Return of 10% Security. All demands by the City to perform corrections or completion of improvements, if not performed or completed in accordance with City Ordinance, rules and regulations, shall be made by certified mail, with a copy also sent to the Escrow Agent. If the defect

or default is not corrected or improvements completed within 30 days following service of such demand, the City may recover the defect or complete improvements and charge the Subdivider such costs, unless Subdivider requests in writing, served by certified mail, with a copy likewise served upon the Escrow Agent by certified mail, a hearing before the North Ogden City Council within the aforementioned 30 day period of time respecting the alleged defects or incompletion. The Escrow Agent, upon receiving reasonable proof from the City of the defect and that the City has incurred the cost of correcting the defect, pay to the City from the Escrow Account the cost of correcting the defect, and the Escrow Agent shall be held harmless by the parties for its payments to the City.

6. Release of Escrow. One year after the accepted improvements and the improvements remain substantially free from latent defects, the City shall certify such fact to the Escrow Agent, who shall release to the Subdivider any money still held in the Escrow Account and the Escrow Agent shall be discharged of its obligations to the City.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

NORTH OGDEN CITY, a
Municipal Corporation,
State of Utah

By: _____
Mayor

Attest:

_____
City Recorder

Approved as to Form:

_____
North Ogden City Attorney

_____
By: _____
Escrow Agent
US Title Insurance Agency, LLC
Susan Gallegos
801-869-3940
sgallegos@ustitleutah.com
460 W. 50 N., Suite 320
Salt Lake City, Utah 84101

By: CHASE TURNER
Subdivider (Notarized)

State of Utah }
§
County of Salt Lake }

On this 25th day of August, 2022, personally appeared before me, Chase Turner, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to on this instrument and acknowledged that ~~he~~/she/they executed the same.

DARLA K. MILOVICH
Notary Public - State of Utah
Commission Number: 726266
My Commission Expires on
October 18, 2026

Notary Public

Exhibit A

Eric Casperson, PE
City Engineer
ecasperson@nogden.org

NORTH OGDEN CITY
SETTLED 1851

PROJECT TITLE:
Montgomery Farm - Phase 1
North Ogden, Utah

Developer: Century Communities
July 28, 2022
ESCROW SUMMARY

Item	Description	Total Quantity	Units	Unit Price	Total Amount	Escrow Amount
Sanitary Sewer System						
1	8" SDR 35 PVC Pipe	1,942	LF	$ 38.00	$ 0.00	$ 0.00
2	4" Dia. Sewer Lateral	35	Each	$ 1,500.00	$ 0.00	$ 0.00
3	4' Dia. Manhole	5	Each	$ 3,500.00	$ 0.00	$ 0.00
4	5' Dia. Manhole	1	Each	$ 4,000.00	$ 0.00	$ 0.00
5	Raise and Collar Manhole Lid	6	Each	$ 500.00	$ 0.00	$ 0.00
6	Connect to Exisiting Sewer	2	Each	$ 800.00	$ 0.00	$ 0.00
7	Clean and Video Inspect	1	LS	$ 4,500.00	$ 0.00	$ 0.00
8	Import Fill for Trenches	2,589	CY	$ 19.00	$ 0.00	$ 0.00
Total:						**$ 0.00**
Culinary Water System						
1	8" C 900 DR14 PVC Pipe	1,929	LF	$ 30.00	$ 0.00	$ 0.00
2	Furnish and Install 8" Gate Valve with Box	8	Each	$ 1,900.00	$ 0.00	$ 0.00
3	Valve Collar	8	Each	$ 350.00	$ 0.00	$ 0.00
4	Construct Water Connection complete to	35	Each	$ 1,500.00	$ 0.00	$ 0.00
5	Construct Fire Hydrant with Aux. Valve	4	Each	$ 5,250.00	$ 0.00	$ 0.00
6	Connect to Existing Waterline	2	Each	$ 1,500.00	$ 0.00	$ 0.00
7	Pressure Test and Chlorinate	1	Each	$ 4,000.00	$ 0.00	$ 0.00
8	Import Fill for Trenches	1,143	CY	$ 19.00	$ 0.00	$ 0.00
Total:						**$ 0.00**
Storm Drain Facilities						
1	15" Dia. Concrete Pipe	754	LF	$ 43.00	$ 0.00	$ 0.00
2	18" Dia. Concrete Pipe	573	LF	$ 44.00	$ 0.00	$ 0.00
3	24" Dia. Concrete Pipe	54	LF	$ 44.00	$ 0.00	$ 0.00
4	Furnish and Install Inlet/Outlet Structures	1	Each	$ 9,000.00	$ 0.00	$ 0.00
5	Construct Standard Inlet Box w/Grate	15	Each	$ 3,300.00	$ 0.00	$ 0.00
6	Furnish and Install 5' Dia MH	0	Each	$ 2,500.00	$ 0.00	$ 0.00
7	Install Manhole Collar	0	Each	$ 500.00	$ 0.00	$ 0.00
8	Connect to Existing Storm Drain	2	Each	$ 600.00	$ 0.00	$ 0.00
9	Import Fill for Trenches	447	CY	$ 19.00	$ 0.00	$ 0.00
Total:						**$ 0.00**
Site Improvements						
1	Flatwork, 4" - Sidewalk - 4' Wide	4,105	LF	$ 30.00	$ 123,150.00	$ 123,150.00
2	Flatwork, 6" - ADA Ramp	8	Each	$ 900.00	$ 7,200.00	$ 7,200.00
3	Curb and Gutter - base included	4,227	LF	$ 27.00	$ 114,129.00	$ 114,129.00
4	Sawcut Existing Asphalt and Concrete	92	LF	$ 4.00	$ 368.00	$ 368.00
5	Crushed Gravel Sub-base	9,504	SY	$ 17.50	$ 166,320.00	$ 166,320.00
6	Asphalt Paving - 3 inch thick	9,504	SY	$ 14.00	$ 133,056.00	$ 133,056.00
7	Grading of Roadway	153,328	SF	$ 0.60	$ 91,996.80	$ 91,996.80
8	Light Poles	3	Each	$ 5,000.00	$ 15,000.00	$ 15,000.00
9	Stop Signs	4	Each	$ 400.00	$ 1,600.00	$ 1,600.00
10	Survey Monuments	3	Each	$ 475.00	$ 1,425.00	$ 1,425.00
11	Street Signs	4	Each	$ 400.00	$ 1,600.00	$ 1,600.00
12	Conduit and Trench Utility Lines	3,974	LF	$ 13.00	$ 51,662.00	$ 51,662.00
13	SWPPP and Maintenance	1	LS	$ 5,000.00	$ 5,000.00	$ 5,000.00
Total:						**$ 712,506.80**
	Sub-total				$ 712,506.80	**$ 712,506.80**
	10% Guarantee				$ 71,250.68	$ 71,250.68
	TOTAL				$ 783,757.48	**$ 783,757.48**

Escrow Cost Estimate Approval

Eric Casperson, PE
City Engineer

7/28/22
Date

REAL ESTATE PURCHASE AND SALE AGREEMENT
BY AND BETWEEN WEBER COUNTY AND NORTH OGDEN CITY

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter "Agreement") is made and entered into on the _____day of _____, 2023, by and between Weber County, a body politic, corporate, and political subdivision of the State of Utah (hereinafter "County") and North Ogden City (hereinafter "City"), a municipal corporation within Weber County, State of Utah.

RECITALS

WHEREAS, according to the official records of the Recorder of Weber County, State of Utah, County owns certain real property more fully described in this Agreement; and

WHEREAS, County declared such property as surplus to its needs in a regular meeting of the Board of County Commissioners on October 17, 2023; and

WHEREAS, City desires to purchase such property according to the terms and conditions more particularly set forth herein;

NOW, THEREFORE, it is hereby acknowledged and agreed by and between the parties hereto as follows:

SECTION ONE
DESCRIPTION OF PROPERTY

The real property which is the subject of this Agreement is described as follows:

16-049-0057

PART OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 7 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT THE INTERSECTION OF THE LINE SOUTH 33 FEET FROM THE CENTERLINE OF 2750 NORTH STREET AND THE LINE WEST 50 FEET FROM THE CENTERLINE OF MOUNTAIN ROAD, SAID POINT BEING 2310 FEET EAST, 1287 FEET NORTH AND 1184.4 FEET EAST FROM THE SOUTHWEST CORNER OF SAID SECTION 27, THENCE SOUTH26D20' WEST 324.8 FEET; THENCE SOUTH 63D30' EAST 17.0 FEET, MORE OR LESS, TO A POINT 33 FEET FROM THE CENTERLINE OF MOUNTAIN ROAD, THENCE NORTH 26D20' EAST 355 FEET, MORE OR LESS, TO A POINT 33 FEET SOUTH FROM THE CENTERLINE OF 2750 NORTH STREET, THENCE WEST 19.6 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SECTION TWO
PURCHASE PRICE AND TERMS

The purchase price for the subject property identified as Tax #16-049-0057 is agreed to be zero dollars ($0.00). This property appears to be situated within a current or potential public rights-of-way, and the property should have been considered as having been conveyed to City when it incorporated or when City annexed the area causing it to become City street property. This conveyance corrects that omission. Additionally, since this property is for public rights-of-way, it has little or no real fair market value. To the extent that it has fair market value, County has already received valuable consideration, in the form of City's past continuous maintenance of this road property at City's sole expense. County shall convey the subject real property to City by Quit Claim Deed upon receipt of the full purchase price.

SECTION THREE
INDEMNIFICATION

City agrees to defend, indemnify, and hold harmless County, its officers, agents, and employees from and against any claims or suits that arise as a result of this purchase and sale transaction.

SECTION FOUR
NO WARRANTIES

County does not warrant or guarantee that the property is free from easements, covenants, mortgages, liens, or other encumbrances, nor does County make any other covenants or warranties concerning the property.

SECTION FIVE
GOVERNING LAW

The laws of the State of Utah shall govern the validity, construction, enforcement, and interpretation of this Agreement.

SECTION SIX
ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement by and between the parties hereto with respect to the subject matter hereof, and no other statement, whether written or oral, shall be deemed a part of this Agreement unless specifically incorporated herein by reference. This Agreement supersedes any and all other agreements, negotiations, or understandings between the parties.

IN WITNESS WHEREOF the undersigned have affixed their respective signatures hereto on the dates indicated below.

BOARD OF COUNTY
COMMISSIONERS
OF WEBER COUNTY

By_____
___Gage H. Froerer, Chair

Commissioner Bolos Voted_____
Commissioner Harvey Voted _____
Commissioner Forerer Voted _____

ATTEST:

_____
Ricky D. Hatch, CPA
Weber County Clerk/Auditor

This _____ day of _____2023.

