

PLAIN CITY COUNCIL  
MINUTES OF REGULAR MEETING  
NOVEMBER 16, 2023

The City Council of Plain City convened in a regular meeting at City Hall, 4160 W 2200 N in Plain City, on Thursday, November 16, 2023 also accessible via ZOOM beginning at 6:30 p.m.

Present: Councilmembers Jed Jenkins, Rachael Beal, Buddy Sadler, and Todd Skeen  
Excused: Councilmember Luigi Panunzio  
Staff: Diane Hirschi, Brandon Richards, Dan Schuler,  
Present: Miles Robinson, Adam Favero, Lt. Horton, Bruce Parker, Angela & John Hopper, Jarod Maw,  
Tom Favero  
Zoom: Mayor Jon Beesley, Chase Holmes

Call to Order: Mayor Beesley  
Pledge of Allegiance: Councilmember Sadler  
Invocation/Moment of Silence: Councilmember Jenkins

The Mayor was using Zoom as he is out of town. He excused Councilmember Panunzio.

Approval of Minutes from November 2, 2023

**Councilmember Beal moved to approve the minutes from November 2, 2023 as presented. Councilmember Sadler seconded the motion. Councilmembers Jenkins, Beal, Sadler, and Skeen voted aye. The motion carried.**

Comments: Public

There was none at this time.

Report from Planning Commission

Jarod Maw reported that the Planning Commission met on November 9. They tabled Sunset Estates since they had questions and the developer wasn't there. The Planning Commission cancelled their meeting on November 23. They discussed the Sensitive Flood Plain Ordinance and set a public hearing for November 30. This will be a special meeting and only for the Sensitive Flood Plain Ordinance. Dan explained that the ordinance will be the same, we are just taking Weber County and replacing it with Plain City. Jarod also noted that they are looking at the commercial uses concerning tattoos and body art. They are looking at the state's list and trying to compare. It just depends how restrictive we want to be. Councilmember Sadler brought up that Steve Smith's family's dance hall must have had a conditional use permit as one of the conditions was that they couldn't have alcohol. He thought that if there was a permit, the conditional permit stays with the property. Bruce Parker and Brandon Richard concurred but only if the use is the same. It was noted a while back they applied for a license for another type of business and it was denied.

Public Hearing – Housing Element for General Plan

**Councilmember Sadler moved to open the public hearing to discuss the housing element for the General Plan. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.** There were no public comments. **Councilmember Sadler moved to close the public hearing to discuss the housing element for the General Plan. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: - Resolution – Housing Element for General Plan

Bruce Parker wished everyone a Happy Thanksgiving. He reported that he sent the plan to the state for their review. The State would like four things fixed. He thinks it is premature to adopt this resolution until we make these changes and the state is happy. Councilmember Beal asked about pages 23 and 25 that refers to the Ogden Clearfield area and wondered if it should be Plain City. Bruce noted that it is correct as the numbers refer to Plain City being in the Ogden Clearfield area. Jarod Maw asked if the Planning Commission will have to relook at this? Bruce noted that the changes are minor and will not have to go back to Planning Commission. Hopefully we can get it ready for the December 7 meeting. **Councilmember Beal moved to table the Resolution adopting the Housing**

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**Element of the General Plan as suggested. Councilmember Jenkins seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: Ordinance – Amend Zoning Ordinance Concerning Site Development Standards  
Councilmember Beal asked about the word except. Jarod mentioned that he made some drawings to go with this ordinance that would answer this question. It was discovered that there was miscommunication when Jarod sent the drawings in that Diane thought they were the drawings for the DADU. Diane will get the drawings ready for the next meeting. **Councilmember Beal moved to table amending the Zoning Ordinance concerning Site Development Standards until our next meeting. Councilmember Jenkins seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: Ordinance – Amend Business License Ordinance Concerning Site Plan  
Brandon reported that this was due to a discussion early about having all commercial site plans come to the Planning Commission. Paragraph C is added to require all commercial businesses to obtain site plan approval from the Planning Commission prior to applying for a business license. **Councilmember Sadler moved to approve Ordinance 2023-17 Amending the Business License Ordinance concerning Site Plan. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: Resolution – Amend Fee Schedule Concerning Site Plan Fee for Existing Building  
The Mayor reported that we added a site plan fee (\$100) for those businesses that are going in an existing building and do not need a building permit. If they are a new build or require a building permit, the fee is still \$200. Councilmember asked why the GRAMA copy fees are more than regular copy fees. It was noted that is how the GRAMA ordinance was prepared. He also asked about the \$250 fee for an overlay zone and felt it was too low. Diane explained that that fee is on top of all the other subdivision fees that they are required to make at application. **Councilmember Sadler moved to approve Resolution 2023-17 amending the fee schedule concerning site plan in existing building. Councilmember Skeen seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: Set Date for Election Canvass – December 5  
The Mayor asked about doing the canvass on Zoom. It was noted that we need an anchor location for the public. It was decided that it will be Tuesday, December 5 at 11 am. It was noted that there are at least three that can make that meeting. **Councilmember Sadler moved to set the election canvass for December 5, 2023 at 11 am. Councilmember Skeen seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: Cancel December 21 Meeting  
**Councilmember Jenkins moved to set cancel the December 21 meeting. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Motion: Approval of Business License

John Hopper addressed the council. Diane let the Mayor know that he is here in reference to the business license that was denied last meeting. The Mayor noted that his storage has exceeded the home occupation regulations. John Hopper asked about building a shop on the property that he owns behind him. It was noted that you can't have an accessory building on a lot that does not have a dwelling. Brandon suggested bringing in a proposal to staff.

Motion: Approval of Warrant Register

See warrant register dated 11/01/2023 to 11/15/2023. Discussion. **Councilmember Beal moved to approve and pay the bills as presented. Councilmember Jenkins seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Report from City Council

Councilmember Beal mentioned that at Meet the Candidates night, it was brought up that our sound system for the meetings have been bad. She would like to see some money put in the budget for a new sound system. She noted

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that the Christmas Tree Lighting is Dec 2 at 5 pm. She asked if the council would be willing to be in the parade. They agreed to be. Councilmember Beal asked Councilmember Sadler to see if they can ride on the fire truck. Councilmember Sadler reported that at the mosquito board meeting they noted that there was once case of west nile on a human and three animal cases for the year. He noted that he went to the Wasatch Front Regional Council meeting held in Farr West. It was well attended. He noted that there are 46 million dollars to be spent on trails.

Mayor Beesley thanked everyone.

**At 7:09 p.m. Councilmember Skeen moved to adjourn and was seconded by Councilmember Beal. The vote was unanimous.**

\_\_\_\_\_  
City Recorder

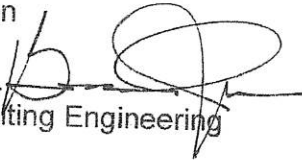
\_\_\_\_\_  
Mayor

Date approved \_\_\_\_\_



## Memorandum

**To:** Diane Hirschi, City Recorder  
Plain City Corporation

**From:** Brad C. Jensen, P.E.   
Wasatch Civil Consulting Engineering

**Date:** November 27, 2023

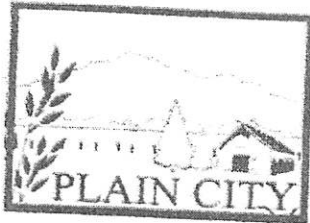
**Subject:** BB's Place Subdivision - Conditional Final Acceptance

We have reviewed the Conditional Final Acceptance request for BB's Place Subdivision. We concur with the recommendation submitted by Dan Schuler of Plain City Public Works dated 11/21/2023 (attached). Consequently, we recommend granting Conditional Final Acceptance to the BB's Place Subdivision.

Once Conditional Final Acceptance is granted, all the escrow funds except the 10% Contingency can be released to the Developer.

If you have any questions or require additional information, feel free to contact me.

11/21/2023



**Re: BB's Place escrow release and conditional final request.**

After completing my walk through/inspection for BB's Place Subdivision located at 4650 West 2200 North on 11/20/23, the city improvements that had been completed or fixed was installed to city standards. At this time the developer would like to request starting the one-year warranty period and releasing the escrow for any remaining improvement monies, minus the 10% warranty monies. If you have any questions or concerns, please give me a call.

A handwritten signature in black ink, appearing to read "Daniel Schuler", written over a horizontal line.

**Daniel Schuler**

**Plain City Public Works Director**

**385-466-1079 Cell**

**[dans@plaincityutah.org](mailto:dans@plaincityutah.org)**

RESOLUTION NO. 2023- \_\_\_\_\_

**A RESOLUTION EXPRESSING THE DESIRE OF PLAIN CITY  
TO ADOPT A HOUSING ELEMENT TO THEIR GENERAL PLAN**

WHEREAS, the City of Plain City (herein “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, the City Council finds that in conformance with the provisions of UCA §10-3-717, the governing body of the city may exercise all administrative powers by resolutions; and,

WHEREAS, the City desires to adopt and include a housing element into its General Plan; and,

WHEREAS, the City Planning Commission has been working on a housing element to be included in the City’s General Plan and recommended its adoption on September 28, 2023; and,

WHEREAS, the City feels adopting the attached housing element to its General Plan to be in the City’s best interest.

NOW, THEREFORE, Be It Resolved that the City Council of Plain City, Utah, desires to adopt the attached housing element to its General Plan.

PASSED AND APPROVED by the Plain City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Voting:

Councilmember Jenkins \_\_\_\_\_  
Councilmember Beal \_\_\_\_\_  
Councilmember Sadler \_\_\_\_\_  
Councilmember Panunzio \_\_\_\_\_  
Councilmember Skeen \_\_\_\_\_

\_\_\_\_\_  
MAYOR OF PLAIN CITY

ATTEST:

\_\_\_\_\_  
City Recorder



# Housing Element

Plain City, Utah  
General Plan Update 2023

Prepared for Plain City, Utah, by  
Planning and Development Services, LLC  
Salt Lake City, Utah  
[pds@utahplanning.com](mailto:pds@utahplanning.com)  
801/277-4435



# PLAIN CITY HOUSING ELEMENT, 2023 (INCLUDING A MODERATE-INCOME HOUSING PLAN) AN ELEMENT OF THE PLAIN CITY GENERAL PLAN

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## INTRODUCTION

Plain City prepares and adopts this General Plan Housing Element (2023) to meet the City's existing and emerging housing needs. This Element is determined to follow the standards of the Utah Code, including Section 10-9a-403 *et seq.*, which requires all Utah municipalities (meeting certain classifications) to complete a Moderate-Income Housing Plan ("MIHP"). A MIHP may be adopted by a municipality (City or town) as a stand-alone plan or incorporated into the framework of the municipality's General Plan, often as an element of the General Plan. The Plain City MIHP ("MIHP") is incorporated into and adopted as part of the Plain City General Plan. The General Plan Housing Element estimates the City's needs for moderate-income housing and addresses other housing issues. This Element also outlines the strategies the City will pursue to provide reasonable opportunities for the provision of a variety of moderate-income housing units, which includes preserving existing housing units and the construction of new units, allowing "persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life."<sup>1</sup> This Housing Element also considers and proactively addresses any barriers to providing moderate-income residential housing.

### **Moderate Income Housing Defined and Moderate-Income Housing Income Threshold**

The Utah Code defines moderate income as equaling eighty percent (80%) of the Area Median Income (AMI).<sup>2</sup> Weber County, Utah, is the "area" used by this Housing Element. However, the U.S. Census Bureau does not report AMI for Weber County. What the U.S. Census Bureau does report is

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<sup>1</sup> Section 10-9a-403(2)(b)(B), Utah Code.

<sup>2</sup> Section 10-9a-103(39), Utah Code.

Weber County's Median Household Income via the American Community Survey ("ACS"). For 2022, the ACS reported the Weber County Median Household Income was \$83,949.00 (1-year estimate)(Table S1901, ACS). For this Housing Element, the Weber County Median Household Income of \$83,949.00 (Table S1901, ACS) is applied.

The ACS also supplies the Median Household Income for Plain City for 2021 (Table S1901, ACS). The Median Household Income for Plain City (ACS, 5-year estimate) for 2021 was \$107,222.00. The City's reported Median Household Income (2021) was significantly higher than reported for the entire Weber County area.

The U.S. Department of Housing and Urban Development ("HUD") also supplies home income limits. For the Ogden-Clearfield Utah, HUD Metropolitan Area (of which Plain City is part), the 2021 adjusted income limit for a low-income household of four (4) persons was \$72,500.00 per year.

**Table 1**  
**Plain City and Weber County 2020 Population and Population Projections**

Year	2020 Census Population & Projections		Growth Rate (Decennial to Decennial years)	
	Plain City	Weber County	Plain City	Weber County
<b>2020</b>	7,833	262,223	—	—
<b>2030</b>	9,641	300,477	23.0%	14.6%
<b>2040</b>	11,553	349,009	19.8%	16.2%
<b>2050</b>	12,798	398,699	10.1%	14.2%

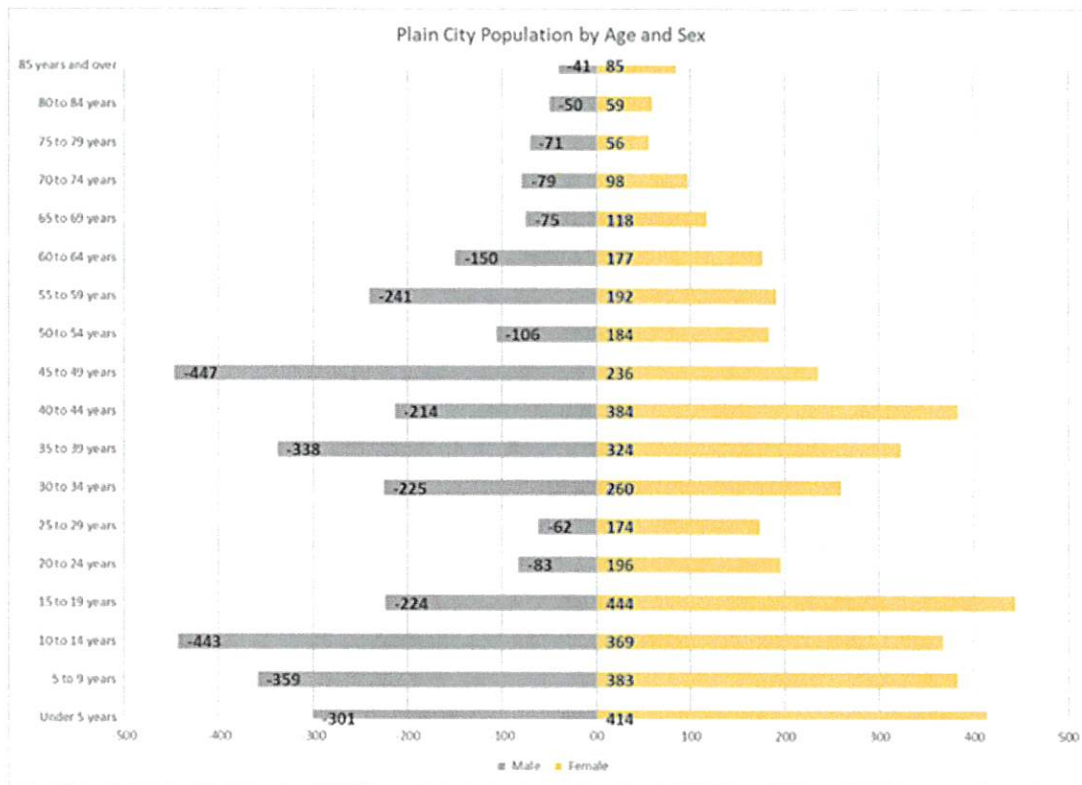
Source. 1. United States Census Bureau, 2020 Decennial Census, Table P1 (Retrieved from <https://www2.census.gov/programs-surveys/decennial/2020/data/>).

