

**SALEM CITY**  
**Staff Report to Mayor & City Council**



<b>Agenda Date:</b>	<b>March 3, 2010</b>
<b>Agenda Item #:</b>	<b>All of them</b>
<b>Staff Contacts:</b>	(Contact Jeff Nielson, and he will direct you, depending on the question).

**Work Session (5:30 p.m.):**

It has been brought to staff's attention that with more new business coming in town, there is a lot of advertisement with signs, and with the economy business are trying to advertise their business. Some of the signs are illegal according to the city ordinance. City staff would like some direction on what to do. Arrangement for a van has been made, so a tour can be done to look at some of the signs and to get some direction. Attorney Baker has drafted a sample ordinance that may address some of the issues. A sample ordinance has been attached.

Tour of Gym. Councilman Gordon requested that while the council is on the tour, that a tour of the proposed gym, which is being built in town by JNB builders, be done. He mentioned that it would only take about 10 minutes to go through it. I have also attached the floor plans for the gym to be reviewed.

Last council meeting, the council asked Attorney Baker to look into an ordinance to allow chickens on smaller lots. A sample ordinance from Spanish Fork has been attached.

**Council meeting Agenda Items:**

**Employee Recognition:**

Animal Control Officer Blair Kerby was recently awarded the ACO of the year for the State of Utah. Chief James would like to recognize him.

**Public Hearing: Approve Culinary Water and Waste Water Impact Fee Enactment Ordinance**

This was tabled from the February 3<sup>rd</sup> council meeting, because of a minor change in the numbers. The new proposed rate for Water I.F. is \$1,771, currently it is \$2,275, a decrease by \$504. The new proposed rate for Sewer I.F. is \$1,615, currently it is \$1,730 a decrease by \$115. The study has been available at the city office, the library, and online on the city web page. The new fee would be affective on June 3, 2010, this is because of the 3 month waiting period required. (See attached ordinance)

### **Youth Council Report:**

An opportunity for the Salem Youth Council to give a report of what they have done over the past month, and what they have planned for the upcoming month.

### **Approve Ordinance Prohibiting Extreme or Ultimate Fighting**

This was on the agenda in February 3<sup>rd</sup> council meeting. It was discussed in the meeting about allowing training at a facility, but to still prohibit events. Both ordinance have been attached, the original one, and the one modifying the ordinance to allow training.

### **Mike & Jan Daley – Ordinance Change Request:**

Mike and Jan Daley would like to build a home on some property that they have subdivided, located about 1000 North, and East of Laura Kay Nursery (located on S.R. 198). To bring sewer to the lot that was subdivided would be very expensive, and so they would like to put a septic tank. Because city ordinance does not allow a subdivision to have septic tanks, they would need to request to have the ordinance changed. They have been to council (Aug 5, 19, Sept. 16, and Nov. 4, and also to Planning and Zoning on October 14) before requesting a change in the ordinance to allow septic tanks in small subdivision. The council turned down the request with a vote of 3 – 2. Please see attached request (along with minutes of prior meetings). Also available are the Staff Reports of the other meetings when they requested to come before council.

### **C.W. Management Addendum to the Amended Development Agreement for the Salem Park Project:**

When C.W. Management developed the Salem Park subdivision, they were required to install water and sewer lines that would be benefited by other developments. It was agreed on September 2, 2010 to reimburse C.W. development back with impact fees. This addendum is made, because the impact fee study was recently done. The amount that they will be reimbursed is 31% of each waste water impact fee (\$500.86) and 14% of culinary water impact fee (\$247.10) collected will go back to C.W. management to pay them back for the infrastructure they installed. The dollar value for waste water infrastructure was \$1,065,325.80 and culinary water was \$525,574.94. We have a similar agreement with them for the Loafer Power Substation, where they fronted the money to have it built, and we are paying them back. Attached are the two agreements.

## **Approve Ordinance Amending the Wall Sign Requirements in the Salem City Municipal Codes**

Our current wall sign ordinance allows one sign on the front of the building and it may occupy 20% of the wall area and a sign on one additional wall not exceeding 5% of the wall area. It has been brought to our attention for the need in some situations to allow advertising on a third wall to allow visibility for traffic coming from more than two directions. The amendment to the ordinance would allow advertising on a third wall and increase the size of the two additional signs to 10% instead of the 5%. The size of the sign on the main side of the building would not change.

It is the opinion of staff that the additional sign and increase in size would still remain aesthetically pleasing and would be of help to our business owners.

Attached is the ordinance.