NORTH OGDEN CITY

_____
Neal Berube Date
North Ogden City Mayor

ATTEST:

_____

Staff Report to the North Ogden City Council

SYNOPSIS

Description: The attached word proof document is to amend Title 1 of the North Ogden City Code. The plan is to update and amend the entire city code.

Date: Nov. 9, 2023

STAFF INFORMATION

Jon Call
jcall@nogden.org
801-737-9846

QUESTION FOR COUNCIL

What revisions would the council like to incorporate into this document for the final approval some time early next year.

DISCUSSION

This is the first of the North Ogden Code titles to be reviewed as part of the comprehensive update of City Code. We plan to have a discussion on the proposed changes and talk about specifics as necessary so the Council can have a cleaner document for the final approval in early 2024. The purpose of this is a discussion for guidance on any additional needed changes to the North Ogden City Code. No vote will be taken on an official ordinance at this time.

STAFF RECOMMENDATION

Staff recommends the council review the language suggestions.

1: ADMINISTRATION

1-1 : NORTH OGDEN CITY CODE
1-2 : SAVING CLAUSE
1-3 : DEFINITIONS
1-4 : GENERAL PENALTY
1-5 : MAYOR AND CITY COUNCIL
1-6 : OFFICERS AND EMPLOYEES
1-7 : ELECTIONS
1-8 : ADMINISTRATIVE HEARINGS
1-9 : MUNICIPAL CODE ENFORCEMENT

1-1 : NORTH OGDEN CITY CODE

1-1-1 : ADOPTION; TITLE; AUTHORITY
1-1-2 : ACCEPTANCE
1-1-3 : AMENDMENTS
1-1-4 : ALTERATIONS
1-1-5 : REFERENCE TO SPECIFIC ORDINANCES
1-1-6 : CONSTRUCTION

1-1-1 : ADOPTION; TITLE; AUTHORITY

A. Adoption; Authority: Pursuant to the provisions of U.C.A. 1953, § 10-3-707, there is adopted the "North Ogden City Municipal Code," as compiled, edited and published by the authority of the city council.

B. Title; Citation; Reference: This Code shall be known as the North Ogden City Municipal Code and it shall be sufficient to refer to the Code as the "North Ogden City Municipal Code" in any prosecution for the violation of any provision 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 or portion thereof as an addition to, amendment to, correction or repeal of the "North Ogden City Municipal Code." Further reference may be had to the titles, chapters, sections and subsections of the "North Ogden City Municipal Code" and such references shall apply to that numbered title, chapter, section and subsection as it appears in the Code.

C. Reference Applies To Amendments: Whenever a reference is made to this Code as the "North Ogden City Municipal Code" or to any portion thereof, or to any ordinance of the city, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

HISTORY

Adopted by Ord. 1987 Code § 1.01.010, 1.01.020, 1.01.070 on 1/1/1987

(Code 2002, § 1-1-1)

State law reference--Municipal authority to codify ordinances, U.C.A. 1953, § 10-3-707; arrangement of ordinances, U.C.A. 1953, § 10-3-708.

PROOFS

1-1-2 : ACCEPTANCE

This city Code, as hereby presented, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in CCNO 1-2-1.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-1-2)

State law reference--Municipal ordinances received in evidence, U.C.A. 1953, § 10-3-715.

1-1-3 : AMENDMENTS

Any ordinance amending the city Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this Code. All such amendments or revisions by ordinance shall be codified in accordance with state code, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the city Code.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-1-3)

1-1-4 : ALTERATIONS

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this Code in such a manner that the meaning of any phrase or order may be changed or omitted. Said Code, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the city recorder when directed so to do by order of the city council.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-1-4)

State law reference--Falsification or alteration of government record, U.C.A. 1953, § 76-8-511.

PROOFS

1-1-5 : REFERENCE TO SPECIFIC ORDINANCES

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.

HISTORY

Adopted by Ord. 1987 Code § 1.01.090 on 1/1/1987

(Code 2002, § 1-1-5)

1-1-6 : CONSTRUCTION

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

HISTORY

Adopted by Ord. 1987 Code § 1.04.080 on 1/1/1987

(Code 2002, § 1-1-6)

1-2 : SAVING CLAUSE

1-2-1 : REPEAL OF GENERAL ORDINANCES; PAST OBLIGATIONS
1-2-2 : PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES SAVED FROM REPEAL
1-2-3 : REPEAL OF ORDINANCES; EFFECT ON COURT PROCEEDINGS
1-2-4 : SEVERABILITY CLAUSE

1-2-1 : REPEAL OF GENERAL ORDINANCES; PAST OBLIGATIONS

A. All general ordinances of the city passed prior to the adoption of this Code are hereby repealed, except such as are included in this Code or are, by necessary implication herein, reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances, which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances.

B. The repeal of the ordinances provided in subsection A of this section, 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

PROOFS

repealed or superseded.

C. Neither the adoption of this Code nor the repeal or amendments of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinance codified herein, nor be construed as a waiver of any license, fee or penalty at such effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

HISTORY

Adopted by Ord. 1987 Code § 1.01.100 on 1/1/1987
Amended by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-2-1)

State law reference--Repeal of conflicting provisions, U.C.A. 1953, § 10-3-709.

1-2-2 : PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES SAVED FROM REPEAL

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Code or by virtue of CCNO 1-2-1, excepting as this Code may contain provisions for such matters, in which case, this Code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-2-2)

1-2-3 : REPEAL OF ORDINANCES; EFFECT ON COURT PROCEEDING

A. No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

PROOFS

B. This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this Code.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-2-3)

1-2-4 : SEVERABILITY CLAUSE

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. The city council declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

HISTORY

Adopted by Ord. 1987 Code § 1.01.110 on 1/1/1987

(Code 2002, § 1-2-4)

PROOFS

1-3 : DEFINITIONS

1-3-1 : CONSTRUCTION OF WORDS
1-3-2 : DEFINITIONS, GENERAL
1-3-3 : CATCHLINES

1-3-1 : CONSTRUCTION OF WORDS

A. Whenever any word in any section of this Code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. When any subject matter, party or person is referred to in this Code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included, provided that these rules of construction shall not be

applied to any section of this Code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

B. The word "ordinance" contained in the ordinances of the city has been changed in the content of this Code to "title," "chapter," "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances.

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

HISTORY

Adopted by Ord. 1987 Code § 1.04.030, 1.04.040 on 1/1/1987
Amended by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-3-1)

1-3-2 : DEFINITIONS, GENERAL

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

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

City Manager: (add this)

CITY: North Ogden City, Utah, and such territory outside the city's corporate boundaries over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

CODE: The North Ogden City Municipal Code, this Code.

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

COUNCIL: The city council of North Ogden City, Utah. References to "all its members" or "all council members" means the total number of council members holding office.

COUNTY: The county of Weber, Utah.

PROOFS

FEE: A sum of money charged by the city for the carrying on of a business, profession or occupation.

GENDER: A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.

LAW: Denotes applicable federal law, the constitution and statutes of the State of Utah, the ordinances of North Ogden City, Utah, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

MAY: Is permissive.

MONTH: A calendar month.

MUST AND SHALL: Are each mandatory.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the city, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of persons within the city.

OATH: Includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

OFFENSE: Any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by entirety of the whole or part of such or land.

PERSON: Includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

PERSONAL PROPERTY: Includes money, goods, chattels, things in action and evidences of debt.

PRECEDING AND FOLLOWING: Next before and next after, respectively.

PROPERTY: Includes real and personal property.

REAL PROPERTY: Land and anything permanently affixed to the land, and condominiums.

PROOFS

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

RIGHT-OF-WAY: Land owned by a public agency for roadway, pedestrian, transit or other transportation purposes.

SIDEWALK: That portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

STATE: The State of Utah.

STREET: The entire area within a public right-of-way, established by:

A. Deed or conveyance;

B. Dedication to the public (and accepted by proper public authority) by the owners thereof;

C. Dedication to the public by continuous use as a public thoroughfare for a period of ten (10) years; or

D. Dedication to the public by the federal City Site Act of 1867, or similar law, statute or ordinance, which affords the principal means of access to abutting property.

TENANT AND OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

TITLE OF OFFICE: Use of the title of any officer, employee, department, board, commission or committee means that officer, employee, department, board, commission or committee of the city.

U.A.C.: The Utah Administrative Code, as amended.

U.C.A. 1953: The Utah Code Annotated, as amended.

WHOLESALER AND WHOLESALE DEALER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

YEAR: A calendar year.

HISTORY

Adopted by Ord. 1987 Code 1.04.010, 1.04.020, 1.04.050, 1.04.070 on 1/1/1987
Amended by Ord. 2006 Code on 1/1/2006

PROOFS

(Code 2002, § 1-3-2)

1-3-3 : CATCHLINES

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

HISTORY

Adopted by Ord. 1987 Code § 1.01.080 on 1/1/1987
Amended by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-3-3)

1-4 : GENERAL PENALTY
1-4-1 : SENTENCING
1-4-2 : OFFENSES DESIGNATED; CLASSIFIED
1-4-3 : PROHIBITED ACTS INCLUDE CAUSING AND PERMITTING

1-4-1 : SENTENCING

A. Penalty For Violation Of Ordinance:

1. Criminal: The city council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum Class B misdemeanor fine/imprisonment under U.C.A. 1953 Annotated.

2. Civil:

a. Except as provided in subsection A2b of this section, the city council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum Class B misdemeanor fine under U.C.A. 1953 Annotated.

b. A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

B. Term Of Imprisonment For Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a Class B misdemeanor, for a term not exceeding six (6) months;

2. In the case of a Class C misdemeanor, for a term not exceeding ninety (90) days.

C. Infractions:

PROOFS

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class C misdemeanor.

D. Fines Of Persons: A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

1. Class B Misdemeanor: One thousand dollars ($1,000.00) when the conviction is of a Class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars ($750.00) when the conviction is of a Class C misdemeanor conviction or infraction conviction.

E. Fines Of Corporations: 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 city, or for an offense defined outside of this Code over which this city has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. Class B Misdemeanor: Five thousand dollars ($5,000.00) when the conviction is for a Class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: One thousand dollars ($1,000.00) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-4-1)

State law reference--Criminal penalties for ordinance violations, etc., U.C.A. 1953, § 10-3-703; fines for individuals, U.C.A. 1953, § 76-3-301; fines for corporations and similar entities, U.C.A. 1953, § 76-3-302; citations for misdemeanor or infraction charge, U.C.A. 1953, § 77-7-18.