2. Plain City Population Projections Retrieved from <https://data.wfrc.org/datasets/06cb3e239a3743fab7796165e1c66ad9/explore?location=41.241184%2C-112.091137%2C12.19>.

3. Weber County Population Projections Retrieved from <https://opendata.utah.gov/Government-and-Taxes/Weber-County-Census-Projections-2010-2060/cggy-vv82/data>.

The information provided in Table 1 highlights the expected population growth for Plain City and Weber County. Plain City's population growth from 2020 to 2030 is expected to be significant, with the City's population increasing by approximately 23% from 2020 to 2030. As expected, the population growth, measured as a percentage increase, is lower for Weber County due to the County's larger population base throughout all years. As the population increases, the percentage of population growth rate slows, expressed as a population growth percentage. The population increase is perhaps more critical for this Housing Element, including the MIHP. For the 10-year periods of 2020 to 2030 and 2040 to 2050, actual population increases are 1,808 persons and 1,245 persons, respectively, for the City.

**Figure 1**  
**Plain City 2020 Population Pyramid**



Source. 1. United States Census Bureau, American Community Survey, 2021, Table S0101 (Retrieved from <https://api.census.gov/data/2021/acs/acs1/subject>).

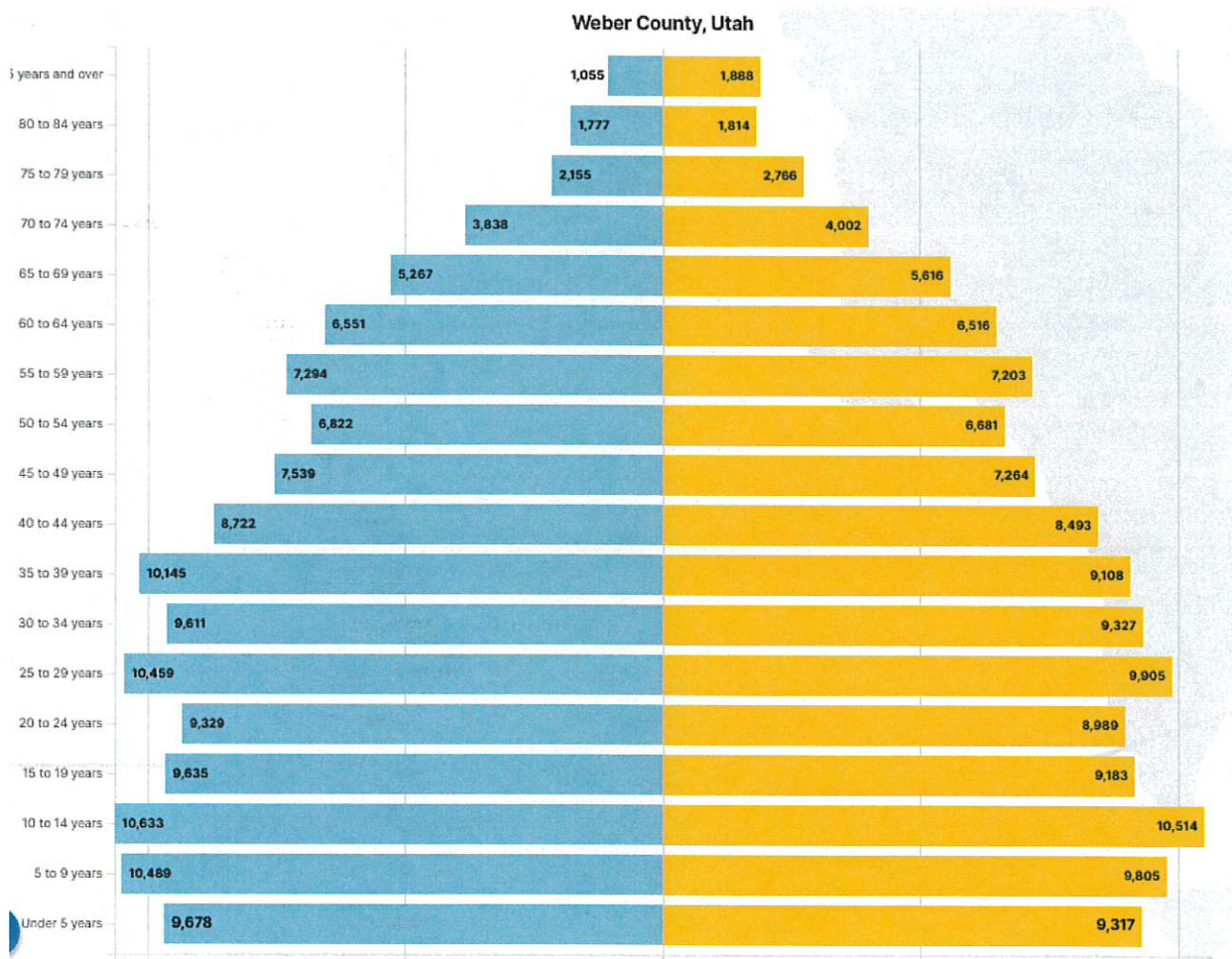
2. United States Census Bureau, American Community Survey, 2021, Table DP05, Retrieved from <https://api.census.gov/data/2021/acs/acs5/sptprofile>).

Figure 1 shows the Plain City population does not display a “balanced” or symmetrical population pyramid (by resident age or gender). The City’s 20 – 29-year-old age group is small, with a relatively lower number of residents in this age group than expected from a more symmetrical population pyramid. The children’s age group (0 – 5 years) is also narrower than expected. If the children and youth age groups continue to be small compared to older age groups, arguably, the City’s population is aging and is not in a self-sustaining condition.

Figure 1 also highlights that the City has a disproportionately large population of residents in the age groups between 40 and 49 years of age. This is pronounced for females 40 – 44 years and males 45 – 49 years. The City’s population pyramid then narrows for females and males in the over-65

age groups. The relatively small 20 – 29 age group and the quickly declining population over 65 years may show that the preferred housing choice for these age groups is either not being supplied or, if provided, is either in short supply, is prohibitively expensive, or perhaps both. The MIHP considers those possibilities. For comparison, only the population pyramid for Weber County, using 2021 ACS data (5-Year Estimates), is provided in Figure 2.

**Figure 2**  
**Weber County, Population Pyramid**



## BACKGROUND AND EXISTING HOUSING CONDITIONS

In 2018, the Plain City City Council adopted the Plain City 2018 General Plan. That Plan was an update of the City's earlier 2007 General Plan. Within the pages of the 2018 General Plan (beginning on page 16)

were materials related to the City's strategies to address housing, including moderate-income housing. The 2018 Moderate Income Housing section was included in the 2018 General Plan's Land Use Element pages. The Moderate-Income Housing Plan provided six (6) "actions" designed "to ensure an adequate supply of moderate-income housing integrated throughout the City in various locations, and consistent with the needs of all segments of the population" (Plain City General Plan, 2019, p. 17). The six (6) action statements of the 2018 General Plan were,

- **Action:** Develop programs and incentives to improve and maintain existing housing, especially in historic neighborhoods.
- **Action:** Create a neighborhood preservation zone for the residential districts in downtown Plain City.
- **Action:** Encourage a mix of lot sizes and housing types in residential and commercial zones so that moderate-income housing is integrated correctly and not concentrated in one development or area.
- **Action:** Consider utilization of state or federal funds or tax incentives to promote the construction of moderate-income housing.
- **Action:** Regularly update this chapter to determine the housing needs for all groups, to quantify specific housing needs, and to identify solutions to housing problems. This Element will be reviewed on a biennial basis.
- **Action:** Encourage life-cycle housing that provides different housing options to allow people to live and grow in the same community" (Plain City General Plan, 2018, pp. 17 – 18).

Since Plain City adopted the 2018 General Plan, the City has changed, including additional residential and nonresidential growth. Also, various legislative amendments have occurred to the Utah Code, affecting how Utah municipalities and counties address the provision of moderate-income housing. For example, a definition of moderate-income housing is now provided.<sup>3</sup> Standards for filing Plain City's Moderate Income Housing Report to the Housing and Community Development Division, Department of Workforce Services are also established (§10-9a-408, Utah Code). Section 10-9a-403(2)(b) (Utah Code) provides the minimum standards required by a

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<sup>3</sup> Footnote #2.

“specified municipality” in the formulation and adoption of a MIHP.<sup>4</sup> (Plain City, Utah, qualifies as a specified municipality). Plain City provides this General Plan Housing Element, including its MIHP Update, to comply with all applicable Utah Code standards. However, before moving to the MIHP and its required accompanying implementation and monitoring strategies, a review of the City’s existing housing profile and other items is proper.

Figure 3 summarizes the existing occupied housing units (all housing types) for Weber County and Plain City, Utah. The U.S. Census Bureau provides this information via the American Community Survey (“ACS”).<sup>5</sup>

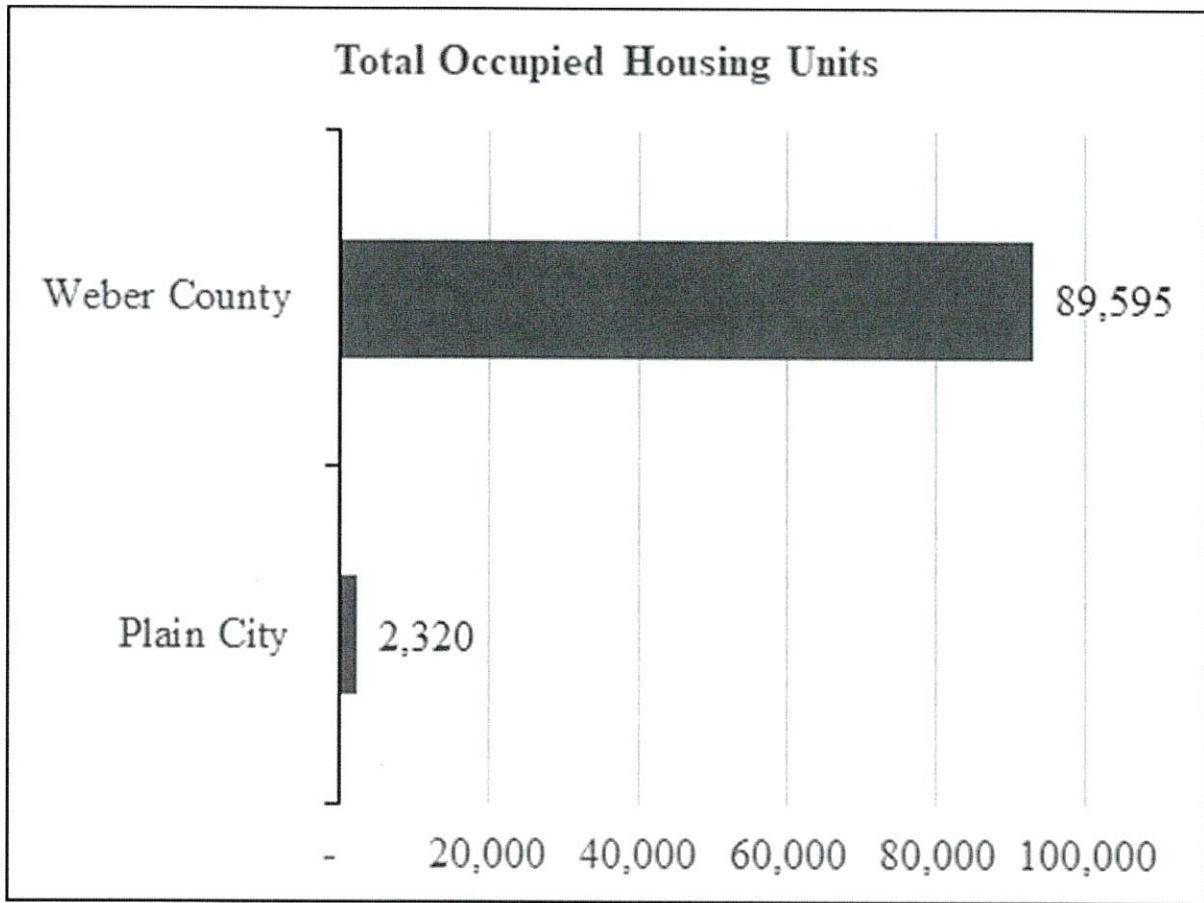
In 2020, Plain City had 2,349 housing units (total) of all dwelling unit types (U.S. Census Bureau, Table H1, retrieved from <https://data.census.gov/table?q=H1&g=160XX00US4960710&d=DEC+Demographic+and+Housing+Characteristics&tid=DECENNIALDHC2020.H1>). In 2020 2,320 housing units were occupied, and 29 units were vacant (U.S. Census Bureau, Table H1, retrieved from <https://data.census.gov/table?q=H1&g=160XX00US4960710>). Figure 3 displays the total occupied housing units for Weber County and Plain City in 2020. In 2020, 6,019 housing units in Weber County were vacant.

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<sup>4</sup> Section 10-9a-408, Utah Code.

<sup>5</sup> Readers are advised that the margins of error are often significant because data is derived from a survey and not a decennial census count.