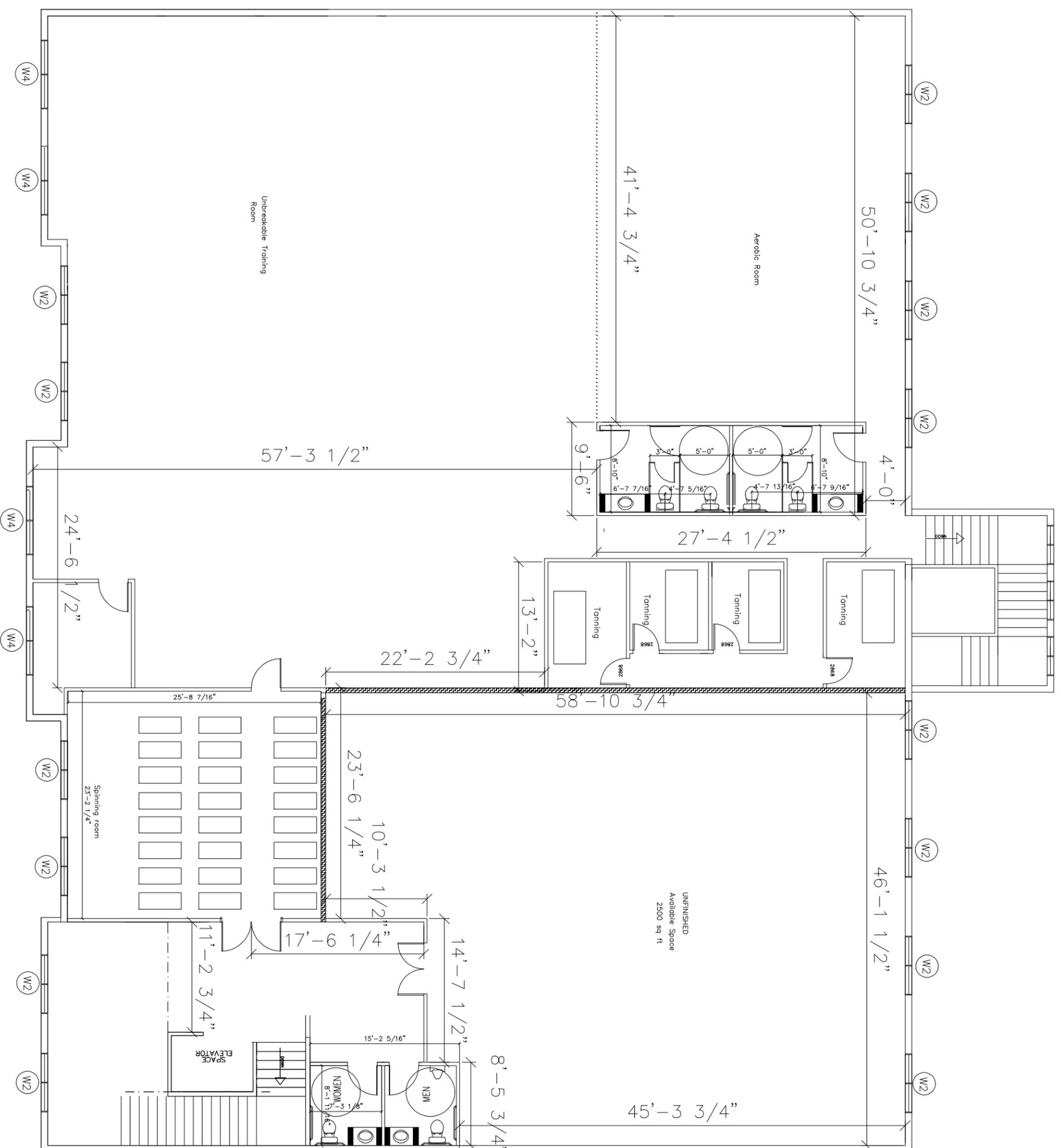
**Temporary Business Signs**

1. Subdivision Advertising Signs.
  - a. One sign is permitted at each major entry, with a maximum of four signs per subdivision. In addition, four off-site directional signs per subdivision are allowed, subject to obtaining a permit.
  - b. Each sign shall have a maximum area of thirty-two (32) square feet and a maximum height of eight (8) feet.
  - c. No sign permit shall be issued until a final plat has been recorded.
  - d. Such signs may be maintained until ninety percent (90%) of the lots in the subdivision are sold or the sales office closes, whichever occurs first.
2. Special Events, Seasonal Sales, Grand Openings.
  - a. These displays may be used to advertise grand openings, a change of business ownership, special sales, seasonal sales, new products or services, and other similar promotions.
  - b. These displays may include such displays as pennants, banners, flags, inflatable structures, search lights, character or product likeness, and other similar attention attracting media and devices.
  - c. Such displays shall be allowed for a maximum of ten (10) consecutive days no more than four (4) times per year.
  - d. Grand opening displays are allowed for thirty (30) consecutive days. The grand opening display requires a new business, change in business name, or new management.
  - e. There shall be a minimum of thirty (30) days between each display.
  - f. Holiday periods. A business may advertise a special service, product or sale during the following holiday periods. One banner sign only is allowed during these periods. The sign must be mounted on the building. The sign may be mounted seven days prior to the holiday, except for Christmas/New Years. The sign must be removed by the end of the first working day after the holiday period ends.
    - President's Day
    - Easter
    - Memorial Day
    - July 4<sup>th</sup>
    - July 24<sup>th</sup>
    - Labor Day
    - Thanksgiving
    - Christmas/ New Years December 1 to Jan. 2
  - g. Government entities and non-profit organizations may install signs, upon obtaining a special events sign permit, to give notice of special events and functions. Such signs may be displayed during holidays or civic functions (i.e. Salem Days, PONDtown Christmas, etc). Signs may be erected 30 days prior to the event or function. All signs must be removed at the conclusion of the event or function.
3. Construction and Development Signs.

- a. One (1) non-illuminated sign is allowed on a construction site with a maximum area of thirty-two (32) square feet and a maximum height of eight (8) feet.
- b. The sign may identify the name of the project, the names of the developer, contractor, architect, subcontractor, and financier of the project, and the projected completion date.
- c. The sign may only be installed after building permits have been issued for the project.
- d. The sign shall be removed prior to the issuance of a Certificate of Occupancy for the project.