1-4-2: OFFENSES DESIGNATED; CLASSIFIED

A. Sentencing In Accordance With Chapter:

1. A person adjudged guilty of an offense under this Code or the ordinances of this city shall be sentenced in accordance with the provisions of this chapter.

2. Ordinances enacted after the effective date hereof which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

PROOFS

B. Designation Of Offenses: Offenses are designated as misdemeanors or infractions.

C. Misdemeanors Classified:

1. Misdemeanors are classified into two (2) categories:

a. Class B misdemeanors;

b. Class C misdemeanors.

2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this Code or any ordinance of this city when no other specification as to punishment or category is made, is a Class B misdemeanor.

D. Infractions:

1. Infractions are not classified.

2. Any offense which is made an infraction in this Code or other ordinances of this city, or which is expressly designated an infraction and any offense designated by this Code or other ordinances of this city which is not designated as a misdemeanor and for which no penalty is specified, is an infraction.

E. Continuing Violation: In all instances where the violation of this Code 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.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-4-2)

State law reference--Misdemeanors classified, U.C.A. 1953, § 76-3-104; infractions, U.C.A. 1953, § 76-3-105.

1-4-3: PROHIBITED ACTS INCLUDE CAUSING AND PERMITTING

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

HISTORY

Adopted by Ord. 1987 Code § 1.04.060 on 1/1/1987

(Code 2002, § 1-4-3)

1-5 : MAYOR AND CITY COUNCIL

PROOFS

1-5-1 : ELIGIBILITY AND RESIDENCY REQUIREMENTS
1-5-2 : MEMBERSHIP; TERMS
1-5-3 : MAYOR AS MEMBER OF CITY COUNCIL
1-5-4 : MEETINGS; PROCEDURE AND CONDUCT
1-5-5 : ORDINANCES AND RESOLUTIONS; PROCEDURES
1-5-6: EFFECT OF HEADINGS ARTICLE

A: REDEVELOPMENT AGENCY

1-5-1 : ELIGIBILITY AND RESIDENCY REQUIREMENTS

A. Declaration Of Candidacy: A person filing a declaration of candidacy for a city office shall:

1. Have been a resident of the city in which the person seeks office for at least twelve (12) consecutive months immediately before the date of the election; and

2. Meet the other requirements of U.C.A. 1953, § 20A-9-203.

B. Annexed Areas: A person living in an area annexed to the city meets the residency requirement of this section if that person resided within the area annexed to the city for at least twelve (12) consecutive months before the date of the election.

C. Registered Voter: Any person elected to city office shall be a registered voter in the city.

D. Residency Maintained: Each elected officer of the city shall maintain residency within the boundaries of the city during the officer's term of office.

E. Residence Outside City: If an elected officer of the city establishes a principal place of residence as provided in U.C.A. 1953, § 20A-2-105 outside of the city during the officer's term of office, the office is automatically vacant.

F. Continuous Absence From City: If an elected city officer is absent from the city any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the city council, the city office is automatically vacant.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-5-1)

State law reference--Candidate qualifications and nominating procedures, U.C.A. 1953, § 20A-9-101 et seq.; determining residency, U.C.A. 1953, § 20A-2-105.

1-5-2 : MEMBERSHIP; TERMS

A. Composition: The city shall have a governing body that consists of six (6) council members, of which one is a mayor, who shall vote only in the case of a tie or in the appointment or dismissal of a city manager under U.C.A. 1953, § 10-3b-302and who exercises ceremonial and administrative functions, and five (5) are council members.

PROOFS

B. Election; Terms: The election and terms of office of the officers shall be as follows:

1. The offices of mayor and approximately half the council members shall be filled in municipal elections held in 1977. The terms shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.

2. The offices of the remaining council members shall be filled in a municipal election held in 1979. The terms shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.

C. Vacancy In Office: Mayor or city council vacancies shall be filled as provided in U.C.A. 1953, § 20A-1-510.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-5-2)

State law reference--Mayor in council-mayor form of government, U.C.A. 1953, § 10-3B-302; Midterm vacancies in municipal offices, U.C.A. 1953, § 20A-1-510; election of officers in municipalities operating under city council form of government, U.C.A. 1953, § 10-3-205; terms of elected municipal officers, U.C.A. 1953, § 10-3-202.

1-5-3 : MAYOR AS MEMBER OF CITY COUNCIL

A. Administration Vested In Mayor: The administrative powers, authority and duties are vested in the mayor.

B. Presiding Officer; Mayor Pro Tempore: The mayor shall be the chairperson and preside at the meetings of the city council. In the absence of the mayor or because of his inability or refusal to act, the city council may elect a member of the city council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

C. Powers And Duties:

1. The mayor is the chief executive officer to whom all employees of the city shall report.

PROOFS

2. The mayor shall:

a. Keep the peace and enforce the laws of the city;

b. Remit fines and forfeitures;

c. Report remittances under subsection C2b of this section to the city council at its next regular session;

d. Perform all duties prescribed by law, resolution or ordinance;

e. Ensure that all the laws, ordinances and resolutions are faithfully executed and observed;

f. Report to the city council the condition of the city and recommend for city council consideration any measures that the mayor considers to be in the best interests of the city;

g. 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 ordinances of the city;

h. Appoint, with the advice and consent of the city council, persons to fill city offices or vacancies on commissions or committees of the city; and

i. Report to the city council any release granted under subsection C4b of this section.

3. Subsection C2h of this section does not apply to the appointment of a city manager under U.C.A. 1953, § 10-3b-202 ~~10-3-830~~.

4. The mayor may:

a. At any reasonable time, examine and inspect the official books, papers, records or documents of the city or of any officer, employee or agent of the city; and

b. Release any person imprisoned for violation of any city ordinance.

5. No Veto: The mayor shall have no power to veto any act of the city council, unless otherwise specifically authorized by statute.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-5-3)

State law reference--Mayor in six-member council form of government, U.C.A. 1953, § 10-3B-302.

PROOFS

1-5-4 : MEETINGS; PROCEDURE AND CONDUCT

A. Regular Meetings: The governing body shall conduct regular meetings, which shall be held as outlined in the North Ogden City Council Rules and Procedures. All meetings, except for site visits and open houses, shall be held at:

North Ogden Municipal Building

505 East 2600 North

North Ogden City Council Chambers

North Ogden, Utah

The governing body meetings shall begin promptly at the time established during the annual adoption of the meeting schedule or as modified during a motion before the council to amend the meeting schedule when circumstances require amendment. The regularly scheduled meetings may be cancelled by the mayor if there is a legal holiday, election day, a quorum is unavailable, there are no pressing agenda items, or if the city recorder/deputy city recorder is unavailable.

B. Special Meetings: Special Meetings shall comply with relevant Utah Code. If at any time the business of the city requires a special meeting of the city council, such meeting may be ordered by the mayor or any two (2) members of the city council. The order shall be entered in the minutes of the city council. The order shall provide at least three ~~twenty-four (24)~~ hours' notice of the special meeting and notice thereof shall be served by the city recorder on each member who did not sign the order by delivering the notice personally or by leaving it at the members' usual place of abode. The personal appearance by a council member at any specially called meeting constitutes a waiver of the notice required in this subsection.

C. Emergency Meetings: Emergency Meetings may be held when, because of unforeseen circumstances, the city council must meet to consider matters of an emergency or urgent matter. Such Meetings shall comply with the Utah Open Meetings Act related to emergency meetings.

PROOFS

D. Open Meetings; Exception: Every meeting is open to the public, unless closed pursuant to U.C.A. 1953, § 52-4-204 and 52-4-205

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006
Amended by Ord. 2014-01 on 1/14/2014
Amended by Ord. 2018-25 on 10/9/2018

(Code 2002, § 1-5-4)

State law reference--Regular and special council meetings, U.C.A. 1953, § 10-3-502; Open and Public Meetings Act, U.C.A. 1953, § 52-4-101 et seq.; business of municipal governing body to be conducted only in open meetings, U.C.A. 1953, § 10-3-601.

1-5-5 : ORDINANCES AND RESOLUTIONS; PROCEDURES

A. Power Exercised By Ordinance: The city council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the city shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

B. Form Of Ordinance: Any ordinance passed by the city council shall contain and be in substantially the following order and form:

1. A number;

2. A title which indicates the nature of the subject matter of the ordinance;

3. A preamble which states the need or reason for the ordinance;

4. An ordaining clause which states "Be it ordained by North Ogden City:";

5. The body or subject of the ordinance;

6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the city ordinance; or the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;

7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;

8. A line for the signature of the mayor or acting mayor to sign the ordinance;

PROOFS

9. A place for the city recorder to attest the ordinance and affix the seal of the city.

C. Requirements As To Form; Effective Date:

1. Ordinances passed or enacted by the city council shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the city council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of U.C.A. 1953, § 10-3-704(1), (2), (3) or (4).

2. Ordinances shall become effective twenty (20) days after publication or posting or thirty (30) days after final passage by the city council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.

3. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the city council, whichever is sooner.

D. Publication And Posting Of Ordinances:

1. Before an ordinance may take effect, except an ordinance enacted under U.C.A. 1953, § 10-3-706 through 10-3-710, the city council shall deposit a copy of the ordinance in the office of the city recorder; and:

a. Publish the ordinance at least once in accordance with state law:

b. The city shall follow the procedures outlined in state code for the publication and posting of ordinances under U.C.A. 1953, § 10-3-706 through 713

E. Recording, Numbering And Certification Of Passage: The city recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the city council. The city recorder shall give each ordinance a number, if the city council has not already so

PROOFS

done. Immediately following each ordinance, or codification of ordinances, the city recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage and publication or posting of the ordinance or codification.

F. Resolutions:

1. Purpose: Unless otherwise required by law, the city council may exercise all administrative powers by resolution, including, but not limited to:

a. Establishing water and sewer rates;

b. Charges for garbage collection and fees charged for city services;

c. Establishing personnel policies and guidelines; and

d. Regulating the use and operation of the city property.

Punishment, fines or forfeitures may not be imposed by resolution.

2. Form: Any resolution passed by the city council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

3. Publication; Effective Date: Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the city council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-5-5)

State law reference--Municipal ordinances, resolutions and procedure, U.C.A. 1953, § 10-3-701 et seq.

1-5-6: EFFECT OF 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 this Code.