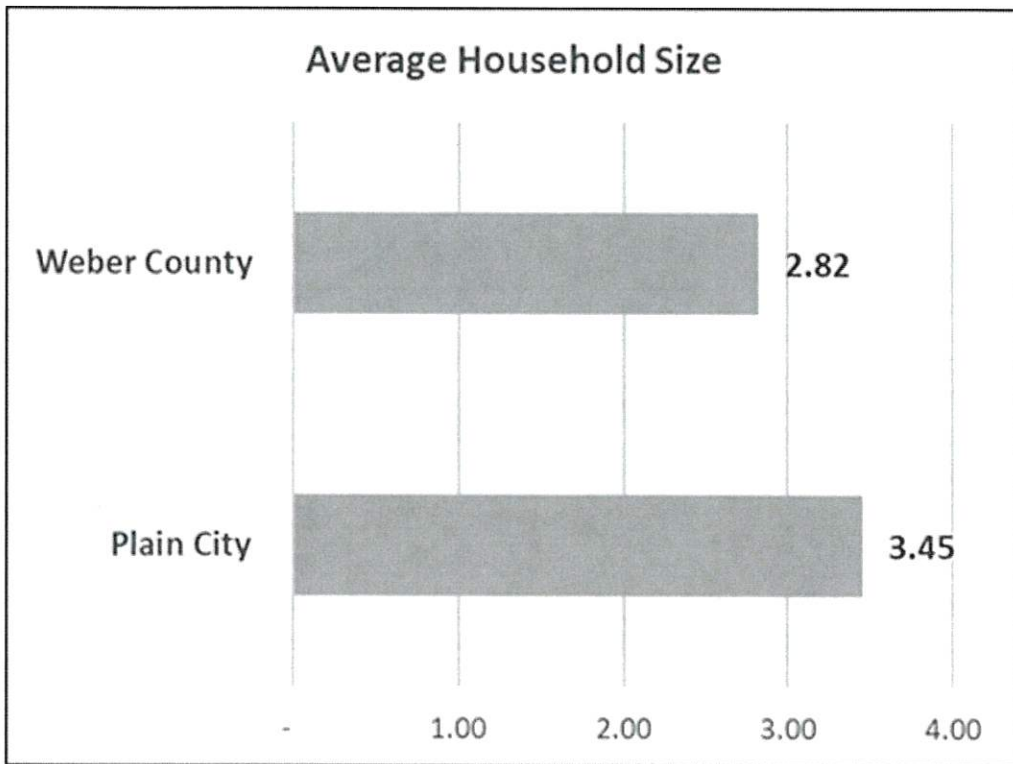
**Figure 3**  
**Total Occupied Housing Units in Weber County and Plain City, Utah, 2020**



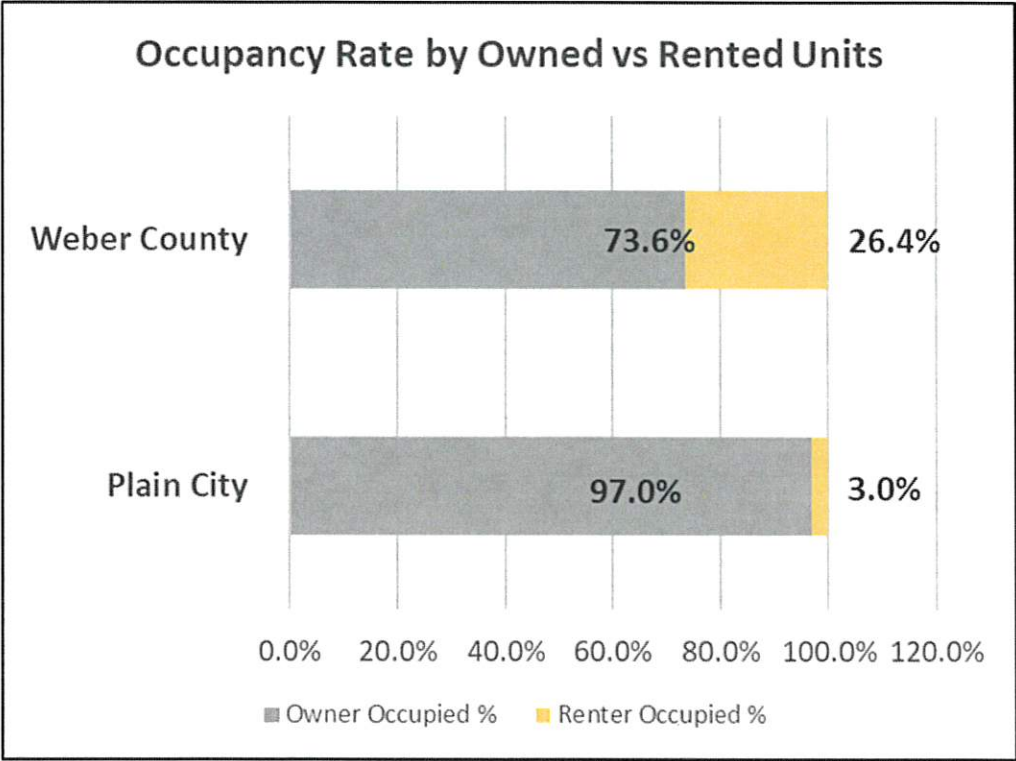
Source: U.S. Census Bureau, Decennial 2020 Census, Table H1.

In 2020, Weber County had 95,614 total housing units (Table H1, 2020 Decennial Census). In 2022, approximately 73.6% of all Weber County housing units were owner-occupied (Table DP04, ACS), while about 97.0% of all housing units in Plain City were owner-occupied. The ACS reported 85,205 total households in Weber County and an average household size of 2.96 persons (2020). The total number of households for Plain City was 2,062, with an average household size of 3.47 persons (2020), significantly larger than reported for Weber County. For 2020, the total number of families in Plain City was 1,783, and the average family size was 3.70 (U.S. Census Bureau, American Community Survey, Table S1101). Figure 4 presents the average family sizes for Weber County and Plain City, 2020. Figure 5 also provides valuable information. Figure 5 shows the total number of owner-occupied and renter-occupied housing units for 2020.

**Figure 4**  
**Average Family Size for Weber County and Plain City, Utah, 2020**

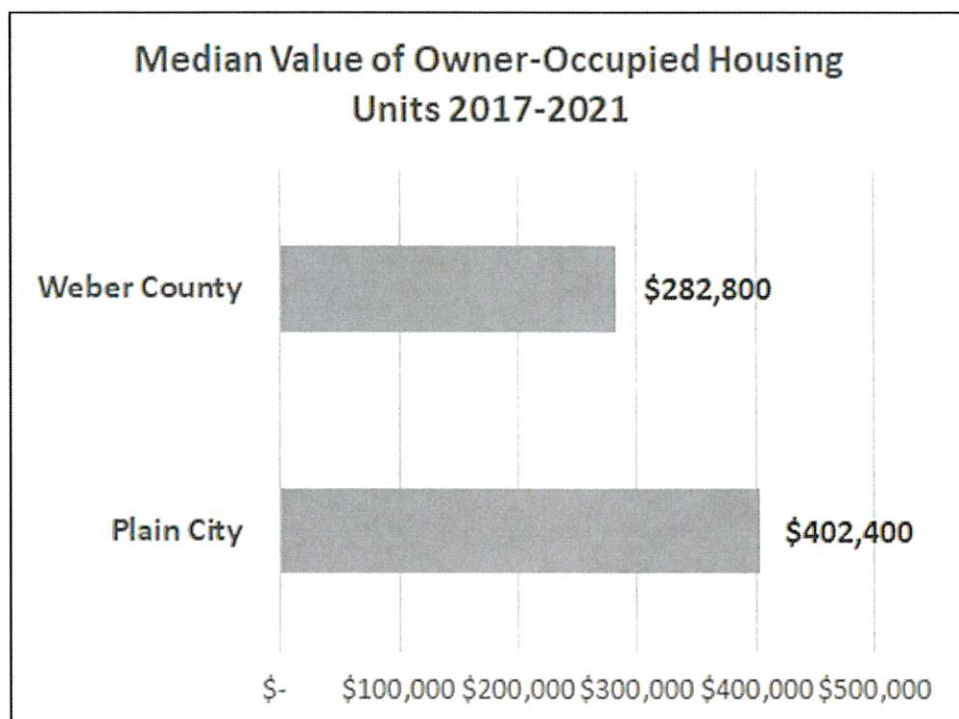


**Figure 5**  
**Occupancy Rates for Owner-Occupied and Renter-Occupied Housing Units**  
**for Weber County and Plain City, Utah**



A few final figures are necessary to paint Plain City's complete housing picture and to inform readers of the City's housing trends and needs. This information follows as provided by Figure 7, Median Value of Owner-Occupied Housing Units 2017 – 2021, Figure 8, Median Selected Monthly Owner-Occupied Housing Costs 2017 – 2021, Figure 9, Median Gross Rent 2017 – 2021, and Figure 10, Persons in Poverty.

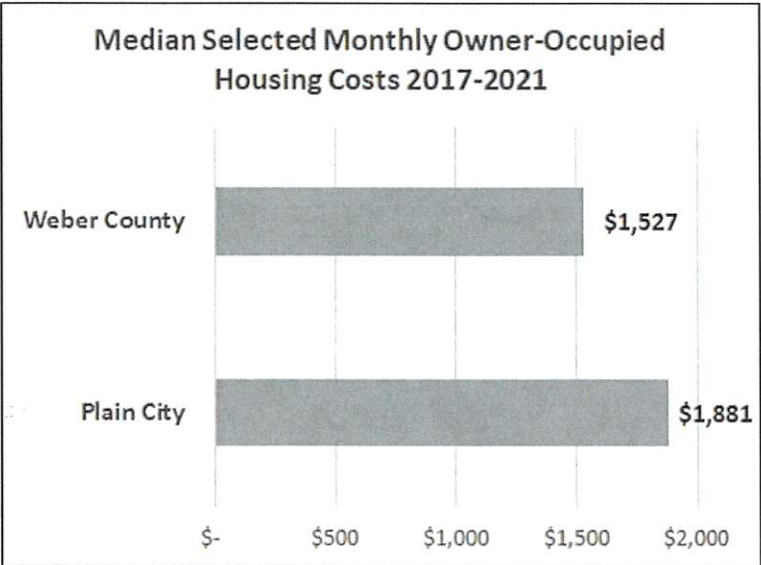
**Figure 6**  
**Median Value of Owner-Occupied Housing Units, 2017 – 2021**



The ACS also provides the data for Figure 6. While this data set is subject to significant margins of error, it is not the actual numbers that are the most important but rather the data relationships and trends. Figure 6 highlights that the median value of owner-occupied housing units over the 2017 to 2021 period is higher for Plain City than for Weber County.

Figure 7 highlights that median monthly housing costs, 2017 – 2021, are also higher for Plain City residents owning their own homes. Why is this the case? Perhaps Plain City's higher owner-occupied monthly housing costs could be due to larger houses and larger lot sizes, resulting in higher property values and tax assessments. Another explanation could be that the moderating effects of properties with lower assessed values and property tax obligations are absent, with fewer apartments and multifamily residential dwelling units included in the total housing stock than in Weber County. Higher monthly owner-occupied costs could also result from the realities of larger homes and lot maintenance costs.

**Figure 7**  
**Median Selected Monthly Owner-Occupied Housing Costs 2017 – 2021**



**Figure 8**  
**Median Gross Rent 2017 – 2021**

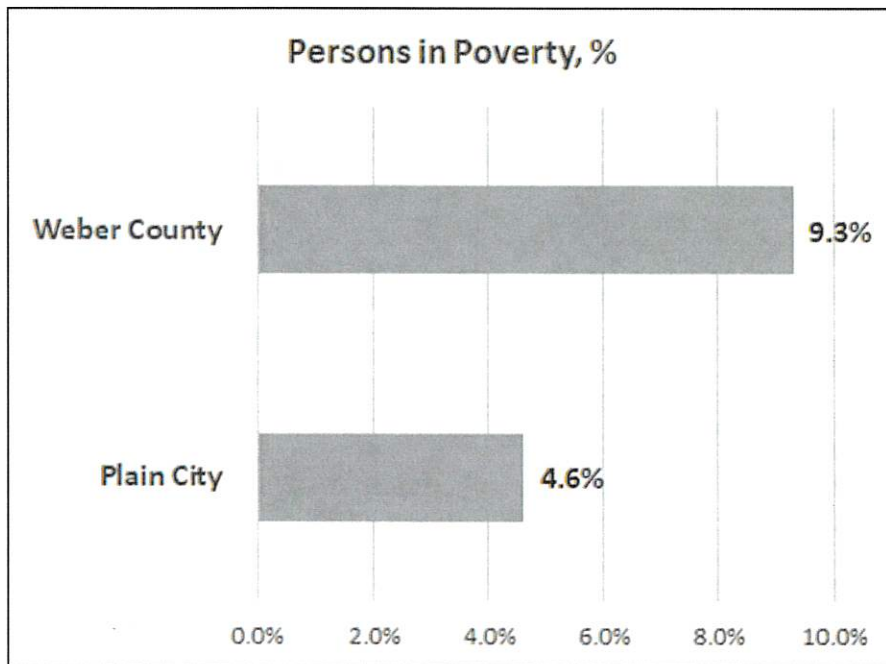


The median gross rent for 2017 – 2021 for Plain City renters is lower than for renters in Weber County (as a whole). This is a trend worth preserving for the future. However, Figure 8 and this conclusion may be misleading. Misleading, how? The possibility exists that with fewer rental units and fewer

renters (than in Weber County), the Plain City monthly gross rent data is coming from a small data set with the potential of being skewed downward.

Figure 9 highlights that Plain City has fewer people in poverty than Weber County (as a percentage of the total population). However, the City knows that a segment of its population struggles financially to meet living costs. The City's housing strategies recognize this reality and are directed explicitly at moderating poverty in the City.

**Figure 9  
Persons in Poverty**



## RESIDENTIAL ZONING OVERVIEW

Plain City provides a variety of residential opportunities within its residential zoning plan. The City offers five (5) Residential Estate Zones (RE-40, RE-30, RE-20, RE-18.5, and RE-15). These zones require minimum lot sizes of 40,000 square feet, 30,000 square feet, 20,000 square feet, 18,500 square feet, and 15,000 square feet, respectively. The purpose of the RE-40 and RE-30 zones "is to support a very low-density residential environment . . . . with the nature of the environment substantially undisturbed" (Chapter 5, Article C, City Code). The RE-20, RE-18.5, and RE-15 residential zones "provide and protect residential development at a low density in a semi-agricultural or rural environment" (Chapter 5, Article A, City Code).

The City also provides a Single-Family (R-1-11) Residential Zone. This residential zone requires a minimum lot size of 11,000 square feet and allows single-family residential uses and associated activities (Chapter 5, Article B, City Code).

Located within the City's zoning plan is the Senior Housing Overlay Zone. This residential zone intends to allow residential housing opportunities for senior-aged citizens specifically. The Senior Housing Overlay ("SHO") zone "is designed to provide residential uses that are appropriate for . . . . seniors, recognizing their unique lifestyles and needs by allowing higher densities, (and) a mix of uses. This zone intends to carry out the policies and objectives of all elements of the General Plan and to meet the standards necessary to satisfy the requirements for public health, safety, and general welfare" (Chapter 7, City Code).

Allowed within all City residential zones are detached and internal accessory residential units. Both detached and internal accessory dwelling units provide opportunities for the primary residential dwelling unit owner to integrate moderate-income housing opportunities (Chapter 21 and Chapter 22, City Code). Both detached and internal accessory dwelling units can be administratively approved before the issuance of a building permit. Permitting detached and internal accessory dwelling units is an innovation to provide moderate-income housing, which is unique for many other Utah municipalities. This policy and zoning provision alone demonstrates the City's

commitment to providing affordable housing choices for existing and future residents.

Plain City also provides the Neighborhood Commercial (C-1) and the General Commercial (C-2) zones. Both zones allow residential dwelling units with a Mixed-Use Overlay Zone (Chapter 19, City Code). Allowing a mix of compatible residential and nonresidential uses with commercial designation is another example of the City's goal of establishing moderate-income housing opportunities. Also, consistent with Utah State Code standards, Plain City permits assisted living facilities for elderly persons, residential facilities for persons with a disability, and group home facilities to meet the housing requirements of persons with unique residential needs (Chapter 17, Chapter 23, and Chapter 25, City Code).

### **MODERATE INCOME HOUSING OPPORTUNITIES – PURCHASE AND RENTAL UNITS – A SNAPSHOT**

On November 2, 2023, eight (8) homes were for sale in the City with asking prices of \$500,000.00 or less. These homes were generally 1,500 to 1,900 square feet (finished) and had a three-bed, two-bath configuration. Two (2) of these homes are listed at \$450,000.00 (single-family), and a townhome was listed for \$374,900.00 (realtor.com). Additionally, two (2) single-family homes were for rent, with asking rents of \$2,500.00 and \$2,650.00 per month. One (1) single-family home recently sold in the moderate-income affordability range. This home was 836 square feet, with two beds and one bath. Realtor.com reported a price of \$315,000.00, but it is unclear if this was the asking or sale price. Realtor.com also provides a housing market analysis for Plain City, Utah. Their analysis (on November 2, 2023) identified the following facts.