# UPPER FLOOR PLAN

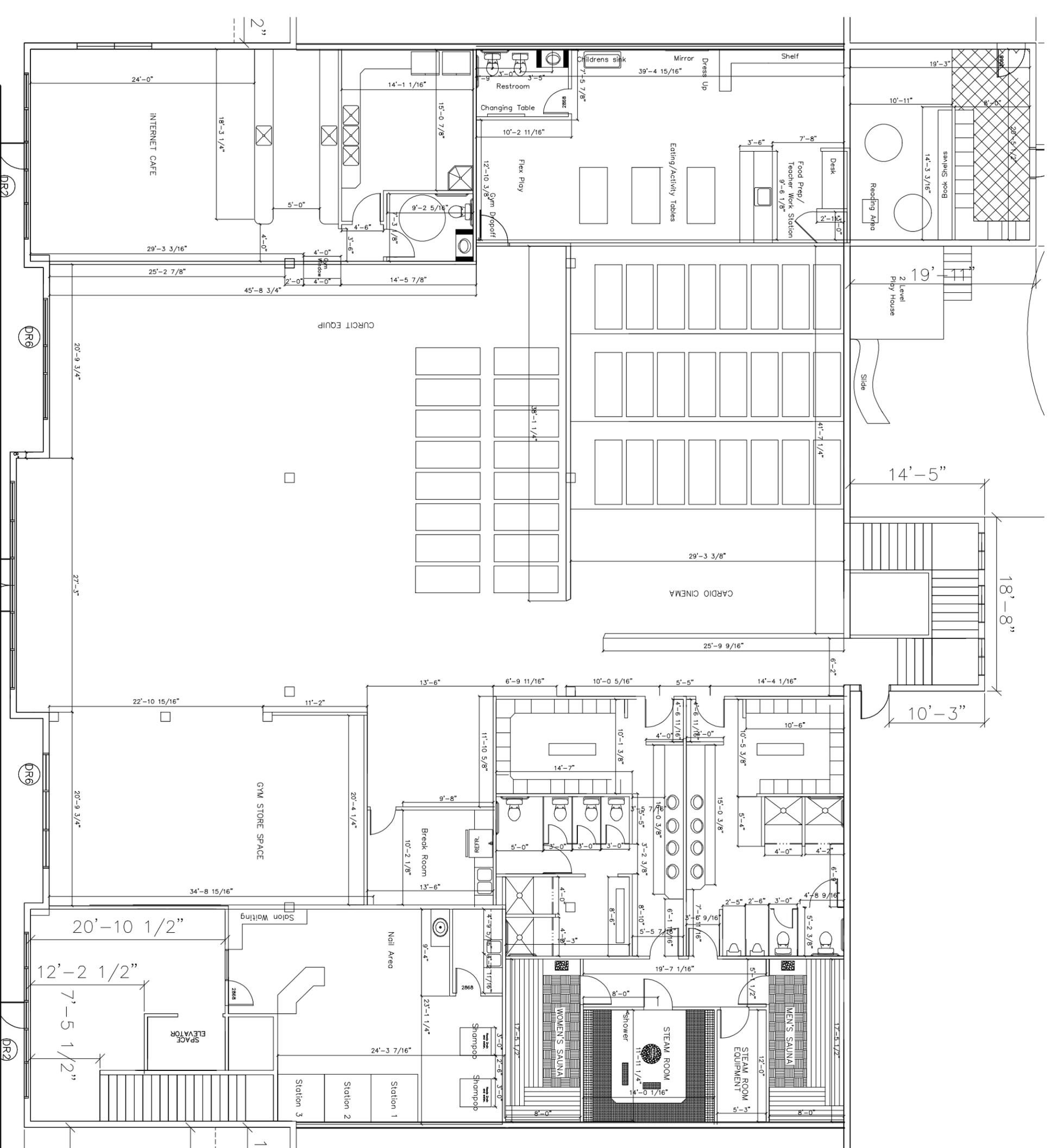
6580 Square Feet



# SOUTHVALLEY GYM

## FLOOR PLAN

7000 Square Feet



ORDINANCE NO. \_\_\_\_\_

**ROLL CALL**

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>MAYOR</b> <b>G. WAYNE ANDERSEN</b> <i>(votes only in case of tie)</i>		
<b>ROD DART</b> <i>Councilmember</i>		
<b>RICHARD M. DAVIS</b> <i>Councilmember</i>		
<b>STEVE LEIFSON</b> <i>Councilmember</i>		
<b>JENS P. NIELSON</b> <i>Councilmember</i>		
<b>KEIR A. SCUBES</b> <i>Councilmember</i>		

I MOVE this ordinance be adopted:     Councilman    

I SECOND the foregoing motion     Councilman    

ORDINANCE No. \_\_\_\_\_

**AN ORDINANCE ESTABLISHING THE RIGHT TO KEEP CHICKENS, SETTING THE REGULATIONS THEREOF, AND AMENDING THE PROVISIONS OF TITLE 15 RELATING TO FOWLS AND POULTRY**

WHEREAS, Spanish Fork City has adopted zoning regulations which regulate the number of animals located in various zones; and

WHEREAS, several residents have requested the City to consider allowing hen chickens on small residential lots in order to produce eggs for their family's personal consumption; and

WHEREAS, the City's research indicates that having hen chickens on small lots can be acceptable as long as noise and odors are controlled and the chickens are not allowed to freely roam, thus becoming a nuisance to neighbors; and

WHEREAS, requiring a registration requirement will aid in enforcement and help prevent the spread of disease; and

WHEREAS, a public hearing was held before the Spanish Fork Planning Commission on Wednesday the 7th day of April, 2010, where public comment was received; and

WHEREAS, a public hearing was held before the Spanish Fork City Council on Tuesday the 20th day of April, 2010, where additional public comment was received;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

**I.**

Spanish Fork City Municipal Code §15.3.24.090(G) animal number and distance chart is hereby amended to add a section on hen chickens, and referring those regulations to Title 6, chapter 20 as follows:

**15.3.24.090 Supplementary Regulations**

**(G) Animals.**

<i>Animal</i>	Maximum# Per ½ Acre	Min. distance of barns, pens, or corrals to neighboring dwelling (In feet)
Cattle	2	100
Horses	2	100
Sheep, Goats, Llamas, Ostriches	4	100
Poultry, Turkeys or Fowl (other than hen chickens)	10	100
Hen Chickens	See Title 6, Chapter 20	
Rabbits	10	50
Pigeons	12	50

Ducks, Geese	8	50
Game Birds*	8	50
*with appropriate permit		

**II.**

Spanish Fork Municipal Code Title 6, Chapter 20, Chickens is hereby created as follows:

**Chapter 6.20. Chickens**

- 6.20.010 Keeping of Chickens**
- 6.20.020 Enclosures Required**
- 6.20.030 Food Dispensers**
- 6.20.040 Permit Required**
- 6.20.050 Violation**

**6.20.010. Keeping of Chickens**

Subject to the requirements of this chapter and any other applicable provisions of Title 6, Chapter 1, hen chickens (and no roosters) regardless of age, in the numbers set forth below, may be kept on a lot or parcel of land in any residential zone. For lots one half acre in size or larger, the provisions set forth in §15.3.24.090(G) for turkeys, poultry, and fowl apply. For all smaller lots, the following applies:

- (A) The number of hen chickens which may be kept shall be limited based on the size of the lot or parcel as follows:
  - (i) eight thousand (8,000) square feet and larger: up to six (6).
  - (ii) five thousand (5,000) square feet up to eight thousand (8,000) square feet: up to four (4).
  - (iii) less than five thousand (5,000) square feet: none.
- (B) The principal use on the lot or parcel shall be a single family dwelling, duplex, or twin home.
- (C) Chickens may be kept on a non-nuisance basis strictly for familial gain from the production and consumption of eggs only and there shall be no sale or income resulting from the keeping of chickens.
- (D) All enclosures, pens and coops shall be located in the rear yard of the main dwelling or in an interior side yard provided all of the requirements of this chapter are met.
- (E) Enclosures, pens, and coops shall not be located in a corner side yard unless the side yard shall be completely fenced using site-obscuring fencing or vegetative screening, so as to prevent sight of such areas from the street or neighboring properties to the greatest degree possible.

**6.20.020. Enclosures Required.**

To keep chickens, an enclosure, including a coop, is required, in accordance with the regulations established in this section.