HISTORY

PROOFS

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-2)

ARTICLE A: REDEVELOPMENT AGENCY
1-5A-1: PURPOSE
1-5A-2: DESIGNATION; POWERS AND DUTIES

1-5A-1: PURPOSE

A. The purpose of this article is to establish a redevelopment agency and to designate the legislative body of the city as the redevelopment agency. This is pursuant to the provisions of the Limited Purpose Local Government Entities--Community Reinvestment Agency Act, ~~Utah neighborhood development act, specifically~~ U.C.A. 1953, § 17C-1-101 ~~17A-2-1201~~ et seq., as amended.

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

HISTORY

Adopted by Ord. 1987 Code § 2.24.010 on 1/1/1987

(Code 2002, § 1-5A-1)

1-5 A-2: DESIGNATION; POWERS AND DUTIES

The city council establishes a redevelopment agency and designates itself as the redevelopment agency of the city and shall have all powers and duties as are specified in the Utah Neighborhood Redevelopment Act of U.C.A. 1953 Annotated, as amended.

HISTORY

Adopted by Ord. 1987 Code § 2.24.020 on 1/1/1987

(Code 2002, § 1-5A-2)

1-6 : OFFICERS AND EMPLOYEES
1-6-1 : CREATING OFFICES; FILLING VACANCIES
1-6-2 : CITY RECORDER AND CITY TREASURER
1-6-3 : BONDS OF OFFICERS
1-6-4 : OATH OF OFFICE
1-6-5 : COMPENSATION
1-6-6 : APPOINTMENT OF DEPUTY OFFICERS

ARTICLE A: EMPLOYEE APPEALS BOARD

ARTICLE B: FINANCE DIRECTOR

PROOFS

1-6-1 : CREATING OFFICES; FILLING VACANCIES

A. Offices Created By Council: The city council may create any office deemed necessary for the government of the city and provide for filling vacancies in elective and appointive offices.

B. Mayor To Appoint And Fill Vacancies: The mayor, with the advice and consent of the city council, may appoint and fill vacancies in all offices provided for by law or ordinance.

C. Continuation In Office: All appointed officers shall continue in office until their successors are appointed and qualified.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6-1)

State law reference--Appointed officials and their duties, U.C.A. 1953, § 10-3-902 et seq.

1-6-2 : CITY RECORDER AND CITY TREASURER

A. Appointment: On or before the first Monday in February following a city election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to each of the offices of city recorder and city treasurer.

B. Ex Officio Auditor: The city recorder is ex officio city auditor and shall perform the duties of that office.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6-2)

State law reference--Appointment of recorder and treasurer, U.C.A. 1953, § 10-3-916.

1-6-3 : BONDS OF OFFICERS

A. Approval Of Bonds and insurance: The bonds or insurance of the council members shall be approved by the mayor and the bond of the mayor shall be approved by the city council at the first meeting of the city council in January following a city election.

B. Premium Paid By City: The premium charged by a corporate surety for any bond or insurance required by the city shall be paid by the city.

C. Additional Bonds; Filing: The city council may at any time require further and additional bonds or insurance of any or all officers selected or appointed. All bonds or insurance given by the

PROOFS

officers, except as otherwise provided by law, shall be filed with the city recorder, except that the bond of the city recorder shall be filed with the city treasurer.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6-3)

State law reference--Fidelity bonds and theft or crime insurance, U.C.A. 1953, § 10-3-831.

1-6-4 : OATH OF OFFICE

A. Constitutional Oath Of Office: All officers, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office. The form of oath shall be as provided in the Utah constitution, article IV, section 10.

B. Filing: The oath of office required under this section shall be administered by any judge, notary public or by the city recorder. Elected officials shall take their oath of office at 12:00 noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the city recorder.

C. Acts Of Officials Not Voided: No official act of any city officer shall be invalid for the reason that he failed to take the oath of office.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6-4)

State law reference--Oaths, U.C.A. 1953, § 10-3-827.

1-6-5 : COMPENSATION

The salaries for the officers and employees of the city shall be established by the procedures of U.C.A. 1953, § 10-3-818, as amended.

HISTORY

Adopted by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6-5)

State law reference--Salaries in municipalities, U.C.A. 1953, § 10-3-818.

1-6-6 : APPOINTMENT OF DEPUTY OFFICERS

PROOFS

A. Appointment Power: Any officer, elective or appointive, of this city, except as provided in subsection E of this section, shall have the power to appoint a deputy by and with the consent of the mayor and city council. ~~(1987 Code § 2.08.010)~~

B. Powers And Duties, Generally: Any deputy so appointed and qualified shall have and exercise all the powers and duties of the principal officer. ~~(1987 Code § 2.08.020)~~

C. Oath And Bond Required: Before assuming any duties of office, all such deputy officers shall take and file the constitutional oath of office and shall furnish bond in such sum as may be determined by the city council by resolution, the premium on any such bonds to be paid for out of the general funds of the city. ~~(1987 Code § 2.08.030)~~

D. Removal From Office: Any such deputy may be removed from office at any time, with or without cause, by the officer so appointing such deputy, or by the mayor by and with the consent of the city council. ~~(1987 Code § 2.08.040)~~

E. Mayor And Council Members Excluded: This section shall not be construed to permit the appointment of a deputy by the mayor or by any member of the city council; provided, however, that in the event that the mayor or any member of the city council is holding any other office in addition to the office of mayor or council member, a deputy can be appointed to such other office.

HISTORY

Adopted by Ord. 1987 Code § 2.08.010, 2.08.020, 2.08.030, 2.08.040, 2.08.050 on 1/1/1987

(Code 2002, § 1-6-6)

State law reference--During and termination of municipal employee employment, U.C.A. 1953, § 10-3-1105.

ARTICLE A: EMPLOYEE APPEALS BOARD

State law reference--Authority to establish, etc., U.C.A. 1953, § 10-3-1106.

1-6A-1: ESTABLISHMENT AND PURPOSE
1-6A-2: BOARD MEMBERS
1-6A-3: APPOINTMENT OF MEMBERS
1-6A-4: PROCEDURE FOR APPEALS
1-6A-5: BOARD DECISION
1-6A-6: APPEAL OF BOARD DECISION

1-6A-1: ESTABLISHMENT AND PURPOSE

There is hereby established an appeals board in the city. The purpose of the appeals board shall be to consider appeals brought by employees of the city who are discharged or transferred to a position with less remuneration, except that the following employees shall not be eligible to appeals before the appeals board:

PROOFS

A. Members of the police department;

B. Heads of departments; and

C. Supervisors.

HISTORY

Adopted by Ord. 2000-04 on 3/1/2000
Amended by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6A-1)

1-6A-2: BOARD MEMBERS

The board of appeals shall consist of five (5) members. All board members shall serve for a term of two (2) years from the date they are appointed. Members of the board of appeals shall be selected prior to July 1 in even numbered years. Nothing herein shall be construed to prevent any member of the appeals board from serving for two (2) or more consecutive terms and there shall be no limit on the number of terms any member of the appeals board may serve. Two (2) members shall be members of the city council (the council members) and shall be appointed as set forth in CCNO 1-6A-3A. The remaining three (3) members of the appeals board shall be employees or appointed officers of the city (the employee members) and shall be appointed as set forth in CCNO 1-6A-3B.

HISTORY

Adopted by Ord. 2000-04 on 3/1/2000

(Code 2002, § 1-6A-2)

1-6A-3: APPOINTMENT OF MEMBERS

A. Council Member: shall be appointed by the mayor and serve a two year term. Council Members shall serve until replaced. The mayor may not serve as a member of the board

B. Employee Members personnel policy shall establish the appropriate procedure for selecting individuals by a ballot of all employees in the city.

HISTORY

Adopted by Ord. 2000-04 on 3/1/2000

PROOFS

Amended by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6A-3)

1-6A-4: PROCEDURE FOR APPEALS

a. Any appeal shall be sent to the City Recorder by personal delivery, certified mail, or verified email correspondence.
b. Appeals shall follow the rules and procedures as outline in Utah Code 10-3-1106.
c. Decisions of the Board/Hearing officer may be appealed to district court as outlined in 10-3-1106.

HISTORY

Adopted by Ord. 2000-04 on 3/1/2000

(Code 2002, § 1-6A-6)

ARTICLE B: FINANCE DIRECTOR
1-6B-1: APPOINTMENT
1-6B-2: POWERS AND DUTIES
1-6B-3: BOND REQUIRED

1-6B-1: APPOINTMENT

The finance director shall be a qualified person appointed and removed by the mayor, with the advice and consent of the city council.

HISTORY

Adopted by Ord. 2002-13 on 8/13/2002

(Code 2002, § 1-6B-1)

State law reference--Appointment of city auditor or recorder, U.C.A. 1953, § 10-3-916.

1-6B-2: POWERS AND DUTIES

A. Generally:

1. The finance director shall not assume the duties of the city treasurer, but will perform the financial duties as set out at U.C.A. 1953, § 10-6-139. ~~(Ord. 2002-13, 8-13-2002; amd. 2006 Code)~~

2. The finance director shall:

a. Maintain the general books for each fund of the city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date and place payable.

b. As appropriate, keep accounts with all receiving and disbursing officers of the city.

c. Preaudit all claims and demands against the city before they are allowed.

d. Oversee the preparation of the necessary checks in payment approved city obligations. Such checks shall include an appropriate certification pursuant to U.C.A. 1953, § 11-1-1, examples of which shall be as presented in the uniform accounting manual for Utah cities.

e. Also certify on the voucher or check copy, as appropriate, that:

(1) The claim has been preaudited and documented;

(2) The claim has been approved in one of the following ways:

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(A) Purchase order directly approved by the mayor in the council-mayor optional form of government, or the governing body or its delegate in other cities;

(B) Claim directly approved by the governing body; or

(C) Claim approved by the financial officer;

(3) The claim is within the lawful debt limit of the city; and

(4) The claim does not over expend the appropriate departmental budget established by the governing body.

B. Approval Authority: Pursuant to the city financial administration ordinance, and consistent with the appropriate budgetary controls set out herein and in other city operational directives, the finance director is hereby approved by the city council to act as the financial officer for the purpose of approving:

1. Payroll checks, if the checks are prepared in accordance with a salary schedule established in a personnel ordinance or resolution; or

2. Routine expenditures, such as, but not limited to, utility bills, payroll related expenses, supplies, materials, and payments on city approved contracts and capital expenditures which were referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year.

HISTORY

Adopted by Ord. 2002-13 on 8/13/2002
Amended by Ord. 2006 Code on 1/1/2006

(Code 2002, § 1-6B-2)

State law reference--Duties of city auditor or recorder, U.C.A. 1953, § 10-6-139; auditor's certificate to show obligation within debt limit, U.C.A. 1953, § 11-1-1.