1. Median listing home price = \$730,000.00.
2. Median days on the market = 70 days.
3. Median listing home price per square foot = \$222/square foot.
4. Active listings = 91 (including vacant residential lots (<https://www.realtor.com>)).

## PLAIN CITY HOUSING GOALS

This Section contains the City's goals for housing, including those for moderate-income housing. This Section should be read and considered with the General Plan's Land Element. The Plan's Housing and Land Use Elements are integrally related and interconnected, with reciprocal support between housing and land use policies. Both the Housing Element and the Land Use Element address housing issues, including providing opportunities to increase the supply of moderate-income housing units within the City. However, the Plain City Housing Element focuses not only on moderate-income housing matters, but on other housing issues. Therefore, this Element provides general housing strategies for all housing and neighborhood areas.

The Utah Code provides several plan standards and requirements to address moderate-income housing specifically. This Section addresses each Utah Code standard and requirement applicable to Plain City.<sup>6</sup>

### Applicable Definitions<sup>7</sup>

The Utah Code provides several definitions to be recognized in formulating the City's Housing Element. These definitions, provided by § 10-9a-103 *et. seq.* (Utah Code), aid the reader in understanding all Housing Element materials, including all goals, policies, strategies, implementation actions, and other provisions. While not required (by the Utah Code), other definitions are also included to assist the reader with understanding and City leaders with Housing Element interpretations.

(1) "**Accessory dwelling unit**" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

"**Affordable housing**" means housing available to a household before deductions like taxes or expenses, including utilities, at no more than thirty

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<sup>6</sup>

<sup>7</sup> The Utah Code should be consulted for other definitions as may be required occasionally for clarity and understanding.

percent (30%) of the household's gross monthly income. "Affordable housing refers to a specific type of housing, generally government-assisted rental housing, targeted for very low- to extremely low-income households" (Wood, James, 2022, retrieved from <https://gardner.utah.edu/blog-reflections-on-affordability-in-utahs-housing-market/>).

(11) "**Development activity**" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities.

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "**Development agreement**" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(17) "**General plan**" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

"**Housing affordability**" means "the general level of housing prices relative to the general level of household incomes." The term does not refer to a type of housing (Wood, James, 2022, retrieved at <https://gardner.utah.edu/blog-reflections-on-affordability-in-utahs-housing-market/>).

(22) "**Impact fee**" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(26) "**Infrastructure improvement**" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation and

(b) an applicant must install:

- (i) in accordance with published installation and inspection specifications for public improvements and
- (ii) whether the improvement is public or private, as a condition of:
  - (A) recording a subdivision plat.
  - (B) obtaining a building permit or
  - (C) development of a commercial, industrial, mixed-use, condominium, or multifamily project.

(38) "**Major transit investment corridor**" means public transit service that uses or occupies:

- (a) public transit rail right-of-way.
- (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- (c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or County and:
  - (i) a public transit district as defined in Section 17B-2a-802 or
  - (ii) an eligible political subdivision as defined in Section 59-12-2219.

(39) "**Moderate income housing**" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the County in which the City is located.

(48) "**Plan for moderate-income housing**" means a written document adopted by a municipality's legislative body that includes:

- (a) an estimate of the existing supply of moderate-income housing located within the municipality.
- (b) an estimate of the need for moderate-income housing in the municipality for the next five years.
- (c) a survey of total residential land use.
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate-income housing; and
- (e) a description of the municipality's program to encourage an adequate supply of moderate-income housing.

(57) "**Residential facility for persons with a disability**" means a residence:

- (a) in which more than one person with a disability resides and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;  
or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(71) "**Transferable development right**" means a right to develop and use land that originates by an ordinance that authorizes a landowner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(74) "**Zoning map**" means a map adopted as part of a land use ordinance that depicts land use zones, overlays, or districts.

In addition to § 10-9a-103, et seq. (Utah Code), the definitions and provisions of § 10-9a-401, et seq., (Utah Code) also apply. The following Utah Code standards must be met.

#### **10-9a-401. General Plan required -- Content.**

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

- (a) present and future needs of the municipality; and
- (b) growth and development of all or any part of the land within the municipality.

(3)

(a) The general Plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate-income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).<sup>111</sup>

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the General Plan.

The United States Department of Housing and Urban Development ("HUD") provides income limits annually (using ACS data) for all areas of the nation. HUD uses an area's median income ("AMI") to determine if individuals can afford to rent or buy a home within the corresponding area. Using the AMI data, HUD locates the midpoint in a region's income distribution. HUD then divides the AMI into distinct levels according to

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household size. The income levels used by HUD are (1) Extremely Low Income - below 30% of AMI, (2) Very Low Income – below 50% of AMI, (3) Low Income – below 80% of AMI, and (4) Moderate income – 80% and 120% of AMI. Table 2 presents the HUD income levels for Fiscal Year 2023 for the Ogden – Clearfield, Utah region, where Plain City is located.

**Table 2**  
**Fiscal Year 2023 Income Limits**

FY 2023 Income Limit Area	Median Family Income	Income Limit Category	Persons in Family								
			1	2	3	4	5	6	7	8	
Ogden – Clearfield, Utah	\$111,900	Extremely Low	22,350	25,550	28,750	31,900	36,140	40,280	45,420	50,560	
		Income - below 30% of AMI (\$)									
		Very Low Income – below 50% of AMI (\$)	37,250	42,600	47,900	53,200	57,500	61,750	66,000	70,250	
		Low income – below 80% of AMI (\$)	59,600	68,100	76,600	85,100	91,950	98,750	105,550	112,350	

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The following formula calculates the maximum housing costs allowed by HUD.  
 Annual Income Limit for Number in Family (Low Income) ÷ 12 x 0.30 = \$Maximum monthly housing-related costs (purchase or rent).

Table 3 presents the maximum monthly housing costs for the number of persons in a family for either the purchase or rent of a residential dwelling unit in Plain City in 2023. A family of four (4) can afford to buy or rent a housing unit in Plain City in 2023, provided total housing costs do not exceed \$2,127.50 per month.

**Table 3**  
**Housing Affordability Analysis (Purchase or Rental) – Plain City 2023**

FY 2023 Income Limit Area	Median Family Income	Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Ogden – Clearfield, Utah	\$111,900	Low income – below 80% of AMI (\$)	1,490.00	1,702.50	1,915.00	2,127.50	2,298.75	2,468.75	2,638.75	2,808.75
			<b>Total maximum monthly housing costs (purchase or rent)</b>							

## **HOUSING ELEMENT POLICIES (GENERAL GUIDELINES) AND IMPLEMENTATION PLAN**

This Section now provides the City's policies, or "general guidelines," for the establishment of future housing, including moderate-income housing units, and associated with the future development of land found within the municipal boundaries of Plain City (§ 10-9a, 103[17], Utah Code).

The State of Utah, Section 10-9a-403 *et. seq.* Utah Code asks that municipalities similarly situated to Plain City adopt a minimum of three (3) strategies for facilitating moderate-income housing production. Plain City is adopting five (5) moderate-income housing strategies to fully recognize the Utah legislature's explicit intent to provide moderately priced housing.

The strategies adopted by Plain City to provide reasonable opportunities for more housing units available to moderate-income individuals and families are as follows:

- 1) Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate-income housing (§ 10-9a-403(2)(b)(iii)(B), Utah Code).
- 2) Create or allow for and reduce regulations related to internal or detached accessory dwelling units in residential zones (§ 10-9a-403(2)(b)(iii)(E), Utah Code).
- 3) Zone or rezone for higher density or moderate-income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers (§ 10-9a-403(2)(b)(iii)(F), Utah Code).
- 4) Amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities (§ 10-9a-403(2)(b)(iii)(H), Utah Code), and

5). Demonstrate implementation of any other program or strategy to address the housing needs of residents of the City who earn less than 80% of the area median income, including the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate-income housing (§10-9a-403(2)(b)(iii)(X), Utah Code).

All General Plan policies and strategies must be made actionable and measurable with an accompanying implementation plan. The Implementation Plan provided by this Housing Element is for five (5) years, addressing the implementation strategies recommended by the Plain City Planning Commission and adopted by the Plain City City Council.<sup>8</sup> The Implementation Plan includes various success measures and benchmarks recommended by the Planning Commission and adopted by the City Council with the adoption of this Housing Element to assess achievements, or otherwise, of all housing-related strategies.

### **ANNUAL STAFF EVALUATION REPORT REQUIRED HOUSING ELEMENT POLICIES (GENERAL GUIDELINES)**

The clear intent of this Housing Element is to provide clarity in realistic and attainable housing policies. Further, this Element is intended to provide sufficient implementation plan details to allow a reader to assess the City's progress toward achieving its housing policies, including ensuring an adequate supply of moderate-income housing units.

Annually, during or before May of each year, the City Staff shall provide the Planning Commission and City Council with a comprehensive annual housing report. This report shall, at a minimum, (1) include housing data, including building permits issued by housing type, (2) identify all connections and correlations between the City's land use regulations and land use decisions and the City's activities occurring over the last twelve (12) months to achieve the City's moderate-income housing strategies, (3) review and discuss how the private capital market has responded to Plain City's MIHP, and (4) highlight any privately and publicly established barriers

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<sup>8</sup> Section 10-9a-408, et. seq., Utah Code.

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encountered by the City in achieving its housing strategies, including those related to moderate-income housing.

## HOUSING POLICIES – IMPLEMENTATION PLAN

Table 3 contains the Implementation Plan materials for this Element's housing goals and policies. Each policy is designed to be actionable and measurable with the establishment of related strategies, needed actions, lead participants, timeline for achievement, success measures, and resources available to the City with the potential to benefit policy and strategy successes. The Implementation Plan has a five-year action and implementation schedule, at the end of which the City will evaluate its progress to achieving all adopted policies and adopt a new Implementation Plan with possible revised or new housing policies. As required by Section 10-9a-403(2)(c), Utah Code, the City's five (5) adopted moderate-income housing strategies are included in the City's Housing Implementation Plan (2023 – 2028). Further, by following the statutorily required procedure, Plain City may consider from time to time necessary Housing Element amendments determined required to achieve the purposes of the City's General Plan and the Utah Code.

**Table 3**  
**Plain City Housing Implementation Plan 2023 – 2028**

<b>Housing Policy #1</b>					
Ensure all new residential construction and residential areas are safe and avoid all naturally occurring features and human-made risks that may adversely affect personal and property safety.					
<b>Strategy</b>	<b>Required Action</b>	<b>Lead Participants</b>	<b>Timeline</b>	<b>Success Measures</b>	<b>Available Resources</b>
1. Ensure all dwelling units are protected from all harmful, naturally occurring, and human-made risks and events.	As necessary, monitor and update the General Plan and Land Use Ordinances to avoid locating housing units in areas subject to flooding, high groundwater, other environmental risks, or human-made risks.	Land Use Specialist, Planning Commission	Annual review, or as updated information becomes available. Necessary information and monitoring included in the Annual Housing Report provided to the Planning Commission and City Council.	General Plan and Land Use Ordinances clearly provide policies and actions to protect all housing units from natural and human-made risks.	Federal, State, and Local agencies, City Engineer
2. Annual Comprehensive	Comprehensive Annual Housing Report	Land Use Specialist,	Provided annually to	At a minimum, the Annual	Planning Consultant

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<p>Housing Report provided to Planning Commission and City Council.</p>	<p>provided to Planning Commission and City Council. Report reviewed by the Planning Commission and City Council. Necessary actions to support the realization of all housing policies are considered.</p>	<p>Planning Commission and City Council but before May of each year</p>	<p>Comprehensive Housing Report shall include 1) the number of building permits issued, (2) connections and correlations between land use regulations and decisions related to moderate-income housing strategies, (3) a review of how the private capital market has responded to moderate-income housing strategies, and (4) highlight all private and</p>	<p>(as necessary)</p>
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					public barriers to achieve City's moderate-income housing strategies. See also the required action for Strategy #2	
<b>Housing Policy #2</b>						
All permits to construct a new dwelling, remodeling an existing dwelling unit, or any other action requiring a building permit shall comply with the International Building Code, as adopted, and the Fire Code, as adopted.						
<b>Strategy</b>	<b>Required Action</b>	<b>Lead Participants</b>	<b>Timeline</b>	<b>Success Measures</b>	<b>Available Resources</b>	
1. Before issuance, all building permits shall comply with the City's Land Use Ordinances, as applicable and as adopted.	Land Use Specialist to issue a Land Use Ordinance compliance certificate demonstrating land use ordinance compliance.	Land Use Specialist. Building Official.	Required of all building permits before issuance.	All building permits found to comply with the City's Land Use Ordinances, as applicable and as adopted.	Land Use Specialist, Building Official, Planning Consultant (as necessary).	
2. All new construction requiring a building permit shall comply	The City's Building Official shall authorize all building permits.	Building Official.	Compliance with all IBC and Fire Code requirements	All issued building permits comply with the IBC	Building Official, Building and Fire Code,	

with the IBC and Fire Code, as adopted.		before building permit issuance.	and Fire Code, as adopted.	State of Utah.
Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.
<b>Housing Policy #3</b>				
Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate-income housing (§10-9a-403(2)(b)(iii)(B), Utah Code).				
<b>Strategy</b>	<b>Required Action</b>	<b>Lead Participants</b>	<b>Timeline</b>	<b>Success Measures</b>
1. All City-owned infrastructure is provided and maintained at the necessary Levels of Service.	The City Engineer confirms the availability of required services at accepted service levels. The developer/applicant provides required infrastructure at established service levels, or greater, as needed by the City with a reimbursement agreement. Impact Fee collection.	City Engineer.	City Engineer confirms infrastructure capacity at the required Level of Service with each development application.	All city-owned and maintained infrastructure is provided at necessary Levels of Service.
				<b>Available Resources</b> City Engineer. Infrastructure Levels of Service Standards.