- (A) The coop shall meet the following construction standards:

- (i) with solid walls on all sides, exclusive of openings for animals and access to animals;
  - (ii) with a solid roof;
  - (iii) so as to prevent intrusion, including by burrowing, from all types of rodents, vermin, and predatory animals; and
  - (iv) such that they resemble typical accessory buildings and are not unsightly.
- (B) The coop shall have a minimum floor area of at least two and one-half square feet per chicken.
- (C) If chickens are not allowed to roam within an enclosure outside the coop, the coop shall have a minimum floor area of six square feet per chicken.
- (D) The coop shall be structurally sound and located in a rear yard at least thirty feet from any neighboring residential structures and at least ten feet from the primary residential structure on the property. The coop shall also meet the minimum setback for accessory structures within the zoning district. The coop and enclosure shall be hidden from the public view through the use of opaque fencing materials, vegetative screening, or other means allowed within this part. Because a corner lot technically does not include a rear yard, the owner of a corner lot may choose one of the “side” yards to function as a rear yard for the purposes of keeping chickens and locating the coop.
- (E) The coop and enclosure shall be maintained in a neat and sanitary condition and shall be cleaned as necessary to prevent any odor detectable at a property line. At a minimum the coop and enclosed area shall be cleaned weekly, although waste may be composted so long as the composting area meets the setback requirements that apply to the coop and prevent any odor detectable at the property line.
- (F) No chicken shall be permitted to roam outside the coop or enclosure.

**6.20.030. Food Dispensers.**

Chicken feed shall be stored in rodent- and predator-proof containers. Water shall be available to the chickens at all times.

**6.20.040. Permit Required.**

A. Permit Required: Any person who desires to keep hen chickens as authorized by this chapter shall make application to the division of animal control for a permit. These permits are temporary uses only and attach to the resident applicant, as specified in the application, and not to the property. There can be no “grandfathering” or legal nonconforming use property rights arising from chicken permits.

B. Applications: Applications for a chicken permit shall be made in writing to the division of animal control. The application shall include the following information:

- (i). The name of the person desiring the permit.
- (ii). Location where the chickens will be kept.
- (iii). Basic plans and specifications of the proposed activities, showing size and dimensions of the facilities.
- (iv). The distance between the location of the proposed facilities and the nearest residential structure on all adjoining lots.

- (v). The distance between the location of the proposed facilities and the property lines.
- (vi). The applicant shall acknowledge the rules set forth in this chapter and shall, as a condition of applying for the permit, agree to comply with such rules.
- (vii). The application shall bear the signature of the applicant.

C. Permit Issuance: Upon receipt of a complete application and receipt of the required fee, the division of animal control shall issue a chicken permit. The permit shall expire on the last day of the calendar year. Such permit shall not be transferable.

D. Fee: The fee for the chicken permit shall be assessed for the initial permit and shall be in the amount established by the city council in its annual budget, or by resolution. There shall be no fee for the annual renewal of the permit.

**6.20.050. Violation.**

It is a class C misdemeanor to violate any provision of this chapter.

**III.**

This Ordinance shall take effect 20 days passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this 20th day of April, 2010.

---

G. WAYNE ANDERSEN, Mayor

Attest:

---

Kimberly Robinson, City Recorder

**ORDINANCE No. \_\_\_\_\_**

ROLL CALL

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>MAYOR STANLEY W. GREEN</b> (votes only in case of tie)		
<b>LYNN DURRANT</b> City Councilperson		
<b>TERRY A. FICKLIN</b> City Councilperson		
<b>TODD R. GORDON</b> City Councilperson		
<b>SIDNEY M. JORGENSEN</b> City Councilperson		
<b>STERLING M. REES</b> City Councilperson		

I MOVE this ordinance be adopted: \_\_\_\_\_  
City Council person

I SECOND the foregoing motion: \_\_\_\_\_  
City Council person

ORDINANCE \_\_\_\_\_

**CULINARY WATER AND WASTEWATER  
IMPACT FEE ENACTMENT ORDINANCE**

WHEREAS, Salem City has experienced extremely rapid growth, which growth has slowed in the past year; and

WHEREAS, that rapid growth is placing a burden on the culinary water and wastewater capital facilities infrastructure of the City; and

WHEREAS, new culinary water loop lines and main lines in areas of projected growth are

necessary to accommodate the growth and make culinary water services available; and

WHEREAS, new wastewater main lines in areas of projected growth are necessary to accommodate the growth and make sewer services available; and

WHEREAS, the slower growth has eliminated the need for certain of the capital infrastructure projects to be completed as quickly as anticipated when the culinary water and wastewater impact fees were last updated; and

WHEREAS, it is fair and equitable that the entities responsible for the new facilities pay for the costs thereof; and

WHEREAS, impact fees are an appropriate mechanism to pay for the water facilities, including culinary water and wastewater facilities made necessary by rapid growth; and

WHEREAS, Salem City has prepared a water capital facilities plan, which includes culinary water and wastewater, and has updated that plan from time to time, as needed; and

WHEREAS, an impact fee analysis has been prepared for culinary water and wastewater, whereby the needs, costs, and equitable allocations of those costs have been determined and fairly apportioned; and

WHEREAS, it is fair and equitable that new residents pay their share of the buy in costs to the existing infrastructure, taking into account those factors identified in Utah Code Ann. §11-36-201; and

WHEREAS, all sources of revenue for the culinary water system and wastewater system have been analyzed and considered by the City; and

WHEREAS, a written analysis dated February 3rd, 2010, has been prepared for the City by impact fee consultants for the culinary water system and the wastewater system; and

WHEREAS, the impact fee consultants have certified the analysis, that it complies with the Utah Impact Fees Act; and

WHEREAS, the written analysis have been available for public inspection for at least ten days; and

WHEREAS, the analysis identifies the impacts on improvements needed to the culinary water system and the wastewater system required by development activity; and

WHEREAS, the analysis demonstrates how those impacts on the improvements are related to the development activity; and

WHEREAS, the analysis make a conservative estimate of the proportionate share of the cost of impacts on the system improvements that are reasonably related to the development activity; and

WHEREAS, the analysis identifies the amount of impact fee that could be imposed and how that fee was calculated; and

WHEREAS, the City has identified and analyzed, through the impact fee analysis, the criteria set forth in Utah Code Ann. §11-36-201(5)(b); and

WHEREAS, the impact fees proposed by this impact fee enactment do not exceed the highest fee justified by the impact fee analysis; and

WHEREAS, a public hearing was held before the Salem City Council on the 3rd day of March, 2010, where public input was received; and

WHEREAS, the impact fee enactment ordinance has been available for public inspection for at least ten days preceding the public hearing; and

WHEREAS, in order to protect the health, safety, and welfare of the residents of the City, it is necessary to impose impact fees on new development to pay for improvements made necessary

to the culinary water system and the wastewater system by that new development;

NOW THEREFORE, be it enacted and ordained by the Salem City Council as follows:

#### SECTION I.

1. A culinary water impact fee and a wastewater impact fee are hereby imposed for each new building in the City.

2. The amount of the culinary water impact fee for each residential connection in the City shall be \$1,771.00. The amount of the culinary water impact fee for each commercial or industrial connection in the City shall be based upon an equivalent residential use and shall take the estimated water usage, as a percent of the residential usage, and times that percent by the residential impact fee.