1-6 B-3: BOND REQUIRED

Pursuant to U.C.A. 1953, § 10-6-159, the finance director shall be bonded for a reasonable amount as determined appropriate by the city council.

HISTORY

Adopted by Ord. 2002-13 on 8/13/2002

(Code 2002, § 1-6B-3)

State law reference--Financial administration ordinance requirements, U.C.A. 1953, § 10-6-159.

1-7 : ELECTIONS

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1-7-1 : PRIMARY ELECTIONS

1-7-1 : PRIMARY ELECTIONS

Pursuant to U.C.A. 1953, § 20A-9-404, primary elections shall be held on the second Tuesday following the first Monday in August before the regular ~~October preceding the November~~ municipal elections, except that no primary elections shall be held if the number of candidates for a particular office does not exceed twice the number of offices to be filled. All elections shall be nonpartisan.

HISTORY

Adopted by Ord. 1987 Code § 2.16.010 on 1/1/1987

(Code 2002, § 1-7-1)

State law reference--Municipal primary elections, U.C.A. 1953, § 20A-9-404; primary election dates, U.C.A. 1953, § 20A-1-201.5.

1-8 : ADMINISTRATIVE HEARINGS

1-8-1 : PURPOSE AND INTENT
1-8-2 : DEFINITIONS
1-8-3 : APPOINTMENT AND QUALIFICATIONS OF THE ADMINISTRATIVE LAW JUDGE AND/OR ADMINISTRATIVE HEARING OFFICER
1-8-4 : POWERS OF ADMINISTRATIVE LAW JUDGE AND/OR ADMINISTRATIVE HEARING OFFICER
1-8-5 : PROCEDURES AT ADMINISTRATIVE HEARINGS
1-8-6 : REQUEST FOR ADMINISTRATIVE HEARING
1-8-7 : NOTICE OF ADMINISTRATIVE HEARINGS
1-8-8 : FAILURE TO APPEAR AT ADMINISTRATIVE HEARING
1-8-9 : ADMINISTRATIVE ORDERS
1-8-10 : FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER
1-8-11 : APPEAL

1-8-1 : PURPOSE AND INTENT

For specified municipal action, as more particularly defined and designated in this Code, in which an adverse decision by a city official results in detriment to a responsible person or the responsible person's property, it is the purpose and intent of the city council to afford that person due process of law by way of an administrative hearing. Due process shall require proper notice of the nature of the violation and the opportunity to be heard by a fair and impartial administrative law judge, the right to present evidence, the right to cross examination, the right to be represented by an attorney or other advocate and the right to appeal an administrative order to the district court.

HISTORY

PROOFS

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-1)

~~1-8-3: SEVERABILITY~~

~~If any section, subsection, sentence, clause, phrase, portion, or provision of this chapter is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This section shall apply to all amendments made to this chapter.~~

~~HISTORY~~

~~Adopted by Ord. 2013-10 on 8/27/2013~~

~~(Code 2002, § 1-8-3)~~

1-8-2 : DEFINITIONS

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

ADMINISTRATIVE CITATION: A citation issued to a responsible person that gives notice of a violation and requires the responsible person to remedy a violation of city ordinance, to pay a civil fee and/or to make a mandatory appearance before an administrative law judge.

ADMINISTRATIVE LAW JUDGE AND/OR ADMINISTRATIVE HEARING OFFICER: A hearing officer appointed to preside over administrative hearings.

ADMINISTRATIVE ORDER: An order issued by an administrative law judge and/or administrative hearing officer. The order may include an order to enter upon private property to abate a violation of city ordinance, to pay civil fees and administrative costs, to reverse or modify decisions of city officials as provided elsewhere in this Code or take any other action as authorized or required by this chapter and applicable state codes.

EMERGENCY ABATEMENT: The immediate elimination or eradication of any condition that creates an imminent life safety hazard.

ITEMIZED STATEMENT OF COSTS: A written notice to a responsible person, itemizing the city's actual costs and administrative cost of abating a code violation, ordering payment of those costs and providing an explanation of the procedure for a responsible person to appeal the reasonableness of the costs.

MUNICIPAL ACTION: An administrative citation or any other adverse municipal decision

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for which the right to an administrative hearing is specifically provided by ordinance.

RESPONSIBLE PERSON: Any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties relating to a person or property affected by a municipal action. For purposes of this chapter, the term "responsible person" also indicates a person whose interest is adverse to the city at an administrative hearing.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-4)

1-8-3 : APPOINTMENT AND QUALIFICATIONS OF THE ADMINISTRATIVE LAW JUDGE AND/OR ADMINISTRATIVE HEARING OFFICER

A. The mayor, with the consent of the city council, shall appoint an administrative law judge and/or administrative hearing officer to preside at administrative hearings.

B. The administrative law judge and/or administrative hearing officer shall serve for a term of two (2) years and, during that two-year (2) term, shall be subject to removal by the mayor only for cause.

C. Cause for removal may be for any conduct unbecoming a hearing officer as determined by the city council, dereliction of assigned duties, the existence of a bias or conflict of interest that might affect impartiality of decisions or the failure of the city council to appropriate funding for the administrative law judge and/or administrative hearing officer position.

D. The administrative law judge and/or administrative hearing officer may appeal a removal for cause to the city council which shall uphold the removal if there is substantial evidence to support the mayor's decision.

E. A person appointed to serve as an administrative law judge and/or administrative hearing officer shall either be law trained or have significant experience with the requirements and operation of administrative hearing processes. The person appointed shall be free from any bias or conflict of interest that might affect impartiality of decisions.

F. An administrative law judge and/or administrative hearing officer is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-5)

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1-8-4 : POWERS OF ADMINISTRATIVE LAW JUDGE AND/OR ADMINISTRATIVE HEARING OFFICER

A. An administrative law judge and/or administrative hearing officer shall have authority to hold an administrative hearing for violations of this Code and such other matters as specifically designated by ordinance.

B. An administrative law judge and/or administrative hearing officer may continue a hearing for good cause shown by one of the parties or if the administrative law judge and/or administrative hearing officer independently determines that due process has not been adequately afforded to a party.

C. At the request of any party to an administrative hearing, an administrative law judge and/or administrative hearing officer may issue administrative subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful by the administrative law judge and/or administrative hearing officer to decide issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena.

D. The administrative law judge and/or administrative hearing officer may modify civil fees or fines upon a finding of good cause. The administrative law judge and/or administrative hearing officer may reduce the fines to what is just and equitable under the circumstances; however, in connection with an appeal regarding an itemized statement of costs, the administrative law judge and/or administrative hearing officer may not order the responsible person to pay less than actual costs incurred by the city and shall require the responsible person to pay the city's administrative costs as established in the consolidated fee schedule.

E. Where specifically authorized by municipal ordinance, the administrative law judge and/or administrative hearing officer shall have the authority to reverse or modify the decision of a city official.

F. An administrative law judge and/or administrative hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of: granting a continuance; ordering compliance by issuing an administrative order; ensuring compliance of that order; authorizing the city to enter upon private property to abate a violation; modifying an administrative order, assessing costs of abatement, assessing civil fines; or, where extraordinary circumstances exist, granting a new hearing.

G. An administrative law judge and/or administrative hearing officer may require a responsible person to post a performance bond to ensure compliance with an administrative order, but only if agreed to by the enforcement official handling the matter for the city.

H. An administrative law judge and/or administrative hearing officer shall not make any order that would require or allow a responsible person to violate state law or city ordinance.

HISTORY

PROOFS

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-6)

1-8-5 : PROCEDURES AT ADMINISTRATIVE HEARINGS

A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, upon request made in writing reasonably in advance of a hearing, the city shall provide to a responsible person requesting a hearing the opportunity to review documents, photographs or other tangible evidence it intends to present at the hearing and shall provide a list of the witnesses it intends to call at the hearing. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the administrative hearing shall follow duly adopted policies and procedures.

B. The city shall bear the burden of proof to establish the existence of a violation of municipal ordinance.

C. Such proof shall be established by a preponderance of the evidence.

D. Each party shall have the opportunity to cross examine witnesses and present evidence in support of his case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.

E. Administrative hearings shall be held at city hall, open to the public and shall be recorded by audiotape; however, at the discretion of the administrative law judge, administrative hearings may be held at the location of a violation as long as adequate provision is made to preserve a verbatim record of the hearing.

F. The responsible person shall have the right to be represented by an attorney or other advocate. If an attorney will be representing a responsible person at a hearing, notice of the attorney's name, address, and telephone number should be given to the city attorney at least one day prior to the hearing. If such notice is not given, the hearing may be continued at the city's request, and all costs of the continuance shall be assessed to the responsible person.

G. The burden to prove any raised defenses shall be upon the party raising any such defense and shall be established by a preponderance of the evidence.

H. Administrative hearings may be held on Mondays through Fridays, excluding city holidays, between the hours of 8:00 a.m. and 9:00 p.m.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-7)

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1-8-6 : REQUEST FOR ADMINISTRATIVE HEARING

A. Where the right to an administrative hearing has been established under this Code, a responsible person having that right may request an administrative hearing, if the request is filed within ten (10) calendar days from the date of service of one of the following:

1. Itemized statement of costs;

2. Administrative citation;

3. Notice of any other municipal action where the right to an administrative hearing is provided under any other title and chapter of this Code.

B. The request for an administrative hearing shall be made in writing, and shall be accompanied by a filing fee in the amount established in the consolidated fee schedule. This fee shall not be waived.

C. The request shall comply with the following requirements:

1. It shall be in writing;

2. It shall contain a legible, plain statement of the reason or reasons that the responsible person requesting the hearing is entitled to relief from the municipal action;

3. It shall be accompanied by a copy of the itemized statement of costs, administrative citation or other notice of municipal action for which the hearing is requested;

4. Where no written notice of the municipal action has been issued by the city, the request shall describe the nature of the municipal action from which the appeal is taken, including the date of the action and the name of the municipal official responsible for the municipal action;

5. It shall contain the name of the responsible person requesting the hearing and the address to which all notices and orders shall be mailed;

6. It shall be dated and signed by the responsible person requesting the hearing; and

7. It shall be filed with the city recorder.

D. When it issues an administrative citation, the city may require a mandatory appearance at an administrative hearing.

E. Within twenty (20) days after receiving a request for an administrative hearing, or the service of a citation requiring a mandatory appearance, the administrative law judge and/or administrative hearing officer shall schedule a date, time, and place for the administrative hearing. Failure to hold the hearing within twenty (20) days of the request shall not be a basis for reversal of the municipal action. No adverse action, except

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an emergency abatement pursuant to CCNO 1-9-17, shall be taken pending the administrative hearing.