<p>2. Prioritize Infrastructure spending and Capital Improvements Planning to achieve efficiency and revenue.</p>	<p>City Engineer confirms that annual Capital Improvements Planning and City infrastructure investments will provide services to areas of need or for existing or future residents. Infrastructure planning and spending will be based on the greatest number of existing or future residents served at the accepted Service Levels.</p>	<p>City Engineer, Planning Commission, City Council.</p>	<p>Annually, and as needed, City Engineer confirms infrastructure capacity at the required Level of Service with priority to areas with the potential to support the highest intensity uses, including areas that support moderate-income housing provision.</p>	<p>All infrastructure spending is evaluated based on greatest need and area served or most existing or future residents served.</p>	<p>City Engineer, Land Use Specialist, Planning Consultant (as necessary).</p>
<p>3. Housing Policy #1, Strategy #2.</p>	<p>As required for Housing Policy #1, Strategy #2.</p>	<p>As required for Housing Policy #1, Strategy #2.</p>	<p>As required for Housing Policy #1, Strategy #2.</p>	<p>As required for Housing Policy #1, Strategy #2.</p>	<p>As required for Housing Policy #1, Strategy #2.</p>
<p style="text-align: center;"><b>Housing Policy #4</b></p> <p>Create or allow for and reduce regulations related to internal or detached accessory dwelling units in residential zones (§10-9a-403(2)(b)(iii)(E), Utah Code).</p>					

<b>Strategy</b>	<b>Required Action</b>	<b>Lead Participants</b>	<b>Timeline</b>	<b>Success Measures</b>	<b>Available Resources</b>
<p>1. The City already allows internal and external accessory residential dwelling units.</p>	<p>Monitor progress and update the General Plan and Land Use Ordinances as necessary.</p>	<p>Land Use Specialist. Planning Commission, City Council</p>	<p>The Annual Comprehensive Housing Report provided to the Planning Commission and City Council will include a section on the number of accessory dwelling units permitted in the prior year. In addition to the number of permits issued, the Annual Comprehensive Housing Report shall include 1) connections and correlations</p>	<p>General Plan and Land Use Ordinances updated, as necessary.</p>	<p>State agencies, Land Use Specialist, Planning Commission, City Council, and Planning Consultant (as necessary)</p>

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			<p>between land use regulations and decisions related to accessory dwelling units, (2) a review of how the private capital market has responded to accessory dwelling unit moderate-income. Housing strategies, and (3) highlight all private and public barriers to achieve the City's accessory dwelling unit strategies.</p>	As required for Housing Policy	As required for Housing Policy	As required for Housing
2. Housing Policy # 1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing	As required for Housing Policy	As required for Housing Policy	As required for Housing Policy	As required for Housing

	Policy #1, Strategy #2.	#1, Strategy #2.	#1, Strategy #2.	Policy #1, Strategy #2.
<b>Housing Policy #5</b>				
Zone or rezone for higher density or moderate-income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers (§ 10-9a-403(2)(b)(iii)(F), Utah Code)				
Strategy	Required Action	Lead Participants	Timeline	Success Measures
1. With all General Plan Updates, consider including areas appropriate for commercial centers or mixed-use areas.	Consistent with the General Plan, update the Land Use Ordinances, as necessary, to provide opportunities for commercial centers and mixed-use areas to include moderate-income housing units.	Land Use Specialist, Planning Consultant (as necessary).	Annually and as requested by private landowners.	Land Use Ordinances are found to be consistent with the General Plan
2. Consider allowing or requiring higher-density residential uses in commercial centers and other activity centers, as named by the General Plan.	Consider and consistent with the General Plan, update the Land Use Ordinances, as necessary, to provide opportunities to establish higher density residential uses in commercial centers	Land Use Specialist, Planning Commission, City Council, Planning Consultant (as necessary).	Annually and as requested by private landowners.	General Plan Resolution and Land Use Ordinance amendments are considered concurrently by the Planning Commission
				Land Use Specialist, Planning Consultant (as necessary).
				Land Use Specialist, Planning Consultant (as necessary).

	<p>and other activity centers (that may include locations immediately next to schools, churches, or other public facilities).</p>			<p>and City Council at Public Hearings. Resolution and Ordinance adopted by City Council.</p>	
<p>3. Avoiding any inconsistencies with § 10-9a-534 (Utah Code), as amended, consider requiring architectural and site design elements for compatible residential uses in commercial centers and other centers of activity that promote consistency and compatibility with the City's desired design character.</p>	<p>Amend the City's Land Use Ordinances, as necessary, to provide architectural and site design elements in commercial centers and other activity centers, including mixed-use areas.</p>	<p>Land Use Specialist, Planning Commission, City Council, Planning Consultant (as necessary).</p>	<p>Adopt the Ordinance required within 12 months of Housing Element adoption.</p>	<p>The Planning Commission and City Council considered the Land Use Ordinance amendment at public hearings. Ordinance adopted by City Council.</p>	<p>Land Use Specialist, Planning Consultant (as necessary)</p>

4. Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.
<b>Housing Policy #6</b>					
Amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities (§10-9a-403(2)(b)(iii)(H), Utah Code).					
<b>Strategy</b>	<b>Required Action</b>	<b>Lead Participants</b>	<b>Timeline</b>	<b>Success Measures</b>	<b>Available Resources</b>
1. Consider allowing reduced off-street parking requirements for certain residential land uses that may include residential uses for elderly persons and persons with a disability or other land uses predicted to require reduced off-street parking.	As necessary, update the Land Use Ordinances to reduce off-street parking standards for specific land uses.	Land Use Specialist, Planning Commission, City Council, Planning Consultant (as necessary).	Adopt the required Ordinance within 12 months of Housing Element adoption.	General Plan Resolution and Land Use Ordinance amendments are considered concurrently by the Planning Commission and City Council at Public Hearings. Resolution and Ordinance adopted by City Council.	Land Use Specialist, Planning Consultant (as necessary).

2. Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.
<b>Housing Policy #7</b>					
Demonstrate implementation of any other program or strategy to address the housing needs of residents of the City who earn less than 80% of the area median income, including the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate-income housing (§10-9a-403(2)(b)(iii)(X), Utah Code).					
<b>Strategy</b>	<b>Required Action</b>	<b>Lead Participants</b>	<b>Timeline</b>	<b>Success Measures</b>	<b>Available Resources</b>
1. As a General Plan policy and to avoid any inconsistencies with §10-9a-535 (Utah Code), as amended, consider requiring all new subdivisions or other residential developments to provide a minimum of 10% of lots or dwelling units dedicated	Consistent with General Plan policy, amend the City's Land Use Ordinances to require a minimum of 10% of lots in subdivisions or 10% of dwelling units created in any other residential development to be dedicated as moderate-income housing units	Land Use Specialist, Planning Commission, City Council, Planning Consultant (as necessary).	Adopt the required Ordinance within 12 months of Housing Element adoption.	General Plan Resolution and Land Use Ordinance amendments are considered concurrently by the Planning Commission and City Council at Public Hearings. Resolution and Ordinance	Land Use Specialist, Planning Consultant (as necessary).

Adopted by Resolution \_\_\_\_\_ by City Council vote on December 7, 2023.

as moderate-income housing units.				adopted by City Council.	
2. Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.	As required for Housing Policy #1, Strategy #2.

## CONCLUSION

Plain City, Utah, adopts this Housing Element to meet the existing and emerging needs of the City and its residents, both existing and future. Table 3 contains the seven (7) housing strategies necessary for the City to be innovative and take initiative in all housing-related decisions and other actions. The seven (7) housing strategies, with their accompanying required actions, lead participants, timelines, success measures, and available resources, are,

1. Ensure all new residential construction and residential areas are safe and avoid all naturally occurring features and human-made risks that may adversely affect personal and property safety.
2. All permits to construct a new dwelling, remodeling an existing dwelling unit, or any other action requiring a building permit shall comply with the International Building Code, as adopted, and the Fire Code, as adopted.
3. Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate-income housing (§10-9a-403(2)(b)(iii)(B), Utah Code).
4. Create or allow for and reduce regulations related to internal or detached accessory dwelling units in residential zones (§10-9a-403(2)(b)(iii)(E), Utah Code).
5. Zone or rezone for higher density or moderate-income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers (§10-9a-403(2)(b)(iii)(F), Utah Code).
6. Amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities (§10-9a-403(2)(b)(iii)(H), Utah Code), and

7. Demonstrate implementation of any other program or strategy to address the housing needs of residents of the City who earn less than 80% of the area median income, including the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate-income housing (§ 10-9a-403(2)(b)(iii)(X), Utah Code).

Strategies 1 and 2 apply to all residential-related construction within the City. Strategies 3, 4, 5, 6, and 7 are responsive to the Utah Legislature's intent to address the increasing need for moderate-income housing provision throughout Utah. These strategies also demonstrate the City's willingness to provide a range of housing types that meet the needs of all City residents. This Element should be considered an integral component of the City's General Plan, and all decision-making grounded in the goals and strategies of the General Plan must be made understanding the connections and correlations between all Plan Elements. Like all other General Plan Elements, this Element is subject to amendment as the housing needs of the City change from time to time and the statutory requirements of the State of Utah change.

RESOLUTION NO. 2023-\_\_\_\_\_

A RESOLUTION REQUESTING THE RECERTIFICATION  
OF THE PLAIN CITY JUSTICE COURT

WHEREAS, the provisions of U.C.A. 78A-7-103 require that Justice Courts be recertified at the end of each four-year term; and

WHEREAS, the term of the present Court shall expire the 31<sup>st</sup> day of January, 2024; and

WHEREAS, the members of the Plain City Council have received an opinion letter from Brandon Richards, City Attorney, which sets forth the requirements for the operation of a Justice Court and feasibility of continuing to maintain the same; and

WHEREAS, the members of the Plain City Council have determined that it is to the best interests of Plain City to continue to provide for a Justice Court;

BE IT RESOLVED, the Plain City Council hereby requests recertification of the Plain City Justice Court by the Justice Courts Standards Committee and the Utah Judicial Council.

BE IT FURTHER RESOLVED that the City Council of Plain City hereby affirm their willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Plain City Justice Court for the next four-year term of court, except as to any requirements waived by the Utah Judicial Council.

APPROVED and signed this 7<sup>th</sup> day of December, 2023.

PLAIN CITY

by \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

**COURT CERTIFICATION AFFIDAVIT**

Justice Court: Plain City

Judge: Bryan J Memmott

Address: 4160 West 2200 North

Plain City, UT 84404

Telephone: 801.731.4908

Court's Website: www.plaincityutah.org

Level of Court (Circle one): I II III **IV**

Average Case Filings Per Month: 26.27 (11/2020 to 10/20230)

Daily Court Hours: M, T, W 12:30-5:00 pm TH 8:00 am-12:30 pm F 8:00 am-12:00 pm

Number of Full-time Clerks: 0  
# Hours Worked Per Week Per Clerk: \_\_\_\_\_

Number of Part-time Clerks: 1  
# Hours Worked Per Week Per Clerk: 22.0

This form is divided into two parts. Section I contains those requirements that are statutory and cannot be waived. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the Instructions to Applicant included with this Application for Recertification.

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Comes now Judge Bryan J Memmott,

Justice Court Judge for Plain City,

and, except as specifically noted below, certifies as follows:

**SECTION I**

**THE FOLLOWING ITEMS ARE STATUTORY AND CANNOT BE WAIVED.  
CERTIFICATION WILL NOT BE GRANTED UNLESS EACH REQUIREMENT IS  
MET.**

Please indicate **Yes or No** to each of the following:

1. All official court business is conducted in a public facility. **YES**
2. Court is open daily. **YES**
3. The hours of court operation are posted conspicuously. **YES**
4. The judge and the clerk attend court at regularly scheduled times based on the level of the court. **YES**
5. The judge is compensated at a fixed rate, within the statutory range. **YES**
6. The responsible governmental entity provides and compensates sufficient clerical personnel necessary to conduct the business of the court. **YES**
7. The responsible governmental entity assumes the expenses of the travel of the judge for purposes of required judicial education. **YES**
8. The responsible governmental entity assumes the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. **YES**
9. The responsible governmental entity provides the Court with:
  - a. Sufficient prosecutorial support **YES**
  - b. Funding for attorneys for indigent defendants, as appropriate **YES**
  - c. Sufficient local law enforcement officers to attend court as provided by statute **YES**
  - d. Security for the court as provided by statute **YES**
  - e. Witness and juror fees **YES**
  - f. Appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference materials **YES**
10. Fines, surcharges and assessments which are payable to the state are forwarded as required by law. **YES**

11. Court is held within the jurisdiction of the court, except as provided by law (78A-7-212).  
**YES**
12. All required reports and audits are filed as required by law or Rule of the Judicial Council.  
**YES**
13. A record of all court proceedings is maintained by an appropriate digital recording system.  
**YES**

## SECTION II

**Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the Instructions to Applicant included with this Application for Recertification.**

Please indicate **YES or NO** to each of the following:

1. A clerk is available each day to conduct court business, including hearings as required by the judge, for the number of hours required for the classification of the court. **YES**
2. Hours during which a clerk is available are posted on the court's website. **YES**
3. The judge is available to conduct court business as needed. **YES**
4. The judge performs all duties required and exercises ultimate responsibility for the administration of justice as an independent branch of government. **YES**
5. All court hearings are conducted in a designated courtroom, by remote transmission, or in another location authorized by the Presiding Judge. **YES**
6. Minimum furnishings in the courtroom include:
  - a. Desk and chair for the judge **YES**
  - b. A six-inch riser **YES**
  - c. Desk and chair for the court clerk **YES**
  - d. Chairs for witnesses **YES**
  - e. Separate tables and appropriate chairs for plaintiffs and defendants **YES**
  - f. A new Utah State flag that will be on display no later than March 9, 2024 **YES**
  - g. A United States flag **YES**
  - h. A separate area and chairs for at least four jurors **YES**
  - i. A separate area with appropriate seating for the public **YES**
  - j. An appropriate room for jury deliberations **YES**
  - k. An appropriate area or room for victims and witnesses which is separate from the public **YES**
  - l. A judicial robe **YES**

- m. A gavel YES
  - p. Necessary forms and supplies YES
  - q. Office space for the judge YES
  - r. Office space for the court clerk YES
  - s. Secure filing cabinets YES
  - t. Appropriate office supplies YES
  - u. A cash register or secured cash box for each clerk performing cashiering duties YES
  - v. At least one computer with word processing software and internet access YES
  - w. Access to a scanner and copy machine YES
7. The court shall provide interpreters as required by Rule 3-306.04 of the Code of Judicial Administration. YES
  8. Does the applicant have a law enforcement department? NO
  9. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant: WSCO  


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  10. A court security plan has been submitted for approval as required by Rule 3-414 of the Code of Judicial Administration. YES
  11. The court electronically reports to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. YES
  12. Clerks' education hours shall be reported to the Administrative Office of the Courts on an annual basis. YES
  13. The appointment of the clerk(s) assigned to serve the court are subject to the judge's approval, who may participate in the interview and personnel evaluation process for the clerk(s) at his or her discretion. YES
  14. Court staff are current with all certification requirements required by the Board of Justice Court Judges from the month after starting with the court through September 30, 2023. YES

15. Any interlocal agreement relating to court operations shall be submitted to the Administrative Office of the Court with the city's application for recertification. YES
16. The court accepts credit and debit cards through a system that integrates with CORIS. YES
17. The court has access to UCJIS. YES
18. An audio recording system that complies with the description below maintains a digital recording of all court proceedings. YES

For Class I and Class II justice courts, the system must:

- Be a stand-alone unit that records and audibly plays back the recording;
- Index, back-up and archive the recording and enable the record to be retrieved;
- Have at least four recording channels;
- Have a one-step "on" and "off" recording function;
- Have conference-monitoring of recorded audio;
- Have external record archiving from the unit with local access; and
- Be capable of being integrated with the court's public address system.

For Class III and Class IV justice courts, the system must, at a minimum:

- Be a stand-alone unit that records and audibly plays back the recording;
- Index, back up and archive the recording and enable the record to be retrieved; and
- Have at least two recording channels.

19. If the court is a **Class I** court:
  - a. Judge is employed on a full-time basis N/A
  - b. Dedicated courtroom which meets the master plan guidelines adopted by the Judicial Council N/A
  - c. Court has a jury deliberation room N/A
  - d. Judge's chambers, clerk's office, and courtroom are in the same building N/A
  - e. Judge has his or her own private chambers N/A
  - f. Clerk's office is separate from any other entity N/A
  - g. Court is open during normal business hours N/A

20. If the court is a **Class II** court:

a. Court is open (check one)

N/A 201-300 average monthly filings: at least 4 hours/day

N/A 301-400 average monthly filings: at least 5 hours/day

N/A 401-500 average monthly filings: at least 6 hours/day

b. Trial calendar is set at least weekly N/A

c. Courtroom configuration is permanent N/A

d. Courtroom, judge's chambers, and clerk's office are within the same building N/A

e. Judge has his or her own private chambers N/A

21. If the court is a **Class III** court:

a. Trial calendar is set at least twice per month N/A

b. Court is opened (check one):

N/A 61-150 average monthly filings: at least 2 hours/day

N/A 151-200 average monthly filings: at least 3 hours/day

22. If the court is a **Class IV** court:

a. Trial calendar is set at least monthly YES

b. Court is open at least 1 hour per day YES

23. **If you have responded with a "no" to any item in Section II above, you must request a waiver or extension below and justify that request.** If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the requested extension period. (To receive a waiver or extension of any requirement, the information requested in this section must be provided. Remember that statutory requirements cannot be waived or extended).