3. The amount of the wastewater impact fee for each residential connection in the City shall be \$1,615.00. The amount of the wastewater impact fee for each commercial or industrial connection in the City shall be based upon an equivalent residential use and shall take the estimated wastewater usage, as a percent of the residential usage, and times that percent by the residential impact fee.

4. The impact fees assessed herein are due and payable when a building permit is obtained and shall be a condition precedent to the issuance of a building permit. In the event of a building which is already in existence and does not need a building permit, payment of the impact fee shall be a condition of connection to the applicable water system.

5. The impact fee shall be deposited into an interest bearing ledger account and may only be used for capital improvements to the applicable capital facilities systems for which the impact fees were collected. These improvement may include analysis costs, the construction contract price,

the cost of acquiring land, improvements, materials, fixtures, the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of system improvements, debt service charges incurred if the improvements are financed by bond, or other obligations carrying debt service charges, and for the costs of issuance of any such bonds, notes, or other obligations.

6. The impact fees may not be used for operation or maintenance costs for any public facilities within the City.

7. Special exceptions, waivers, or credits may be granted, in the sole discretion of the Council, upon application in accordance with Salem City Municipal Code §13-4-050.

8. The impact fees identified herein shall become effective on June 2, 2010, ninety days after adoption, in accordance with Utah Code Ann. §11-36-202.

10. These impact fees are for system improvements and are in addition to hook up fees, which represent the City's actual costs in materials and labor to connect to the system.

## SECTION II.

This Ordinance shall not be part of the Salem City Municipal Code.

## SECTION III.

This Ordinance shall become effective on June 2, 2010.

DATED this 3rd day of March, 2010.

---

STANLEY W. GREEN, Mayor

Attest:

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

**AFFIDAVIT OF POSTING**

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State of Utah, and that on the \_\_\_\_ day of \_\_\_\_\_, 2010, he posted a true and correct copy of Ordinance No. \_\_\_\_\_ as enacted by Salem City Council on the 3rd day of March, 2010, said posting being made at the City Offices, at the United States Post Office, and at City Library all being public places and located within the City Limits of Salem, Utah County, Utah.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

**ORDINANCE NO. 20310B**

**ROLL CALL**

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>STANLEY W. GREEN</b> Mayor (votes only in case of tie)		
<b>LYNN DURRANT</b> City Councilwoman		
<b>TERRY A. FICKLIN</b> City Councilman		
<b>TODD R. GORDON</b> City Councilman		
<b>SIDNEY M. JORGENSEN</b> City Councilman		
<b>STERLING M. REES</b> City Councilman		

I MOVE this ordinance be adopted: \_\_\_\_\_  
City Councilmember

I SECOND the foregoing motion: \_\_\_\_\_  
City Councilmember

**ORDINANCE # 20310B**

**AN ORDINANCE PROHIBITING EXTREME OR ULTIMATE FIGHTING**

WHEREAS, Salem City has observed an increase in extreme fighting, also known as ultimate fighting, cage fighting, and various other names, in surrounding communities and counties; and

WHEREAS, Salem City's growth would indicate that, sooner or later, such events will come to Salem; and

WHEREAS, as Salem City has investigated these types of events, it appears as though

there could be a significant risk of injury to the participants; and

WHEREAS, an investigation also noted the spectators tend to be very unruly and aggressive; and

WHEREAS, the City representatives have also observed a large amount of alcohol being consumed by spectators, despite the fact that alcohol has been banned from the venue itself, finding the enforcement of that requirement was difficult, if not impossible; and

WHEREAS, the risk of injury, together with alcohol consuming, potentially unruly spectators, represents an event which is detrimental to the residents of Salem City; and

WHEREAS, in order to protect the health, safety, and welfare of the residents, it is necessary to prohibit extreme or ultimate fighting within Salem City;

NOW THEREFORE, be it ordained and enacted by the Salem City Council as follows:

**I.**

Salem City Municipal Code, Title 7, Chapter 11, Extreme or Ultimate Fighting, is hereby enacted as follows:

**CHAPTER 11 EXTREME FIGHTING**

**7-11-010 Definitions**

- A. Extreme fighting means any activity or other form of entertainment, regardless of how named or described, in which a person delivers, or is not forbidden by the rules of such contest from delivering kicks, punches, or blows of any kind to the body of an opponent. These activities may be known by various names, including but not limited to, extreme fighting, ultimate fighting, cage fighting, no holds barred fighting, no rules fighting, or other nomenclature. Officially sanctioned and regulated boxing, wrestling and team sports in which physical contact is

incidental to the primary purpose of the game, including, but not limited to, football, basketball, volleyball, soccer, baseball, and softball are not included among activities prohibited by this section

- B. Body means any part of the torso, head, limbs, or extremities of any person.

**7.11.010 Extreme Fighting Prohibited**

- A. Extreme fighting is prohibited within Salem City. No property owner, lessee, or occupant shall permit, promote, or allow participation in extreme fighting to take place on property owned or controlled by him or her.
- B. No person shall engage in extreme fighting within Salem City.

**7.11.030 Violation**

- A. Any person violating this Chapter by allowing, promoting, or engaging in extreme fighting is guilty of a Class C Misdemeanor.
- B. In addition to criminal penalties, the City may enforce provisions of this Chapter by injunction.

**II.**

This Ordinance shall be effective on passage and posting in accordance with law.

DATED this 3rd day of February, 2010.

\_\_\_\_\_  
STANLEY W. GREEN, Mayor

Attest:

\_\_\_\_\_  
JEFFERY D. NIELSON, City Recorder

**AFFIDAVIT OF POSTING**

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State of Utah, and that on the \_\_\_\_ day of \_\_\_\_\_, 2010 he posted a true and correct copy of Ordinance No. 20310B as enacted by Salem City Council on the 3rd day of February, 2010 said posting being made at the City Offices, at the United States Post Office, and at City Library all being public places and located within the City Limits of Salem, Utah County, Utah.