F. Failure to request an administrative hearing within ten (10) calendar days from the date of service of any of the notices in subsection A of this section shall constitute a waiver of the right to an administrative hearing and the right to an appeal.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-8)

1-8-7 : NOTICE OF ADMINISTRATIVE HEARINGS

A. Notice of the date, time, and place of the administrative hearing shall be served upon the responsible person requesting the hearing no later than five (5) city business days in advance of the hearing. Failure to provide timely notice of the hearing shall result in the continuation of the hearing. No adverse action will be taken or imposed by the city, with the exception of emergency abatement action.

B. Notice of the administrative hearing may be included in an administrative citation, or may be personally served or served by mailing the notice to the address designated in the request for hearing.

C. Upon service of the notice the responsible person receiving the service shall be required to attend the administrative hearing at the appointed date and time.

D. Notice of emergency abatement shall be served upon the responsible person personally or by regular mail as soon as practicable after abatement of the emergency condition but no later than ten (10) days after the abatement is completed.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-9)

1-8-8 : FAILURE TO APPEAR AT ADMINISTRATIVE HEARING

A. A responsible person who fails to appear at an administrative hearing shall be deemed to have waived all rights in connection with the hearing, including the right to appeal.

B. Provided that proper notice of the hearing has been given as provided in CCNO 1-8-7, the administrative law judge and/or administrative hearing officer, after receiving a proffer of the evidence supporting the municipal action, may enter an administrative order in the absence of the responsible person.

HISTORY

PROOFS

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-10)

1-8-9 : ADMINISTRATIVE ORDERS

A. A responsible person and the city may enter into a stipulated agreement, which shall be signed by both parties. Such agreement may be entered as an administrative order. Entry of such agreement shall constitute a waiver of the right to an administrative hearing and the right to appeal.

B. Within ten (10) days after receiving evidence, the administrative law judge and/or administrative hearing officer shall issue a written administrative order that affirms, rejects or modifies the itemized statement of costs, administrative citation, and notice of emergency abatement or other municipal action.

C. If affirmed, the administrative order shall specify the evidence supporting the administrative law judge's and/or administrative hearing officer's decision and the action required to satisfy the order.

D. The administrative law judge and/or administrative hearing officer may assign the party who prevails at the administrative hearing to prepare findings of fact and conclusions of law.

E. An administrative law judge and/or administrative hearing officer may issue an administrative order that requires a responsible person to cease from violating this Code and to take any necessary corrective action.

F. An administrative law judge and/or administrative hearing officer may order the city to enter upon private property and abate all violations, including the removal of animals, noxious weeds, overgrown landscape, junk, including junk vehicles, deleterious objects or structures, etc., which exist in violation of municipal ordinance. Whenever an order of abatement is entered, the administrative law judge and/or administrative hearing officer shall order the responsible person to pay to the city the actual costs of the abatement and the administrative costs of the city to perform the abatement.

G. As part of an administrative order, an administrative law judge and/or administrative hearing officer may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil fees on the responsible person's ability to take necessary corrective actions by specified deadlines. Such fees shall continue to accrue until the responsible person complies with the administrative law judge's and/or administrative hearing officer's decision and corrects the violation.

H. An administrative order imposing civil fines for failure to abate a violation of this Code by a stated deadline, shall continue to accrue additional fines until the responsible person complies with the administrative law judge's and/or administrative hearing officer's decision and corrects the violation, but shall not exceed one thousand dollars ($1,000.00) for any single violation.

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I. An administrative law judge and/or administrative hearing officer may schedule subsequent review hearings as may be necessary or as requested by the city to ensure compliance with an administrative order.

J. An administrative law judge and/or administrative hearing officer may order a responsible person to post a performance bond to ensure compliance with an administrative order, but only if agreed to by the enforcement official handling the matter for the city.

K. An administrative law judge and/or administrative hearing officer may revoke or suspend a business license, a building permit, or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of real property or a structure where a violation is located where specifically authorized in this Code.

L. An administrative order shall become final on the date of signing by an administrative law judge and/or administrative hearing officer.

M. An administrative order shall be served on all parties by regular mail at the address listed in the citation or request for hearing.

N. An administrative law judge and/or administrative hearing officer may order any action reasonably necessary to obtain compliance with the applicable city ordinances.

O. An administrative law judge and/or administrative hearing officer may assess civil fines and costs of abatement and administrative costs to a responsible person.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-11)

1-8-10 : FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER

A. It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a final administrative order.

B. A violation of this section shall be a Class B misdemeanor.

C. Upon failure of a responsible person to comply with the terms and deadline set forth in the administrative order, the city may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-12)

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1-8-11 : APPEAL

A. The city or any responsible person adversely affected by a final administrative order made in the exercise of the provisions of this chapter may file a petition for review in the district court.

B. The petition shall be barred unless it is filed within thirty (30) days after the administrative order is final.

C. In the petition, the responsible person may only allege that the administrative order was arbitrary, capricious or illegal.

D. The court shall:

1. Presume that the administrative order is valid;

2. Review the record to determine whether the order was arbitrary, capricious, or illegal; and

3. Affirm the administrative order if it is supported by substantial evidence in the record.

E. The record of the proceedings including minutes, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court.

F. The party requesting the hearing shall bear the cost of preparing the transcript of the hearing.

G. If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this subsection. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the administrative law judge and/or administrative hearing officer for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.

H. If there is a record, court review shall be limited to the record of the proceeding. The court may not accept or consider any evidence outside such record unless that evidence was offered to the administrative law judge and/or administrative hearing officer and the court determines that the administrative law judge improperly excluded it. The court may call witnesses and take evidence if there is no record.

I. The filing of a petition for review with the district court does not stay execution of an administrative order. Before filing a petition, a responsible person may request the administrative law judge and/or administrative hearing officer to stay an administrative order. Upon receipt of a request to stay, the administrative law judge and/or administrative hearing officer may order the administrative order to be stayed pending district court review if the administrative law judge and/or administrative hearing officer finds such stay to be in the best interest of the city.

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HISTORY

Adopted by Ord. 2013-10 on 8/27/2013

(Code 2002, § 1-8-13)

1-9 : MUNICIPAL CODE ENFORCEMENT

1-9-1 : PURPOSE
1-9-2 : SCOPE
1-9-3 : EXISTING LAW CONTINUED
1-9-4 : PENALTY FOR VIOLATIONS
1-9-5 : DEFINITIONS
1-9-6 : GENERAL ENFORCEMENT AUTHORITY
1-9-7 : AUTHORITY TO INSPECT
1-9-8 : CHOICE OF REMEDIES; DIRECTOR
1-9-9 : ADOPTION OF POLICIES AND PROCEDURES
1-9-10 : ADMINISTRATIVE CITATION
1-9-11 : SERVICE OF NOTICE OR CITATION
1-9-12 : CIVIL FEES
1-9-13 : ASSESSMENT OF COSTS
1-9-14 : HEARING AND REVIEW AUTHORITY
1-9-15 : ADMINISTRATIVE ABATEMENT
1-9-16 : PROCEDURES FOR ABATEMENT
1-9-17 : EMERGENCY ABATEMENT
1-9-18 : LIEN PROCEDURES
1-9-19 : PROHIBITION AGAINST MUNICIPAL PERMITS OR SERVICES
1-9-20 : SUIT AND JUDGMENT FOR EXPENSES AND FEES
1-9-21 : HEARING REQUIRED PRIOR TO DEMOLITION

1-9-1 : PURPOSE

The city council finds that fair, efficient and effective enforcement of the health, safety and zoning regulations contained in this Code is necessary to promote the peace, quality of life, health, safety and morals of the citizens of North Ogden.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-1)

1-9-2 : SCOPE

The provisions of this chapter may be applied to violations of this Code which occur within North Ogden City limits and such territory outside North Ogden City limits over which the city has jurisdiction or control by virtue of any constitutional provision or law. This chapter establishes procedures and remedies that may be used by the city to achieve compliance with applicable codes. Authority is granted to the director or his designees to enforce by administrative citation violations of the provisions of CCNO 5, "Health And Sanitation," and CCNO 11, "Zoning Regulations."

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HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-2)

1-9-3 : EXISTING LAW CONTINUED

The provisions of this chapter shall not invalidate any other title, chapter, or ordinance of this Code, but shall be read in conjunction with those titles, chapters, and ordinances and shall be used as an additional remedy for enforcement of violations thereof.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-3)

1-9-4 : PENALTY FOR VIOLATIONS

The city shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of any of its ordinances or applicable code requirements. The enactment of this chapter shall not be construed to limit the city's right to prosecute any violation as a criminal offense.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-4)

1-9-5 ~~: EFFECT OF 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 this chapter.~~

~~HISTORY~~

~~Adopted by Ord. 2010-09 on 9/7/2010~~

~~(Code 2002, § 1-9-5)~~

1-9-6 ~~: SEVERABILITY~~

~~If any section, subsection, sentence, clause, phrase, portion, or provision of this chapter is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have adopted this chapter~~

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~~and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This section shall apply to all amendments made to this chapter.~~

~~HISTORY~~

~~Adopted by Ord. 2010-09 on 9/7/2010~~

~~(Code 2002, § 1-9-6)~~

1-9-5 : DEFINITIONS

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

ADMINISTRATIVE CITATION: A citation issued to a responsible person that gives notice of a violation and requires the responsible person to remedy a violation of city ordinance, to pay a civil fee and/or make a mandatory appearance before an administrative hearing officer.

ADMINISTRATIVE COSTS: A fee established in the consolidated fee schedule, representing the proportional cost to the city of administering its code enforcement program over and above the actual cost of an abatement.

ADMINISTRATIVE HEARING: A hearing held pursuant to the procedures established by CCNO 1-8.

ADMINISTRATIVE LAW JUDGE: The administrative law judge/hearing officer described in CCNO 1-8.

DIRECTOR: The director of the city's code enforcement program as appointed by the mayor.

ENFORCEMENT OFFICIAL: Any person designated by the director to enforce violations of this Code.

IMMINENT LIFE SAFETY HAZARD: Any condition that creates a serious and immediate danger to life, property, health, or public safety.

ITEMIZED STATEMENT OF COSTS: A written notice to a responsible person, itemizing the city's actual costs and administrative cost of abating a code violation, ordering payment of those costs and setting forth the procedure to appeal the reasonableness of the costs.

NOTICE OF EMERGENCY ABATEMENT: A written notice that informs a responsible person of emergency abatement actions taken by the city and provides an itemized statement of costs for those actions.