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I am familiar with the minimum operational standards for this court, and except as noted above, those standards are currently met or exceeded. During the current term of the court, I have met with the appropriate governing body of the city to review the budget of the court, review compliance with the minimum requirements and operational standards, and discuss other items of common concern.

DATED this 1 day of December, 2023.

  
Justice Court Judge

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on this 1 day of December, 2023.

*BRANDON R. RICHARDS*

Plain City Attorney  
2568 Washington Boulevard, Suite 200  
Ogden, Utah 84401

**Phone: (801) 394-0231 FAX: (801) 334-9662 Email: [Brichardslaw@comcast.net](mailto:Brichardslaw@comcast.net)**

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October 30, 2023

Mayor Jon Beesley and City Council  
Plain City Corporation  
4160 West 2200 North  
Plain City, Utah 84404

Re: Opinion on Justice Court and Recertification

Dear Mayor Beesley and Council:

The purpose of this letter is to advise you of the legal requirements for the operation of the Plain City Justice Court and to give you my recommendation concerning recertification. The statutes of the State of Utah require that certain standards be met in the operation of a Justice court. These statutory requirements include the following:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice. (U.C.A. 78A-7-213)
2. The Court should be open and judicial business transacted every day as provided by law. Although the court must transact business every day, the judge is not required to be present during all hours the Court is open. (U.C.A. 78A-7-213)
3. The hours that the court will be open should be posted conspicuously at the court and in local public buildings. (U.C.A. 78A-7-213)
4. The judge and the clerk of the court should attend the court at regularly scheduled times. (U.C.A. 78A-7-213)
5. The City must provide and compensate a judge and clerical personnel to conduct the business of the court. (U.C.A. 78A-7-206 and 78A-7-207)

6. The City should assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training. (U.C.A. 78A-7-205)
7. The City should assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council. (U.C.A. 78A-7-103)
8. The City should provide a sufficient staff and public prosecutors to attend the court and perform the duties of prosecution. (U.C.A. 78A-7-103)
9. The City should provide adequate funding for attorneys where defendants are indigent as provided by law. (U.C.A. 78A-7-103)
10. The City should provide sufficient local law enforcement officers to attend court when required and provide security for the court. (U.C.A. 78A-7-103)
11. Witnesses and jury fees as required by law should be paid by the City. (U.C.A. 10-7-76 and 17-50-319)
12. Any fine, surcharge, or assessment which is payable to the State should be forwarded to the State as required by law. (U.C.A. 78A-7-120 and 78A-7-206)
13. The city should pay the judge a fixed compensation. (U.C.A. 78A-7-206)
14. Court must be held within the jurisdiction of the court, except as provided by law. (U.C.A. 78A-7-212)
15. The City should provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local government, local ordinances and other necessary legal reference material. (U.C.A. 78A-7-103)
16. All required reports and audits shall be filed as required by law or by rule of the judicial council pursuant to section 78A-7-215.
17. All justice courts shall use a common case management systems and disposition reporting system as specified by the Judicial Council. (U.C.A. 78A-7-213).
18. An audio recording system shall maintain the verbatim record of all court proceedings. (U.C.A. 78A-7-103).

In addition to the requirements imposed by statute, the State Judicial Council has set certain minimum requirements for recertification of Justice Courts. Acting on the authority given to the Judicial Council by statute, the Council has adopted the following minimum requirements:

1. A clerk must be available for at least one hour each day that the court is required to be open and during the court hearings.
2. The judge must be available to attend court and conduct court business as needed. A trial calendar is to be set at least monthly.
3. The minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerks, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public.
4. The judge must provided a judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.
5. The City should provide office space for the judge and clerk (this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk, for the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a computer with word processing software, and access to a copy machine.
6. The City must provide an interpreter as required by law.
7. The City must have at least one peace officer (which may be contracted).
8. A court security plan must be submitted consistent with C.J.A. Rule 3-414.
9. The Court must have at least one computer with access to the internet, and appropriate software and security/encryption technology, to allow for electronic reporting and access to Drivers License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards, promulgated by the Department of Public Safety. Monthly reports must also be electronically submitted to the administrative office of the courts. Also note that all justice courts shall use the CORIS Case Management System. (U.C.A. 78A-7-213)
10. The Court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

My opinion is that these guidelines are currently being met by our Justice Court. After a review of the recertification application, current law and our justice court operations, it is my opinion that it is reasonable, feasible and in the best interest of Plain City to continue to maintain and operate the Plain City Justice Court. If you have any questions, please contact me.

Sincerely,



BRANDON R. RICHARDS  
Plain City Attorney

BRR/ns

**AN ORDINANCE OF PLAIN CITY, UTAH AMENDING THE CITY’S ZONING ORDINANCES TITLE 10, CHAPTER 5, ARTICLE A SECTION 4, ARTICLE B SECTION 4, AND ARTICLE C SECTION 4 (SITE DEVELOPMENT STANDARDS); AND ESTABLISHING AN EFFECTIVE DATE**

**Section 1. Recitals**

WHEREAS, The City Council finds, that the City of PLAIN CITY (herein “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-717, the governing body of the city may exercise all administrative powers; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-702, the governing body of the City may pass any ordinance to regulate, require, prohibit, govern, control, or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and

WHEREAS, the City Council finds that this issue has been reviewed by the Planning Commission and certain recommendations made by them; and

WHEREAS, the City Council finds that the public health, welfare and safety are at issue in this matter; now,

NOW THEREFORE, BE IT ORDAINED by the City of PLAIN CITY as follows:

**Section 2. City’s Zoning Ordinance Amended.**

**The following amends and replaces Plain City Code Title 10 Chapter 5 Article A Section 4 Chart:**

10-5A-4: SITE DEVELOPMENT STANDARDS:

	RE-15	RE-18.5	RE-20
A. Minimum lot area	15,000 square feet	18,500 square feet	20,000 square feet
B. Minimum lot width	100 feet	100 feet	100 feet
C. Minimum yard setbacks:			
1. Front	30 feet, except if 50 percent of approved subdivision/phase is completed, then not less than 40 feet		
2. Side:			
a. Dwelling	10 feet with total width of 2 side yards not less than 24 feet		
b. Other main building	<del>10 feet</del> 20 feet each side		
c. Accessory building	10 feet, except <del>1-foot</del> <b>5 feet</b> if located at least 6 feet in rear of main building		
3. Side, facing street on corner lot	30 feet	30 feet	30 feet
4. Rear:			
a. Main building	30 feet	30 feet	30 feet

b. Accessory building  
~~1-foot~~ **5 feet**, except 10 feet where accessory building rears on side yard of adjacent corner lot

D. **Main** Building height:

- |            |                          |         |         |
|------------|--------------------------|---------|---------|
| 1. Minimum | 1 story                  | 1 story | 1 story |
| 2. Maximum | 2 1/2 stories or 35 feet |         |         |

**E. Accessory Building height: No dwelling shall be erected to a height less than ten feet (10'), and no accessory building in a residential zone shall be erected to a height greater than twenty-five feet (25').**  
**(Ord. 2019-01, 1-3-2019, eff. 1-4-2019)**

**See Examples (Figures #1, #2 and #3)**

**The following amends and replaces Plain City Code Title 10 Chapter 5 Article B Section 4 Chart:**

10-5B-4: SITE DEVELOPMENT STANDARDS: RE-1-11

- A. Minimum lot area                    11,000 square feet
- B. Minimum lot width                100 feet
- C. Minimum yard setbacks:
- 1. Front                                    30 feet
  - 2. Side:
    - a. Dwelling    10 feet with total width of 2 side yards not less than 24 feet
    - b. Other main building                30 feet each side
  - 3. Accessory building    10 feet, except ~~1-foot~~ **5 feet** if located at least 6 feet from rear of main building but not closer than 10 feet to dwelling on adjacent lot
  - 3. Side facing street on corner lot 30 feet, except average of existing building where 50 percent frontage is developed but not less than 20 feet
  - 4. Rear:
    - a. Main building                        30 feet
    - b. Accessory building ~~1-foot~~ **5 feet**, except 10 feet where accessory building rears on side yard of adjacent corner lot

D. **Main** Building height:

- |            |                          |
|------------|--------------------------|
| 1. Minimum | 1 story                  |
| 2. Maximum | 2 1/2 stories or 35 feet |

**E. Accessory Building height: No dwelling shall be erected to a height less than ten feet (10'), and no accessory building in a residential zone shall be erected to a height greater than twenty-five feet (25').**  
**(Ord., 11-14-1974; amd. Ord. 79-4, 7-26-1979; Ord. 84-2, 2-9-1984; Ord. 89-02, 7-13-1989)**

**See Examples (Figures #1, #2 and #3)**

**The following amends and replaces Plain City Code Title 10 Chapter 5 Article C Section 4 Chart:**

10-5C-4: SITE DEVELOPMENT STANDARDS: RE-30 RE-40

No lot in the RE-40 Zone may be smaller than forty thousand (40,000) square feet. No lot in the RE-30 Zone may be smaller than thirty thousand (30,000) square feet. Area and width requirements of a building lot in the RE-30 and RE-40 Zones shall be as follows:

	RE-30	RE-40
A. Minimum lot area	30,000 square feet	40,000 square feet
B. Minimum lot width	150 feet	150 feet
C. Minimum yard setbacks:		
1. Front	40 feet	40 feet
2. Side:		
a. Dwelling	10 feet, with total width of 2 side yards not less than 24 feet	10 feet, with total width of 2 side yards not less than 24 feet
b. Other main building	20 feet each side	20 feet each side
c. Accessory building	10 feet, except <del>1-foot</del> <b>5 feet</b>	10 feet, except <del>1-foot</del> <b>5 feet</b>
3. Side, facing street on corner lot	if located at least 6 feet in rear of main building 30 feet	if located at least 6 feet in rear of main building 30 feet
4. Rear:		
a. Main building	30 feet	30 feet
b. Accessory building	<del>1-foot</del> <b>5 feet</b> , except 10 feet where accessory building rears on side yard of adjacent corner lot	<del>1-foot</del> <b>5 feet</b> , except 10 feet where accessory building rears on side yard of adjacent corner lot
D. <b>Main</b> Building height:		
1. Minimum	1 story	1 story
2. Maximum	2 1/2 stories or 35 feet	2 1/2 stories or 35 feet

**E. Accessory Building height: No dwelling shall be erected to a height less than ten feet (10'), and no accessory building in a residential zone shall be erected to a height greater than twenty-five feet (25').**  
(Ord. 2019-02, 1-3-2019, eff. 1-4-2019)

**See Examples (Figures #1, #2 and #3)**

**Section 3.** **Prior Ordinances And Resolutions** The body and substance of any and all prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are hereby reaffirmed and readopted.

**Section 4.** **Repealer Of Conflicting Enactments** All orders, ordinances and resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Ordinance Amendment, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

**Section 5.** **Savings Clause** If any provision of this Ordinance shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Ordinance and the provisions of this Ordinance being deemed to be the separate independent and severable act of the City Council of Plain City.

**Section 6.** **Date Of Effect** This Ordinance shall be effective on the \_\_\_ day of \_\_\_\_\_ 2023, and after publication or posting as required by law.

DATED this \_\_\_\_<sup>st</sup> day of \_\_\_\_\_, 2023

PLAIN CITY, a municipal corporation

\_\_\_\_\_  
MAYOR – Jon Beesley

ATTESTED AND RECORDED:

\_\_\_\_\_  
Diane Hirschi, CMC  
CITY RECORDER

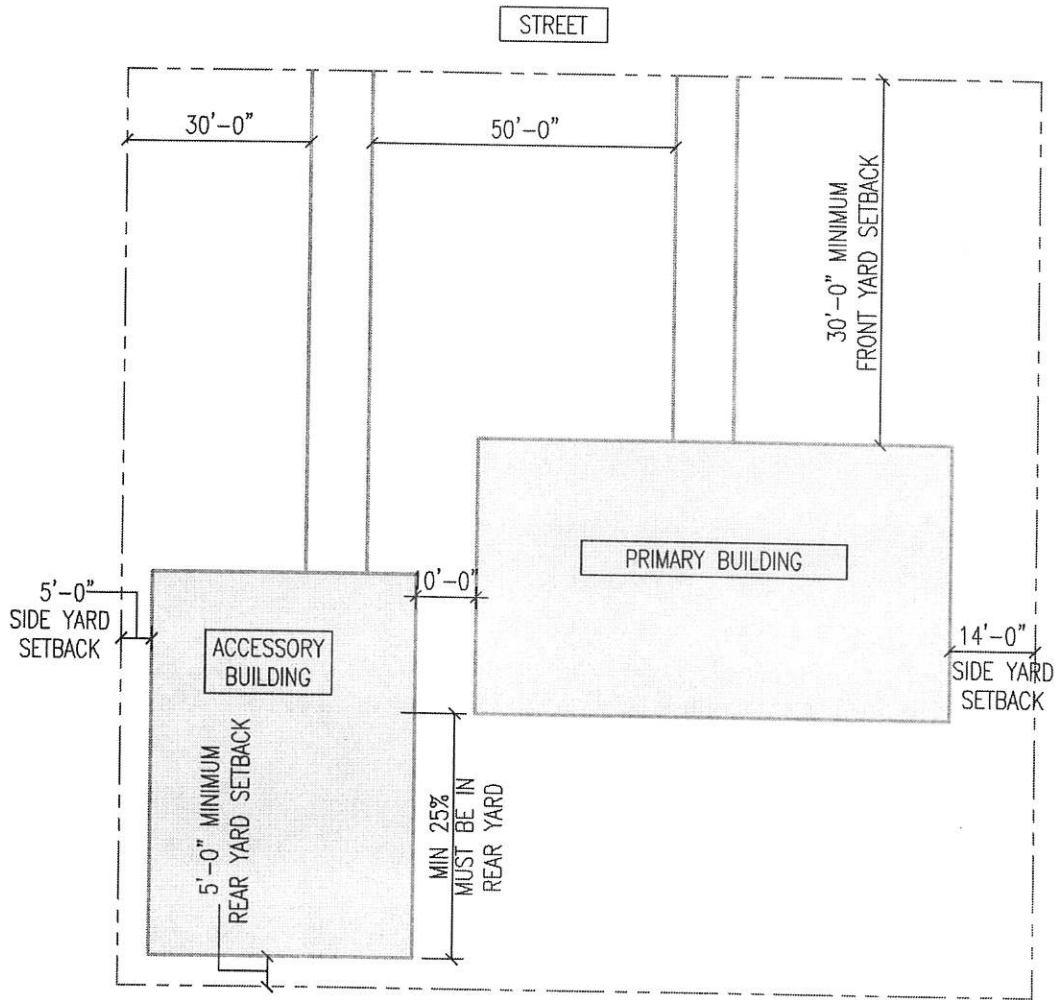


FIGURE 1: DETACHED ACCESSORY BUILDING EXAMPLE 1

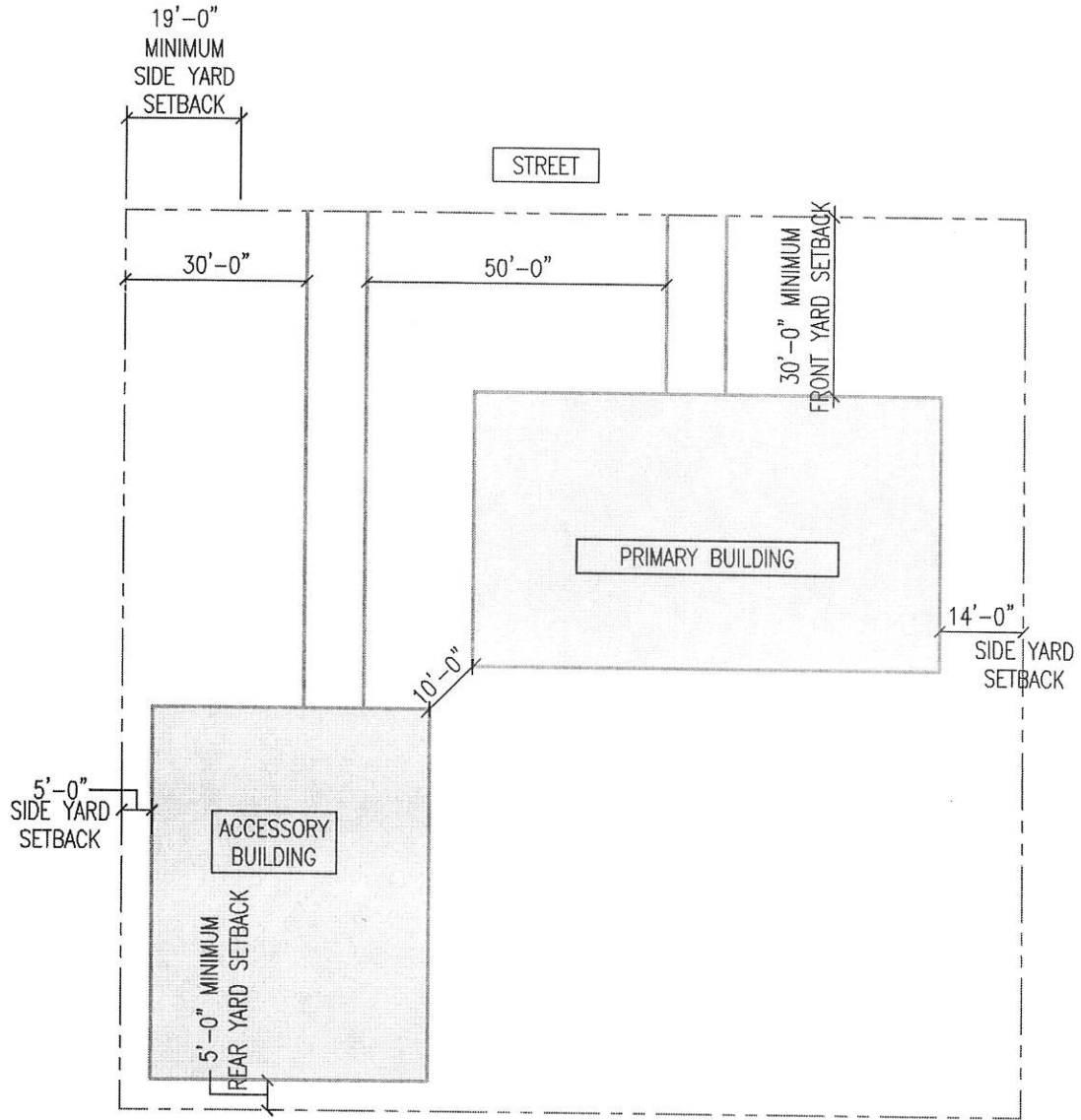


FIGURE 2: DETACHED ACCESSORY BUILDING EXAMPLE 2

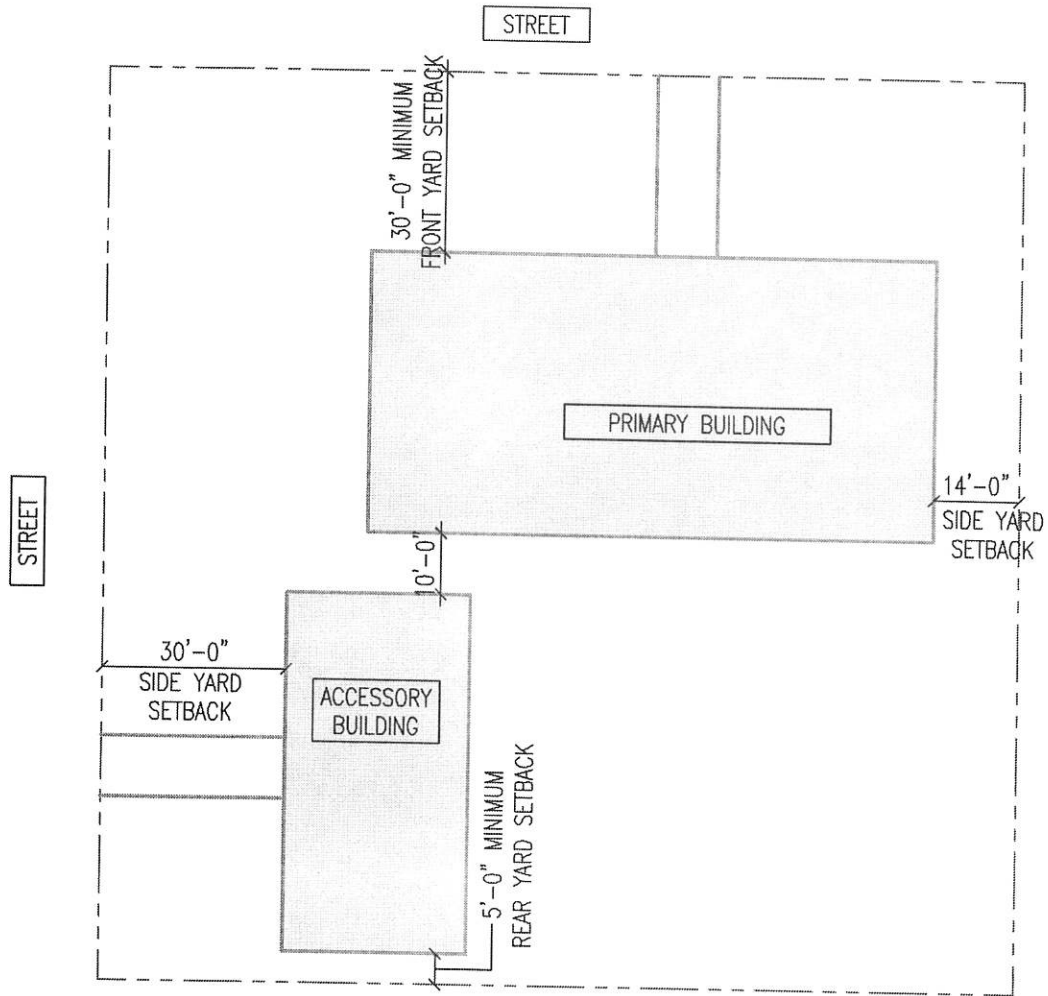


FIGURE 3: DETACHED ACCESSORY BUILDING EXAMPLE 3

**AN ORDINANCE OF PLAIN CITY, UTAH AMENDING THE CITY'S ZONING ORDINANCE TITLE 10 CHAPTER 18 SECTION 18 REGARDING SENSITIVE LAND USE; AND ADOPTING TITLE 10 CHAPTER 18 SECTION 18.5 PLAIN CITY FLOOD DAMAGE PREVENTION ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE**

**Section 1. Recitals sensitive**

WHEREAS, The City Council finds, that the City of PLAIN CITY (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-717, the governing body of the city may exercise all administrative powers; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-702, the governing body of the City may pass any ordinance to regulate, require, prohibit, govern, control, or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and

WHEREAS, the City Council finds that this issue has been reviewed by the Planning Commission and certain recommendations made by them; and

WHEREAS, the City Council finds that the public health, welfare and safety are at issue in this matter; now,

NOW THEREFORE, BE IT ORDAINED by the City of PLAIN CITY as follows:

**Section 2. City's Zoning Ordinance Amended.**

**The following amends and replaces Plain City Code Title 10 Chapter 18 Section 18:**

**10-18-18: HIGH WATER TABLE, WETLAND AND FLOODPLAIN AREA DEVELOPMENT STANDARDS:**

A. Development in high water table, floodplain or wetland areas shall be subject to the following standards:

1. Floodplain, wetland areas and natural drainages shall not be included as part of any buildable development unless allowed to be mitigated pursuant to applicable law. Lots within the residential or agricultural zones may include wetlands and flood zones as

part of the lot provided there is sufficient buildable area to accommodate the proposed use.

2. Wetlands and floodplain areas may not be included in area requirements for lots or for calculation of density.

3. Where determined by the planning commission or designee, wetland and floodplain areas may be required to be fenced if found to be detrimental to public health, safety or welfare.

4. Prior to the acceptance by the city of a petition for rezoning of property in the designated area, or before the submission of an application for preliminary development plan in the designated area, it must be demonstrated to the satisfaction of the city engineer, public works director and planning commission that the conditions and requirements contained herein can be met. Such petition, submission, or application shall be made through the city. A predevelopment conference with the planning commission and developer shall be required to review any proposed plans.

5. Prior to acceptance by the city of an application for preliminary development plan in the specified areas, it must be demonstrated to the satisfaction of the city, (IBC) International Building Code (Section 1612) including appendix G - Relates to construction in flood hazard areas, and the ~~Weber County~~ [Plain City](#) Flood Damage Prevention Ordinance ([Plain City Code 10-18-18.5](#)), that all conditions specified in the listed chapters have been fully met and accomplished.

6. Surface or subsurface drainage from any development within the subject area shall be transported to either a canal, creek or river and shall not be deposited, collected, or stored upon the property being developed or upon other properties within the subject area.

7. Drainage water from the proposed new development will not be placed upon or pass-through other properties, except:

a. Where a preexisting drainage system of adequate capacity is legally available for use; or

b. Where a permanent drainage easement of a size sufficient to carry projected flows has been obtained and a statement from the owners of both the host and guest properties recorded on property deeds in the office of the county recorder specifying the following:

(1) That the city will be held harmless from all damages or injury resulting from water pollution and flooding from drainage crossing said property.

(2) That the property owner will allow the owner of the easement to enter onto said property to maintain the drainage facility on said easement.

(3) That the drainage channel can be placed in a pipe or culvert at such time as deemed appropriate by the owner of the easement.

8. Drainage from the proposed new development will not be placed in an irrigation ditch or irrigation canal, originally constructed for irrigation purposes, except where permission, in written and recorded instruments (i.e., easements) running with the land, has been granted by the subject irrigation company and/or all water users below the proposed development on the specific ditch or canal specifying the following:

a. That the city will be held harmless from all damage or injury resulting from flooding, water pollution, or high groundwater from drainage in the ditch or canal.

b. That the irrigation ditch or canal can be placed in a pipe or culvert at a time deemed necessary by the owner of the easement.

(1) That the owner(s) of property which is the subject of a development plan may be required to provide, and record with the county recorder, a statement holding the city harmless from all damage within the project resulting from flooding or high-water table.

(2) That a disclosure statement may be required to be placed upon all subdivision and development plats in the subject area, stating that the subdivision or development lots are in an area potentially subject to flooding from high water table.

(3) That drainage easements be granted to the city within the proposed development, as determined by the city engineer, and drainage facilities be installed as part of the development at developer's expense.

9. No building shall be allowed to be constructed in a high-water table or floodplain areas of the city where the building proposed to be built includes a basement. A basement shall be considered as any usable floor area below either the elevation of the fronting curb and gutter, or if there is no curb and gutter planned to be constructed, usable floor area below the existing ground surface. The following conditions must be met:

a. Prior to the issuance of the building permit, the owner(s) shall produce a statement which shall be recorded in the office of the county recorder and attached to the property stating that the city will be held harmless from all damages or injury resulting from flooding from groundwater in an identified high-water table or floodplain area.

b. Prior to the issuance of any building permit for a structure/residence with a basement within a new development, the developer shall submit to the city engineer for approval, a design that has been signed and stamped by a registered professional engineer indicating his or her method to minimize flooding from groundwater. Each lot owner may also still be required to produce a statement which shall be recorded in the office of the county recorder and attached to the property stating that the city will be held harmless from all damages or injury resulting from flooding from groundwater or existing water ways.

10. A comprehensive drainage and grading plan shall be submitted by the developer of any property within a high-water table, floodplain or wetland area and shall be approved by the city engineer, public works director and planning commission before preliminary development approval or approval for any residential, commercial or industrial development or building on a single lot or lots. In the case of subdivisions, such plan shall be submitted via the city engineer; or in the case of building development on a single lot or lots, the plan shall be submitted via the building inspector. Such plan shall be subject to the following requirements:

a. Pumps shall not be discharged into the sanitary sewer system; but shall require outfall into a storm drain or private ditch system, if permitted by the owners thereof. Approval of, and signatures by; all irrigation and canal companies if their ditches or canals cross the development areas, or if surface or subsurface drainage is to outfall into the ditch or canal or if modification to ditch or canal is proposed. Property owners should be aware that few ditch companies allow discharge into their systems.

b. Quantities of runoff shall be determined for the complete development area by the rational method or other method as approved by the city engineer.

c. At all outfall points from the development, quantities of runoff shall comply as approved by the city engineer.

d. The capacity of any irrigation ditch, storm drain, or other channel shall be determined from the inlet point to the outfall point of said channel if it is to be used for runoff. If there is an insufficient capacity to handle added flows, it will not be used.

e. A topographic map with updated wetlands and floodplain areas, if applicable shall be prepared to indicate sufficient slopes in all areas to take surface drainage and overflow waters into the designated street or storm drain. Water will not be allowed to pond any place other than a designated detention or retention basin.

f. No building permit shall be issued in any development in the described area until the required subsurface and storm drainage system has been constructed and is in operable condition unless a hold harmless agreement is entered into by the developer. (Ord. 2013-04, 4-18-2013, eff. 4-19-2013)

**The following is adopted as Plain City Code Title 10 Chapter 18 Section 18.5:**

**10-18-18.5: PLAIN CITY FLOOD DAMAGE PREVENTION ORDINANCE**

**A. Statutory Authorization, Findings of Fact, Purpose and Methods**

1. Statutory Authorization

- a. The Legislature of the State of Utah Code. Ann. § 10-3-701 has in delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Plain City, Utah, does ordain as follows:
- b. The city of Plain City elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA) The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

2. Findings of Fact

- a. The flood hazard areas of Plain City are subject to periodic inundation by flood waters, which results in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, and

extraordinary public expenditures for flood protection and relief; all of which adversely affect the public health, safety and general welfare.