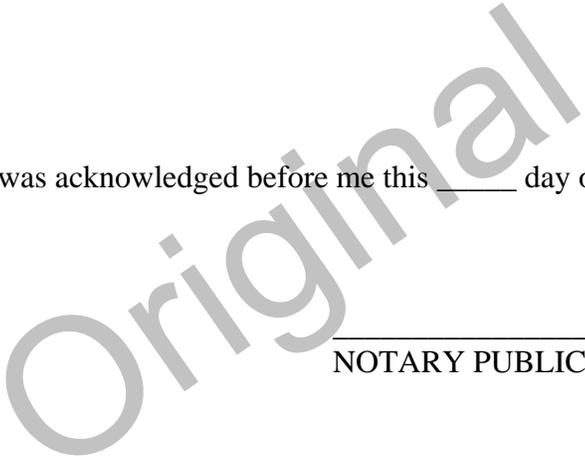
DATED this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

STATE OF UTAH    )  
                          : ss  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Jeffrey D. Nielson.

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



**ORDINANCE NO. \_\_\_\_\_**

**ROLL CALL**

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>STANLEY W. GREEN</b> Mayor (votes only in case of tie)		
<b>LYNN DURRANT</b> City Councilwoman		
<b>TERRY A. FICKLIN</b> City Councilman		
<b>TODD R. GORDON</b> City Councilman		
<b>SIDNEY M. JORGENSEN</b> City Councilman		
<b>STERLING M. REES</b> City Councilman		

I MOVE this ordinance be adopted: \_\_\_\_\_  
City Councilmember

I SECOND the foregoing motion: \_\_\_\_\_  
City Councilmember

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE PROHIBITING EXTREME OR ULTIMATE FIGHTING**

WHEREAS, Salem City has observed an increase in extreme fighting, also known as ultimate fighting, cage fighting, and various other names, in surrounding communities and counties; and

WHEREAS, Salem City's growth would indicate that, sooner or later, such events will come to Salem; and

WHEREAS, as Salem City has investigated these types of events, it appears as though

there could be a significant risk of injury to the participants; and

WHEREAS, an investigation also noted the spectators tend to be very unruly and aggressive; and

WHEREAS, the City representatives have also observed a large amount of alcohol being consumed by spectators, despite the fact that alcohol has been banned from the venue itself, finding the enforcement of that requirement was difficult, if not impossible; and

WHEREAS, the risk of injury, together with alcohol consuming, potentially unruly spectators, represents an event which is detrimental to the residents of Salem City; and

WHEREAS, in order to protect the health, safety, and welfare of the residents, it is necessary to prohibit extreme or ultimate fighting within Salem City;

NOW THEREFORE, be it ordained and enacted by the Salem City Council as follows:

**I.**

Salem City Municipal Code, Title 7, Chapter 11, Extreme or Ultimate Fighting, is hereby enacted as follows:

**CHAPTER 11 EXTREME FIGHTING**

**7-11-010 Definitions**

- A. Extreme fighting means any activity or other form of entertainment, regardless of how named or described, in which a person delivers, or is not forbidden by the rules of such contest from delivering kicks, punches, or blows of any kind to the body of an opponent. These activities may be known by various names, including but not limited to, extreme fighting, ultimate fighting, cage fighting, no holds barred fighting, no rules fighting, or other nomenclature. Officially sanctioned and regulated boxing, wrestling and team sports in which physical contact is

incidental to the primary purpose of the game, including, but not limited to, football, basketball, volleyball, soccer, baseball, and softball are not included among activities prohibited by this section. Martial arts training or studios are also not included among the activities prohibited by this section.

- B. Body means any part of the torso, head, limbs, or extremities of any person.

#### **7.11.010 Extreme Fighting Prohibited**

- A. Extreme fighting events are prohibited within Salem City. No property owner, lessee, or occupant shall permit, promote, or allow participation in extreme fighting to take place on property owned or controlled by him or her.
- B. No person shall engage in extreme fighting within Salem City.
- C. Nothing herein is intended to prohibit training or conditioning in any of the martial arts. Nothing herein is intended to prohibit the promotion of extreme fighting events, so long as the event promoted is not held within Salem City.

#### **7.11.030 Violation**

- A. Any person violating this Chapter by allowing, promoting, or engaging in extreme fighting within Salem City is guilty of a Class C Misdemeanor.
- B. In addition to criminal penalties, Salem City may enforce provisions of this Chapter by injunction.

## **II.**

This Ordinance shall be effective on passage and posting in accordance with law.

DATED this 3rd day of February, 2010.

\_\_\_\_\_  
STANLEY W. GREEN, Mayor

Attest:

\_\_\_\_\_  
JEFFERY D. NIELSON, City Recorder

**AFFIDAVIT OF POSTING**

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State of Utah, and that on the \_\_\_\_ day of \_\_\_\_\_, 2010 he posted a true and correct copy of Ordinance No. \_\_\_\_\_ as enacted by Salem City Council on the 3rd day of February, 2010 said posting being made at the City Offices, at the United States Post Office, and at \_\_\_\_\_ all being public places and located within the City Limits of Salem, Utah County, Utah.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

STATE OF UTAH    )  
                          : ss  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Jeffrey D. Nielson.

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

# SALEM CITY

30 West 100 South Salem, Utah 84653  
801-423-2770, Fax 801-423-2818,  
www.salemcity.org



## APPLICATION TO APPEAR BEFORE THE CITY COUNCIL

<b>APPLICATION INFORMATION</b>			
Name of Applicant or Authorized Agent(s): Mike & Jan Daley			
Address: 822 W. Center			
City: Sp. Forks	State: Ut.	Zip: 84660	Phone: 423-2840
Fax:	E-mail: jan.daley@nebo.edu		
Signature of Applicant: <i>Jan Daley</i>			
Date of Council Meeting you wish to appear: March 3, 2010			
Date: 2/25/10			

<b>A DETAILED SUMMARY FOR APPEARING BEFORE THE COUNCIL</b>
Be as specific as possible, with as much detail as possible. Submit any documents, maps, etc.
We are asking the council to adopt the changes that planning and zoning have already proposed to the council for changes in the subdivision ordinance. We would like to change the ordinance to allow 3-4 homes on property instead of one home.
Thank you - Mike & Jan Daley

\*This application needs to be submitted 1 week prior to the scheduled Council Meeting that you wish to attend. Council Meetings are on the 1<sup>st</sup> & 3<sup>rd</sup> Wednesday of each month, except December.