OWNER OF RECORD: The natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or any

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other legal entity who is identified by the Weber County tax records as having an ownership interest in real property.

RESPONSIBLE PERSON: Any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties relating to a person or property affected by a municipal action. For purposes of this chapter, the term "responsible person" also indicates a person whose interest is adverse to the city at an administrative hearing.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-7)

1-9-6 : GENERAL ENFORCEMENT AUTHORITY

Whenever the director finds that a violation of the specified titles of this Code has occurred or continues to exist, he may undertake any of the procedures herein. The director or any designated enforcement official shall have the authority to gain compliance with the provisions of this Code subject to the provisions of this chapter. Such authority shall include the power to issue administrative citations, inspect public and private property, abate violations of this Code and nuisances on public and private property, and to use any remedy available under this chapter or other applicable law.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-8)

1-9-7 : AUTHORITY TO INSPECT

A. Enforcement officials are hereby authorized, in accordance with applicable law, to enter upon any property or premises to ascertain whether the provisions of this Code are being violated and to make any reasonable examination or survey necessary to determine compliance with this Code. This may include the taking of photographs, samples, or other physical evidence.

B. All inspections, entries, examinations, and surveys shall be done in a reasonable manner in accordance with applicable law.

C. Except in the case of an imminent life safety hazard, if it is necessary to enter upon private property to determine the existence of a violation, the enforcement official shall either obtain the consent of the owner of record or person in possession of the property or obtain a search warrant before entering the property.

HISTORY

PROOFS

Adopted by Ord. 2010-09 on 9/7/2010
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-9)

1-9-8 : CHOICE OF REMEDIES; DIRECTOR

The director shall have the choice of which remedies to pursue in a given violation. Abatement does not have to be preceded by a citation, nor is there any necessity to hold a hearing prior to any remedy, unless stated by this chapter.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-10)

1-9-9 : ADOPTION OF POLICIES AND PROCEDURES

The city manager shall establish policies and procedures relating to the enforcement of city ordinances, maintaining records and other administrative functions.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-11)

1-9-10 : ADMINISTRATIVE CITATION

A. Upon discovering a violation of this Code, an enforcement official may serve the responsible person with an administrative citation.

B. The administrative citation shall contain the following information:

1. The name and address of the responsible person;

2. The date of the violations;

3. The address of the violations;

4. A citation to the code sections violated;

5. The amount of the civil fee imposed for each violation;

6. An explanation of how the civil fee shall be paid, the time period in which the civil fee shall be paid, and the consequences of failure to pay the civil fee when due;

7. A date certain by which the condition that violates this Code must be remedied;

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8. An explanation of the requirement to attend an administrative hearing if the condition is not remedied by the deadline or if the responsible person desires to contest the administrative citation;

9. The signature of the enforcement official; and

10. If possible, the signature of the responsible person.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-12)

1-9-11 : SERVICE OF NOTICE OR CITATION

A. Whenever a notice or citation is served pursuant to this chapter, service upon a responsible party shall be complete upon delivering a copy of the notice and/or administrative citation either personally or by depositing it in the United States mail, postage prepaid, addressed to the owner of record along with any other responsible person as identified in the records of the Weber County assessor, North Ogden City business license records or North Ogden City utility records.

B. A written notice, served upon the owner of record, is required prior to any abatement action undertaken by the city unless an emergency abatement is required as provided for in CCNO 1-9-17.

C. Failure of an owner of record or responsible person to actually receive the notice or administrative citation shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.

D. Service of notice or administrative citation requirements for real property-related violations should conform to the requirements for placing a lien on real property as set forth in U.C.A. 1953, § 10-11-1 through 10-11-4.

E. Any additional requirements not specifically stated in this chapter but required by law or inferred by this chapter shall be considered incorporated into this chapter by adoption.

F. The notice for any citation or abatement shall:

1. Identify the owner of record according to the records of the Weber County Recorder;

2. Describe the property and the nature and results of the examination and investigation conducted in accordance with CCNO 1-9-7; and

3. Require the owner of record, occupant, or, if applicable, another responsible person for the property to eradicate or destroy and remove any identified violation examined and

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investigated under CCNO 1-9-7 within a time period designated by the municipal inspector but no less than ten (10) days after the day on which notice is delivered in person or post-marked.

4. Identify that the city intends to abate the nuisance and charge the owner of record as provided under state law, if they fail to eradicate or destroy and remove any violations within the specified time.

5. Identify the address of the municipal office which posted the notice along with a phone number.

6. For a notice of injurious and noxious weeds described in subsection A of this section, the municipal inspector is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.

7. The enforcement official shall sign the notice required under subsection B of this section under penalty of perjury.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-13)

1-9-12 : CIVIL FEES

A. If a responsible person fails to correct a violation by the deadline listed in an administrative citation, civil fines shall be paid to the city as follows:

1. For any violation the civil fine shall be as shown in the consolidated fee schedule.

2. Each and every subsequent day of violation shall be a separate violation until the violation is corrected.

3. The maximum amount of civil fines to accrue under subsection A2 of this section shall be one thousand dollars ($1,000.00) for any single violation.

B. Payment of any civil fine shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the city. Payment of civil fines does not apply toward costs for the abatement of nuisances as provided in this chapter.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-14)

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1-9-13 : ASSESSMENT OF COSTS

A. Whenever actual costs are incurred by the city to remedy violations of this Code, such costs shall be assessed against the owner of record. In addition to the actual costs to the city to abate the violation, including employee time, materials, and other costs, an administrative cost, in the amount established in the consolidated fee schedule, shall also be assessed to reimburse the city for its administrative costs.

B. When abatement is completed, the director shall prepare an itemized statement of costs in accordance with CCNO 1-9-16D.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-15)

1-9-14 : HEARING AND REVIEW AUTHORITY

The administrative law judge/administrative hearing officer is to be the default arbiter for review of code violations charged by administrative citation and for the abatement of nuisances.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-16)

1-9-15 : ADMINISTRATIVE ABATEMENT

Any condition caused, maintained, or permitted to exist in violation of CCNO 5 or CCNO 11 may be abated by the city pursuant to the procedures set forth in this chapter.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-17)

1-9-16 : PROCEDURES FOR ABATEMENT

A. When an owner of record or responsible person fails to comply with a written notice served pursuant to CCNO 1-9-11 from the city to remedy a condition that violates this Code, the director may initiate proceedings to abate the condition in accordance with this chapter and U.C.A. 1953, ch. 10-11 et seq.

B. The city shall physically post the notice created under CCNO 1-9-11F on the property, with any personal identifying information removed, at least twenty-four (24)

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hours prior to entry for abatement purposes.

C. The municipal inspector may after posting physical notice:

1. Enter the property and, at the expense of the municipality, employ necessary assistance to enter the property and destroy or remove an item or other nuisance identified in a written notice described in CCNO 1-9-11;

2. Prepare an itemized statement in accordance with subsection D of this section; and

3. Mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within thirty (30) days after the day on which the statement is post-marked.

D. The itemized statement shall:

1. Include:

a. The address of the property described in subsection A of this section;

b. An itemized list of and demand for payment for all expenses within thirty (30) days, including administrative expenses, incurred by the municipality under subsection C1 of this section; and

c. The address of the city treasurer where payment may be made for the expenses.

2. Notify the owner of record:

a. That failure to pay the expenses described in subsection D1b of this section may result in a lien on the property in accordance with U.C.A. 1953, § 10-11-4;

b. That the owner may file a written objection to all or part of the statement within twenty (20) days after the day of the statement post-mark; and

c. Where the owner may file the objection, including the municipal office and address.

3. If the owner files an objection under subsection D2b of this section that objection shall be heard by the administrative hearing officer pursuant to CCNO 1-8.

4. A statement mailed in accordance with subsection C3 of this section is delivered when mailed by certified mail addressed to the owner of record's last-known address according to the records of the county recorder.

E. The city is authorized to use any remedy provided for in state law, including actions in district court or filing a lien to be included with the tax notice under CCNO 1-9-18.

F. Nothing in this section shall limit remedies available to the city as provided for in state law.

HISTORY

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Adopted by Ord. 2010-09 on 9/7/2010
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-18)

1-9-17 : EMERGENCY ABATEMENT

A. Whenever the director determines that an imminent life safety hazard exists that requires immediate correction or elimination, the director shall exercise the following powers without prior notice to the responsible person:

1. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;

2. Post the premises as unsafe, substandard, or dangerous;

3. Board, fence, or secure the building or site;

4. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;

5. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or

6. Take any other action appropriate to eliminate the emergency.

B. The enforcement official may, based on exigent circumstances, enter property without a search warrant or administrative order to accomplish the above listed acts.

C. The director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of a hazard. Costs incurred by the city during the emergency abatement process shall be calculated and an itemized statement of costs shall be prepared as outlined in CCNO 1-9-16D. Further correction needed to bring the violation into compliance will be addressed through the administrative citation procedures set forth in this chapter including any reasonable estimates for outstanding invoices.

D. The director may also pursue any other administrative or judicial remedy to abate any remaining violations.

E. After an emergency abatement, the city shall, within ten (10) days, serve the itemized statement of costs upon the owner of record as provided in CCNO 1-9-13.

F. Such notice shall include a description of the imminent life safety hazard warranting the emergency abatement.

G. An owner of record, or responsible person has the right to contest the need for the emergency abatement and/or the reasonableness of the itemized statement of costs at an administrative hearing. A request for such hearing shall be filed in accordance with CCNO 1-8-6, within twenty (20) days from the date of service of the itemized statement of

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costs. Failure to request an administrative hearing shall constitute a waiver of an administrative hearing and waiver of the right to appeal.

HISTORY

Adopted by Ord. 2013-10 on 8/27/2013
Amended by Ord. 2015-22 on 9/1/2015

(Code 2002, § 1-9-19)

1-9-18 : LIEN PROCEDURES

Whenever the city, either acting on its own or through a private contractor, is required to abate a health or safety violation existing on real property, it shall follow the procedures outlined in U.C.A. 1953, § 10-11-1 et seq., to record a lien on the real property in the amount of the city's costs of abatement, including administrative costs in the amount set forth in the consolidated fee schedule.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-20)

1-9-19 : PROHIBITION AGAINST MUNICIPAL PERMITS OR SERVICES

The city shall withhold city utility services; business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure where a violation is located until such time as the violation has been resolved, all civil fees paid and all of the city's costs of enforcement reimbursed.