- b. These potential flood losses are caused by:
  - i. The cumulative effect of obstructions in floodplains that are known to cause increases in flood heights and velocities;
  - ii. The occupancy of flood hazard areas by structures vulnerable to floods because they are inadequately elevated or otherwise unprotected from flood damages; and
  - iii. Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

### 3. Statement of Purpose

- a. It is the purpose of this ordinance to promote the public health, safety and general welfare of the community and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
  - i. Protect human life and health;
  - ii. Minimize damage to public infrastructure, including but not limited to utilities, streets, and bridges that are susceptible to flooding;
  - iii. Minimize prolonged business interruptions caused by flooding;
  - iv. Minimize public expenditures on flood control projects;
  - v. Minimize the need for rescue and relief efforts associated with flooding and are generally undertaken at the expense of the public;
  - vi. Protect and safeguard the welfare and safety of first responders should an emergency response is needed;
  - vii. 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
  - viii. Promote that potential buyers are notified if properties are in a flood area.

### 4. Methods of Reducing Flood Losses

- a. To accomplish the purposes outlined in the statement of purpose above, this ordinance applies the following methods:
  - i. Restricts or prohibits land uses that are dangerous to health, safety, or property in times of flooding, or cause excessive increases in flood heights or velocities;
  - ii. Requires that land uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
  - iii. Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

- iv. Controls filling, grading, dredging and other developments that may increase flood damage; and
- v. Prevents or regulates the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards to other lands.

## **B. Definitions**

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

**100-Year Flood** means a flood having a recurrence interval that has a 1-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms “100-hundred-year flood” and “1-percent-annual-chance flood” are synonymous. The term does not imply that the flood will necessarily happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

**500-Year Flood** means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will necessarily happen once every 500 years and mandatory flood insurance requirement generally does not apply.

**Accessory Structure** is a structure that is on the same parcel of property as a principal structure. Its use is incidental to the use of the principal structure; the ownership of the accessory structure is the same owner as of the principal structure. An accessory structure is a non-residential structure of low value that is used solely for the parking of vehicles and storage of tools, materials, or equipment. No human habitation is allowed within an accessory structure.

**Addition** is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions added to the side, front, or rear of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

**Alluvial Fan Flooding** means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex. It is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**Appurtenant Structure**—see *Accessory Structure*.

**Area of Future-Conditions Flood Hazard** means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood, based on future-conditions hydrology.

**Area of Shallow Flooding** means a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual

chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood-Related Erosion Hazard** is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

**Area of Special Flood Hazard** is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**Base Flood** means the flood having a 1-percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** is the water surface elevation of the 1-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

**Best Available Data** is existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, the state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

**Breakaway Wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Any walls below the lowest floor in a building in a V or VE Zone should give way under wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building or the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

**Building**—see *Structure*.

**Channelization** means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

**Code of Federal Regulations (CFR)** is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

**Conditional Letter of Map Revision (CLOMR)** is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

**Conditional Letter of Map Revision Based on Fill (CLOMR-F)** is FEMA's comment on a proposed structure or property. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

**Crawlspace** means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of flood water, and is not used for habitation.

**Critical Facility** means a facility or building where even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, schools, storage of critical records, assisted living and similar facilities. Reference \

**Deed Restriction** refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or from being used at all.

**Detached Garage** is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

**Development** means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

***Elevated Building*** is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and 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 a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

***Enclosure*** refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

***Erosion*** means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

***Existing Construction*** refers to 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. It may also be referred to as ***Existing Structures***.

***Existing Manufactured Home Park or Subdivision*** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

***Existing Structures***—see ***Existing Construction***.

***Expansion to an Existing Manufactured Home Park or Subdivision*** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

***FEMA*** means the Federal Emergency Management Agency.

***Fill*** refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

***Flood or Flooding*** means:

1. 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.
2. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in this ordinance and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this ordinance.

***Flood Insurance Rate Map (FIRM)*** means an official map of a community, on which the Administrator has delineated both the SFHAs and the risk premium zones applicable to the community.

***Flood Insurance Study (FIS) or Flood elevation study*** means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

***Floodplain Development Permit*** is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community's ordinance.

***Floodplain or Flood-Prone Area*** means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of ***Flooding***).

***Floodplain Management*** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans, and floodplain management regulations.

***Floodplain Management Regulations*** means 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 flood damage prevention and reduction.

***Flood Opening*** refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

***Flood Protection System*** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce 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. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee has met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

***Floodproofing*** means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

***Floodway***—see ***Regulatory Floodway***.

***Floodway encroachment lines*** mean the lines marking the limits of floodways on federal, state, and local flood plain maps.

***Freeboard*** means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

***Functionally Dependent Use*** means a development that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities. It does not include long-term storage or related manufacturing facilities.

***Highest Adjacent Grade (HAG)*** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. In AO Zones, the highest adjacent grade is utilized by comparing the lowest floor elevation to that of the highest adjacent grade and the depth of the AO Zone.

***Historic Structure*** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

- Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  3. Individually listed on a state inventory of historic places in states with historic reservation programs that have been approved by the Secretary of the Interior; or
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - a. By an approved state program as determined by the Secretary of the Interior, or
    - b. Directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Amendment (LOMA)** means an official amendment, by letter, to an effective FIRM. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain, when the property or structure is actually on natural high ground above the BFE.

**Letter of Map Revision (LOMR)** means FEMA's modification or revision to an entire or portion of the effective FIRM, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

**Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's amendment, by letter, to an effective FIRM where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

**Levee** means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System** means 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 Adjacent Grade (LAG)** means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's

lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3.

***Manufactured Home*** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”; however, a manufactured home may be used for both residential and non-residential use.

***Manufactured Home Park or Subdivision*** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

***Map*** means the FHBM or the FIRM for a community issued by FEMA.

***Mean Sea Level*** means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community's FIRM are referenced.

***Mixed Use Structures*** are structures with both a business and a residential component, but where the area used for business is less than 50 percent of the total floor area of the structure.

***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. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

***New Manufactured Home Park or Subdivision*** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

***No-Rise Certifications*** are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

***Physical Map Revision (PMR)*** is FEMA’s action whereby one or more map panels are physically revised and republished.

***Recreational Vehicle*** means a vehicle which is:  
(a) Built on a single chassis;

- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily, not for use as a permanent dwelling but, as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

**Section 1316** refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership.

**Special Flood Hazard Area**—see *Area of Special Flood Hazard*.

**Start of Construction** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means, for floodplain management purposes, a walled and roofed building, culvert, bridge, dam, or a gas or liquid storage tank that is principally above ground, as well as a manufactured home. **Structure**, for insurance purposes, means:

- (1) A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;

- (2) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For insurance purposes, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

**Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed.

The term does not, however, include:

1. 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 are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure”, if the alteration will not preclude the structure's continued designation as a “historic structure.”

**Variance** means a grant of relief by a community from the terms of a flood plain management regulation.

**Violation** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 44 CFR 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** means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the flood plains of coastal or riverine areas.

**Watercourse** means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch or other similar feature.

### **C. General Provisions**

1. Lands to Which this Ordinance Applies: The ordinance shall apply to all areas of special flood hazard identified by FEMA or, if elected in areas of identified and documented flood risk supported using Best Available Data within the jurisdiction of Plain City.

2. Basis for Establishing the Areas of Special Flood Hazard: The areas of special flood hazard identified by the Federal Emergency Management Agency Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

3. Establishing of Development Permit: Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

4. Abrogation and Greater Restrictions: This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation: In the interpretation and application of this ordinance, all provisions shall be:

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body; and
- c. Deemed neither to limit nor repeal any other powers granted under state statutes.

6. Warning and Disclaimer or Liability: The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes.

This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance, or any administrative decision lawfully made thereunder.

7. 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.

8. 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 the Plain City Council from taking such lawful action as is necessary to prevent or remedy any violations.

9. Stop Work Order:

- a. Authority. Whenever the floodplain administrator or other community official discovers any work or activity regulated by this ordinance being performed in a manner contrary to the provision of this ordinance, the floodplain administrator is authorized to issue a stop work order.
- b. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
- c. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by local or state law including but not limited to the penalties outlined below.

10. 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."

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 fined or imprisoned or both, for each violation assessed daily, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Plain City from taking such other lawful action as is necessary to prevent or remedy any violation.

11. Automatic Adoption: The Special Flood Hazard Areas identified by FEMA in its FIS for Weber County, Utah and Incorporated Areas, with accompanying FIRMs or Digital FIRMs (DFIRM), other supporting data, and all subsequent Federal amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance.

## **D. Administration**

1. Designation of the Floodplain Administrator: The City Engineer and Public Works Director are hereby appointed the Floodplain Administrators to administer and implement the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

2. Duties and Responsibilities of the Floodplain Administrator:

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- a. Uphold the goals of the community and the NFIP to reduce risk when possible and increase the community's resistance to future disasters.
- b. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures and any floodproofing certificates, including the data supporting such certificates.
- c. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs to which this ordinance applies, including, but not limited to, the FIRM.
- d. Review development proposals to determine whether a proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding.
- e. Review, approve, or deny all applications for development permits required by adoption of this ordinance.
- f. Ensure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 and the Endangered Species Act of 1973) from which prior approval is required.
- g. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- h. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- i. 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.
- j. When BFE data has not been provided by FEMA, the Floodplain Administrator shall obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source including data provided by the applicant, in order to administer the provisions of this ordinance.
- k. 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.

1. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP Regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM, which increases the water surface elevation of the base flood by more than 1.00 foot, provided that the community first meets the requirements of Section 65.12 for a conditional FIRM revision through FEMA's CLOMR process.

3. Requirement to Submit New Technical Data: The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant has obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.

- a. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.
- b. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

4. Permit Procedures: 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:

- a. Duplicated plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations.
- b. Duplicated plans drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes.
- c. Location of the foregoing in relation to SFHAs.
- d. Elevation (in relation to mean sea level), of the lowest floor (including basement and crawlspace) of all new and substantially improved structures, if applicable;
- e. Elevation (in relation to mean sea level), to which any nonresidential structure (if applicable) shall be floodproofed.
- f. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure (if applicable) shall meet the floodproofing criteria of this ordinance and the NFIP Regulations.
- g. Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.

- h. At the community's discretion, the community may charge a fee for issuance of floodplain development permits.
- i. Copies of all floodplain development permits and the associated documents shall become property of the community and a permanent record.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

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

5. Variance Procedures: The Plain City Hearing Officer shall hear and render judgment on requests for variances from the requirements of this ordinance after a floodplain development permit has been denied.

- a. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- b. The Hearing Officer, shall hear and render judgement 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 of administration of this ordinance.
- c. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA and the State Coordinating Agency upon issuing a variance.
- d. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing the relevant factors in this ordinance have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- e. Upon consideration of the factors noted above and the intent of this ordinance, the Hearing Officer may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.

- f. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- g. 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. The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

Prerequisites for granting variances:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. Variances shall only be issued upon:
  - i. Showing a good and sufficient cause.
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - iii. 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, conflict with existing local laws or ordinances, considers the need of ingress and egress during times of floods, and does not jeopardize first responders' health and welfare.
- b. 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 BFE, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- c. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - a. The criteria outlined in this ordinance are met; and
  - b. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

**E. Provisions for Flood Hazard Reduction**

- 1. General Standards: In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:
  - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

- c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
- g. On-site waste disposal systems shall be designed or located to avoid impairment to them or contamination from them during flooding.

2. Substantial Improvement: Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, if the cumulative cost of the entire project equals or exceeds 50 percent, unless a higher standard option is selected below, of the market value of the structure only (not of the structure and land value combined) before the improvement or repair is started then the work shall be considered as substantial improvement. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. For Substantial Damage, refer to the paragraph below. The term does not, however, include either:

- a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- b. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

3. Substantial Damage: Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only, unless a higher standard option is selected, before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. When a structure or building has been determined as substantially damaged, any work or repair on said structure or building will be considered as substantial improvement and will be required to meet the development requirements set forth within this ordinance for substantial improvement.

4. Substantial Improvement and Substantial Damage Determination: For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the applicable community officials and staff, shall:

- a. Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure only, not of land and building, before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the Substantial Improvement paragraph above.
- d. Utilize FEMA's Substantial Improvement/Substantial Desk Reference when making any determination on Substantial Improvement and/or Substantial Damage.
- e. The substantial improvement regulations apply to all of the work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.
- f. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood, this ordinance is required.

5. Specific Standards: In all SFHAs, and in areas of known or suspected flood risk areas, the provisions in the following paragraphs are required.

6. 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, unless a freeboard option is noted below. If a freeboard option is noted, new construction and substantial improvement shall have the lowest floor (including basement) elevated to the freeboard elevation. A registered professional engineer, architect, or land surveyor shall submit certified elevations to the Floodplain Administrator to ensure that the standards of this ordinance are satisfied.

7. 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 elevation or together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification that includes the specific elevation (in relation to mean sea level) to

which such structures are floodproofed shall be maintained by the Floodplain Administrator. If the use or occupancy of the building changes in the future to residential, then the dry floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance as listed above, and as such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance.

8. 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.

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.

9. Crawlspace: New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

- a. The structure must be affixed to a permanent foundation, designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
- b. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the LAG.
- c. The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding.
- d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, piers, or

other materials that extend below the BFE. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

- e. Any building utility systems within the crawlspace must be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- f. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the LAG.
- g. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor cannot exceed 4 feet at any point.
- h. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.
- i. Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

#### 10. Manufactured Homes:

- a. 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 that 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.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites
  - i. outside of a manufactured home park or subdivision;
  - ii. in a new manufactured home park or subdivision;
  - iii. in an expansion to an existing manufactured home park or subdivision;
  - iv. 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 or above the BFE +1 foot of freeboard, unless a higher standard option was selected, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. In A-1-30, AH, AO and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that
  - i. the lowest floor is at or above the BFE +1 foot of freeboard, unless a higher standard option was selected;
  - ii. or the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

11. 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 permit procedures in this ordinance, including the anchoring and elevation requirements of “manufactured homes” of this ordinance.

12. Standards for Subdivision Proposals:

- a. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance to minimize flood damage.
- b. All subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM
- c. BFE data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, or whichever is lesser.
- d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

13. Standards for Areas of Shallow Flooding (AO/AH Zones) Located within the SFHAs established in this ordinance under the section “Lands to Which this Ordinance Applies,” are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified). If the community has elected a freeboard standard, then the lowest floor elevation must be elevated above the highest adjacent grade above the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified) plus the freeboard height option selected below.
- b. All new construction and substantial improvements of non-residential structures:
  - i. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified). If the

community has elected a freeboard standard, then the lowest floor elevation must be elevated above the highest adjacent grade above the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified) plus the freeboard height option selected below; or

- ii. Together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- c. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section.
- d. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

14. 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 level 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, 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 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.

**Section 3.** **Prior Ordinances And Resolutions** The body and substance of any and all prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are hereby reaffirmed and readopted.

**Section 4.** **Repealer Of Conflicting Enactments** All orders, ordinances and resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Ordinance Amendment, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

**Section 5.** **Savings Clause** If any provision of this Ordinance shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Ordinance and the provisions of this Ordinance being deemed to be the separate independent and severable act of the City Council of Plain City.

**Section 6.** **Date Of Effect** This Ordinance shall be effective on the \_\_\_ day of \_\_\_\_\_ 2023, and after publication or posting as required by law.

DATED this \_\_\_<sup>st</sup> day of \_\_\_\_\_, 2023

PLAIN CITY, a municipal corporation

\_\_\_\_\_  
MAYOR – Jon Beesley

ATTESTED AND RECORDED:

\_\_\_\_\_  
Diane Hirschi, CMC  
CITY RECORDER