Ordinance to allow Septic Tanks in subdivision, this is the draft that was not approved. This draft has recommendations from Planning and Zoning, which the Daley's are requesting.

ORDINANCE NO. \_\_\_\_\_

ROLL CALL

VOTING	YES	NO
MAYOR RANDY A. BRAILSFORD (votes only in case of tie)		
STANLEY W. GREEN City Councilman		
LYNN DURRANT City Councilwoman		
TERRY A. FICKLIN City Councilman		
DALE R. WILLS City Councilman		
DALE BOMAN City Councilman		

**DRAFT**

**REVISED**  
8:51 am, Dec 02, 2005

I MOVE this ordinance be adopted: \_\_\_\_\_  
City Councilmember

I SECOND the foregoing motion: \_\_\_\_\_  
City Councilmember

ORDINANCE \_\_\_\_\_

AN ORDINANCE ALLOWING LIMITED PRIVATE WASTE WATER TREATMENT SYSTEMS

WHEREAS, Salem City owns and maintains a public wastewater treatment facility; and

WHEREAS, the Salem City subdivision ordinance requires any subdivision to connect to the wastewater treatment facility; and

WHEREAS, there are many areas which have been annexed into Salem City which cannot connect to the waste water treatment facility without incurring great expense; and

WHEREAS, property owners of small parcels can safely provide private wastewater

systems without creating a detrimental effect to the health, safety, and welfare of the City; and

WHEREAS, any such small and localized private wastewater systems should be constructed to allow for easy connection to the public wastewater treatment facility when it is available; and

WHEREAS, any such small and localized private wastewater systems should be required to connect to the public wastewater treatment facility when it is available;

NOW THEREFORE, be it ordained and enacted by the Salem City Council as follows:

I.

Section 11-3-040 of the Salem City Municipal Code is hereby amended to read as follows:

**11-3-040. The Use of Sewer System.**

All new buildings constructed within the boundaries of Salem City, whether in residential, commercial, or industrial zones, shall be connected to the public sanitary sewer. New single family residential units may be granted an exemption based on the requirements and restrictions established in Salem City Municipal Code §13-3-020(D). If an exemption is granted, the residential unit will comply with the requirements of any existing structure to connect to the public sewer system as set forth hereafter. Existing structures, which are not yet connected to the public sewer, shall do so at such time that the public sewer becomes available to a property serviced by a private wastewater disposal system. Such connection shall take place within <sup>180</sup>~~sixty~~ days after the public sewer system becomes available. The public sewer system shall be deemed available when the sewer

500' ?

lines are within one thousand feet of a property line, which property contains a building serviced by a private wastewater system. Following connection to a public sewer system, any septic tanks, cesspools, or similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. Exceptions to this section may be granted by the City Council upon a showing of hardship, which shall not include economic hardship.

in accordance with UT County Health Dept standards

II.

Section 13-3-020(D) of the Salem City Municipal Code is hereby renumbered to Section 13-3-020(E) and a new subsection (D) is hereby created as follows:

**13-3-020. Unavailability of Adequate Public Facilities.**

A.-C. [unchanged]

D. A private wastewater system may be used in residential subdivisions consisting of no more than four lots, with the minimum size of one acre each, in accordance with the following:

single family homes

1. A hydro-geologic study has been completed and signed by a registered hydro-geologist or other qualified professional registrant which finds that the area to be subdivided can accommodate private wastewater systems without posing a threat to the ground water;
2. That the City Engineer has approved the area proposed for the private wastewater system, making a finding that it will not pose a threat to any of the Salem City wells, springs, or ground water;
3. That the installation of the private wastewater system is prohibited within

the area delineated by the well head protection program as a well head protection zone;

4. Requirements of the Utah County Health Department regarding the installation of a private wastewater system shall be complied with and a permit obtained from Utah County Health Department;
5. That in any subdivision that meets this criteria and utilizes a private wastewater system, a dry sewer shall also be installed, which dry sewer shall be connected to the public sewer when it becomes available set forth in Salem City Municipal Code §11-3-040.
6. In the event a private wastewater system is approved, all hookup fees, impact fees, and other fees required to connect to the public wastewater system shall be paid by the applicant as a condition of receiving a building permit with a private wastewater system. The City shall track these accounts so that a double payment is not required at a later date when connection to the public system takes place. No additional fees shall be collected by the City despite the fact that the fees may have risen from the time they were paid until the time connection is made.

### III.

This ordinance becomes effective 20 days after passage and posting.

DATED this \_\_\_\_\_ day of December 2005.

Attest:

\_\_\_\_\_  
RANDY A. BRAILSFORD, Mayor

### **3. JAN DALEY – Discussion on Building at approx. 725 E. 960 N.**

Mayor Henderson turned the time over to the Daley's. Mike Daley stated that he would like to build a home on some property that they own. They had a home built back in 1999 on the property adjacent, but had to sell the home a few years ago. They were approved by the city council to build their prior home, which had a septic tank. They own the property next to the other home, and they do not want to buy land anywhere else. They love Salem and want permission to build another home. Because there is no sewer line, they would need to build the home with a septic tank. They will stub the sewer line out to the road, so when the sewer is available in the area they could hook onto the sewer.

Mayor Henderson stated that this is sometimes a hard decision, the council has compassion on situations and people, but they also have legal issues that they need to obey.

Councilperson Gordon asked about the water line. It was stated that the water line is at the old home, and they would need to extend it to the new home.

The question was asked about the sewer line. Mike Daley stated that it would not be feasible for them to bring the sewer line to their home. It is a single lot, and would be too expensive.

Dave Johnson mentioned that the county, at one time, was talking about changing 1100 North (8800 South) and where it connects to Woodland Hills Drive. They wanted to make it angle and come in front of the Daley's old home and his other property and connect to SR 198 by Councilperson Hank's building.

Dave Johnson also had a question about when the property, that Mike wants to build on, was divided from the property where the first home was built on. Mike Daley stated that he thought it was divided before the first home was built.

Attorney Baker stated that with a new home, we do require it to hook onto sewer line, but the council has allowed homes in the past to be built with a septic tank.

Councilperson Ficklin asked about other improvements that would be required by the city, that Mike would be required to have the improvements to go to and through his property line.

Mayor Henderson stated that he is concerned about when the property was divided, and if it was divided without the city approval. If it was divided without the city approval, then it would be an illegal subdivision according to our codes.

**MOTION BY:** Councilperson Todd Gordon to table this item until more information about when the property was divided can be given to the council.