HISTORY

Adopted by Ord. 2010-09 on 9/7/2010

(Code 2002, § 1-9-21)

1-9-20 : SUIT AND JUDGMENT FOR EXPENSES AND FEES

In the event collection of expenses incurred by the city under the provisions of CCNO 5, "Health And Sanitation," and CCNO 11, "Zoning Regulations," is pursued through the courts, the city may sue for and shall be entitled to receive judgment of all such expenses, together with reasonable attorney fees, interest and court costs and shall execute upon such judgment in the manner provided by law.

HISTORY

Adopted by Ord. 2015-22 on 9/1/2015

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(Code 2002, § 1-9-22)

1-9-21 : HEARING REQUIRED PRIOR TO DEMOLITION

A. In the event a structure is found to be dangerous by the building official as provided for in CCNO 5-8, and demolition is the only remedy available because the building is beyond repair, or the costs of the repairs exceed the value of the structure, the city is authorized to demolish the building. The building official shall post notice on the structure prohibiting entry without the permission of the official.

B. Prior to demolition the city shall provide the owner of record with notice of a hearing, in front of the administrative hearing officer (AHO), to establish the necessity to demolish the structure. The notice shall be sent at least twenty (20) days prior to the hearing by certified mail and provide a specific description of the dangerous condition found, as well as the remedy. The owner is allowed to present any evidence of repairs, condition, valuation, or other relevant information which will help the AHO make a decision.

1. Should the property owner not appear at the hearing the AHO shall uphold the determination of the municipal officials and the city shall send by certified mail the official decision of the AHO to the owner of record.

2. The owner of record shall have thirty (30) days to file an action in district court challenging a decision for the demolition of a structure which was determined to be dangerous.

3. All charges for demolition shall be paid for by the owner of record and may be assessed against the property in any manner authorized by this Code or state and federal law.

C. the case of emergency conditions, where imminent danger to life or significant property damage would occur should the building not be demolished, as determined by the city official in charge, the demolition may proceed without a prior hearing.

1. the event an emergency demolition occurs, the city shall hold a hearing at the earliest convenient time for the property owner, or after providing twenty (20) days certified notice of the date and time of the hearing.

2. the owner not appear at the hearing the AHO shall uphold the determination of the municipal officials and the city shall send by certified mail the official decision of the AHO to the owner of record.

3. e owner of record shall have thirty (30) days to file an action in district court challenging a decision for the demolition of a structure which was determined to be dangerous and any associated costs.

4. charges for demolition shall be paid for by the owner of record and may be assessed against the property in any manner authorized by this Code or state and federal law.

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HISTORY

Adopted by Ord. 2016-21 on 7/19/2016

(Code 2002, § 1-9-23)

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Staff Report to the North Ogden City Council

SYNOPSIS

Description: The attached ordinance includes provision required for North Ogden residents to qualify for FEMA flood insurance program

Date: Nov. 9, 2023

STAFF INFORMATION

Jon Call
jcall@nogden.org
801-737-9846

QUESTION FOR COUNCIL

Are the proposed changes to the North Ogden Code acceptable

DISCUSSION

We were contacted by the local FEMA office with some suggestions to amend our FEMA flood insurance provisions to make sure that residents can qualify for the federal programs. We have incorporated their amendments into the attached ordinance.

STAFF RECOMMENDATION

Staff recommends the proposed ordinance be adopted

ORDINANCE 2023-__

AN ORDINANCE AMENDING THE STANDARDS FOR FEMA MAPS AND RELATED FLOOD INSURANCE PROVISIONS

WHEARAS; The City has ordinances which facilitate FEMA rules and regulations in relation to flood plains and the various flood zones; and

WHEARAS; The City is required to periodically verify the ordinance is in compliance with the federal rules related to FEMA; and

WHEARAS; The City has reviewed its ordinances and needs to make the appropriate adjustments below.

NOW THEREFORE, BE IT ORDAINED by the North Ogden City Council that the North Ogden City Code be amended as follows.

SECTION 1: The North Ogden City Code Title 10 Chapter 4 be rewritten as outlined below.

10-4-1: STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; METHODS

A. Statutory Authorization: The legislature of the state of Utah has delegated the authority to local governmental units, by virtue of Utah Code § 10-8-84, to pass ordinances and regulations designated to promote the public health, safety, and general welfare of its citizens, and to adopt regulations designed to minimize flood losses. Therefore, the city council of North Ogden City, Utah, does hereby ordain as follows.

B. Findings Of Fact:

1. The flood hazard areas of North Ogden City are subject to periodic inundation that 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.

2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

C. 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:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
7. Ensure that potential buyers are notified that property is in a flood area.

D. Methods Of Reducing Flood Losses: In order to accomplish its purposes, this chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

10-4-2: DEFINITIONS

Unless specifically defined below, 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:

ALLUVIAL FAN FLOODING: Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high velocity flows, active processes of erosion, sediment transport, and deposition, and unpredictable flow paths.

APEX: A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING: A designated AO, 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: The land in the floodplain 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 flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zone A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

CRITICAL FEATURE: An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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.

ELEVATED BUILDING: A nonbasement building: a) built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in zone V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the national flood insurance program regulations.

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.

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 INSURANCE RATE MAP (FIRM): An official map of a community, on which the federal emergency management agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the federal emergency management agency. The report contains flood profiles, water surface elevation of the base flood, as well as the floodway boundary-floodway map.

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.

FLOOD PROTECTION SYSTEM: Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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).

FLOODPROOFING: 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.

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.

FUNCTIONALLY DEPENDENT USE: A use that 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 the 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 the interior, or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    1. By an approved state program as determined by the secretary of the interior, or

    2. Directly by the secretary of the interior in states without approved programs.

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 that 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.

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 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.

START OF CONSTRUCTION (For Other Than New Construction Or Substantial Improvements Under The Coastal Barrier Resources Act (Pub. L 97-348)): Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 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: A walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

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 that 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 that have been identified by the local code enforcement official and which are the minimum necessary 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 requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see section 60.6 of the national flood insurance program regulations.)

VIOLATION: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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.

10-4-3: GENERAL PROVISIONS

A. Lands To Which This Chapter Applies: This chapter shall apply to all areas of special flood hazard within the jurisdiction of North Ogden City.

B. Basis For Establishing 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 North Ogden City", dated November 30, 2023, 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.

C. Establishment Of Development Permit: A 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 ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation: In the interpretation and application of this 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 the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

H. Compliance: No structures or developments including buildings, recreation vehicles, or manufactured homes or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent North Ogden City from taking such lawful action as is necessary to prevent or remedy any violations.

I. Penalties for Noncompliance: In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. “These regulations must include effective enforcement provisions.” In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, “These regulations must be legally enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances, or codes.”

1. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be guilty of a class B misdemeanor with penalties as outlined in title 1 of this code, and in

addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent North Ogden City from taking such other lawful action as is necessary to prevent or remedy any violation.

J. Severability: If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

10-4-4: FLOODPLAIN ADMINISTRATOR

A. Designation: The North Ogden City building official 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 Utah state office of emergency management, 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 CCNO 10-4- 3B, 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 CCNO 10-4-7.

9. When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30, AE, and AH 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 1.00* feet at any point within the community unless the community has adopted higher standard options.

10.

10-4-5: PERMIT PROCEDURES

A. Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

    1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures,
    2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed,
    3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of CCNO 10-4-7B2.
    4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development,
    5. Maintain a record of all such information in accordance with CCNO 10-4-4B1.

B. 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:

    1. The danger to life and property due to flooding or erosion damage,
    2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner,
    3. The danger that materials may be swept onto other lands to the injury of others,
    4. The compatibility of the proposed use with existing and anticipated development,
    5. The safety of access to the property in times of flood for ordinary and emergency vehicles,

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems,
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site,
8. The necessity to the facility of a waterfront location, where applicable,
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use,
10. The relationship of the proposed use to the comprehensive plan for that area.

10-4-6: VARIANCE PROCEDURES

A. The appeal board consisting of the city council shall hear and render judgment on requests for variances from the requirements of this chapter.

B. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

C. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency upon request.

E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.

F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) 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 CCNO 10-4- 5B have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

G. 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 (CCNO 10-4-1C).

H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's

continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon:
    a. Showing a good and sufficient cause,
    b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    c. 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.
3. 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.

K. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in subsections A through I of this section are met, and
2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

10-4-7: FLOOD HAZARD REDUCTION

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

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with

electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to 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: 1) CCNO 10-4-3B, 2) CCNO 10-4-4B8, or 3) subsection 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 to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in CCNO 10-4-5A1, is satisfied.

2. Nonresidential Construction: New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practices 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.

    a. Manufacutred homes that are placed or substantially improved within

Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the BFE, unless a higher standard option was selected, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. Enclosures: New construction and substantial improvements, with fully enclosed areas below the lowest floor that are to be used solely for parking of vehicles, building access, or storage in an area other than a basement, and are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
    a. A minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
    b. The bottom of all openings shall be no higher than 1 foot above grade.
    c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
    d. The development and construction of the structure must conform with the provision in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2. Certification and documentation from a professional, licensed engineer or architect is required if the structure’s lowest floor is built below the BFE.
5. Recreational Vehicle Standards: In all Areas of Special Flood Hazard, Recreational Vehicles, must either:
    a. Be on the site for fewer than 180 consecutive days;
    b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
    c. The recreational vehicle must meet all the requirements for ARTICLE IV, SECTION D PERMIT PROCEDURES, including the anchoring and elevation requirements of “manufactured homes” of this ordinance.

C. Standards For Subdivision Proposals:

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with CCNO 10-4-1B, C, and D.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of CCNO 10-4-3C, CCNO 10-4-5 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 is greater than fifty (50) lots or five (5) acres, whichever is less, if not otherwise provided pursuant to CCNO 10-4-3B or CCNO 10-4-4-B8.
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.

D. Standards for Areas of Shallow Flooding (AO/AH Zones): within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

E. Floodways: Floodways located within SFHAs are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway that will not increase the base flood elevation more than 1 foot.
2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase greater than 0.00 feet, unless higher standard option selected, in flood levels within the community during the occurrence of the base flood discharge.
3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V in this ordinance.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

F.

SECTION 2:This ordinance shall take effect upon adoption.

PASSED and ADOPTED this _____th day of _____, 2023.

North Ogden City:

_____

S. Neal Berube
North Ogden City Mayor

CITY COUNCIL VOTE AS RECORDED:

	Aye	Nay
Council Member Barker:	____	____
Council Member Cevering:	____	____
Council Member Ekstrom:	____	____
Council Member Dalpias:	____	____
Council Member Swanson:	____	____
(In event of a tie vote of the Council):		
Mayor Berube:	____	____

ATTEST:

_____

Rian Santoro
City Recorder