**SECONDED BY:** Councilperson Stanley Green.

**VOTE:** All Affirmative (4-0).

### **3. ROBERT NELSON - Preliminary Approval of 1 lot Subdivision at 628 S. 550 W.**

Bruce Ward explained how this has been before DRC (Development Review Committee) and Planning & Zoning. Both groups approved the one lot subdivision. Council went over what DRC and Planning & Zoning discussed (INSERT MOTIONS).

**MOTION BY:** Councilperson Lynn Durrant to approve the Preliminary of one lot subdivision for Robert Nelson at 628 South 550 West, with the conditions that DRC and Planning & Zoning discussed (*DRC: Approve the 1 lot subdivision for Soren & Dar Christensen subject to final approval for the annexation; meeting the construction and development standards; putting the PI line in the existing ditch and moving the ditch; installing the power poles behind the ditch and going overhead until it gets to the house, then go underground; and dedicating the road or granting a utility easement to Salem City. Planning and Zoning: Approve Soren Acres, a 1 lot subdivision at 628 S. 550 W., based on the items that were discussed at DRC and that those items are met*).

**SECONDED BY:** Councilperson Todd Gordon.

**VOTE:** All Affirmative (5-0).

### **4. BRUCE FRAMPTON – Beer License for Gas ‘N Go at 565 W. SR 198**

Bruce Frampton stated that he purchased the Pat’s gas station at the west end of Salem. Right now he is selling fuel. He has other gas stations (Gas ‘N’ Go) located in Utah. He has also purchased the Gandolfo’s franchise, and will be selling sandwiches at the gas station. He would like to get approval for a beer license so he can sell beer. It was stated that the amount he would need to pay would be \$1,000, but that amount is for the first initial year’s license, each year after will be \$500. There was question on if that amount could be pro-rated since, there are only four more months left in the calendar year, and he would then be required to pay \$500 again in January. It was stated that the way the ordinance is written, it does not allow the license to be pro-rated, and they would be required to pay the full amount.

**MOTION BY:** Councilperson Brent Hanks to approve the Beer License for Bruce Frampton at the Gas-n-Go, the new owners of the gas station.

**SECONDED BY:** Councilperson Stanley Green.

**VOTE:** All Affirmative (5-0).

### **5. JAN DALEY – Discussion on building at approx. 725 E. 960 N.**

Mayor Henderson stated that this item was on the last council agenda. There was some question as to when the property was divided, and if it was divided illegally. The council asked Mike and Jan to do some research on it, and provide to the council the information.

Mike Daley stated that, after the last meeting, they went to the county to find information on when the property was divided. Mike stated that when they took the mortgage out on the first home, the property was supposed to have been divided at that time, and was not sure if the bank had done that, or the title company they were working with.

Attorney Baker stated that the Utah State Code regarding subdivision and when a property is subdivided was created in 1992 or 1993. He then briefly described the code, that when a property is divided, it is considered a subdivision.

Mayor Henderson asked if a property could be subdivided without the knowledge and approval of the city, to make sure that our city codes are followed regarding a subdivision. Attorney Baker stated that the county used to record these smaller subdivisions without city approval, now the approval of the city is required.

Attorney Baker stated that Mike and Jan could do a subdivision and that would be okay, but the problem is they would need to get the utility infrastructures to the subdivision. The sewer infrastructure is the big issue, and it would not be cost effective for Mike to build the sewer line to his property for the subdivision. If the property would have been a lot of record, meaning already split prior to being annexed into the city or prior to the subdivision codes, then the city could allow a septic tank. But as the ordinance reads today, they would be required to have the sewer system installed because they are a subdivision.

Mayor Henderson asked Attorney Baker if the only way that the Daley's could build their home, would be to change the current ordinance to allow them to have septic tanks in a subdivision. Attorney Baker stated that is what they would have to do. He also mentioned that a few years ago a group of people tried to do the same then, change the ordinance to allow septic tanks, but Planning and Zoning and the Council denied the request.

Mayor Henderson stated that as the council we are very sympathetic towards the Daley's, but with our ordinances towards subdivision right now, the property does not meet the subdivision standards, and the council is bound by both the Utah State codes and Salem City codes, and we cannot vote on something that is illegal. The council has looked at changing the ordinance a few times, and each time they have looked at it and studied it, they have agreed not to change the current ordinance.

## **6. ELECTION JUDGES**

Jeff Nielson explained that with the upcoming elections the council needs to approve the election judges (Poll Workers). The following have accepted to be election judges for September 15 primary and November 3 general election.

### 3. PUBLIC HEARING

**MOTION BY:** Councilperson Brent Hanks to open the public hearing.

**SECONDED BY:** Councilperson Terry Ficklin.

**VOTE:** All Affirmative (5-0).

**A. Ordinance Amending the Zoning Code Addressing Living Accommodations for the Elderly**

Attorney Baker stated that this ordinance is allowing elderly living group homes, like the Beehive Home, to be eligible to host more elderly tenants in the zone they are in. He read over the ordinance for the council. He stated that when it went before Planning and Zoning, there was discussion about two of the Utah State Codes that contradict each other, and they wanted to change the ordinance. Attorney Baker stated that the way the ordinance is written it covers the city and we will be okay without doing the recommend change from Planning and Zoning. There was some miss communication between Attorney Nord and Attorney Baker.

Close

**MOTION BY:** Councilperson Stanley Green to close the public hearing.

**SECONDED BY:** Councilperson Brent Hanks.

**VOTE:** All Affirmative (5-0).

**A. Ordinance Amending the Zoning Code Addressing Living Accommodations for the Elderly**

**MOTION BY:** Councilperson Lynn Durrant to approve ordinance 91609A amending the zoning code addressing living accommodations for the elderly.

**SECONDED BY:** Councilperson Todd Gordon.

**VOTE:** All Affirmative (5-0).

### 4. MIKE & JAN DALEY – SUBDIVISION ORDINANCE CHANGE

Jan Daley stated that they have talked to some of the council about the possibility of changing the subdivision ordinance to allow septic tanks with subdivisions that are five lots or less. Mike Daley stated that he cannot see where building one home on his lot could hurt the city. They do not feel it is fair that they own the property, but they cannot build on their own property. They pay property taxes to the city, and would like to know why they could not build the home.

Councilperson Ficklin stated that a couple of years ago this same subject came up, and a property owner proposed the same thing, and wanted us to change the ordinance. The issue went back and forth with city council and planning and zoning. A decision could not be made and so the ordinance was not changed.

Mayor Henderson stated that we have had to turn down a few other people who have made the same request. We are very sympathetic towards this situation, but the council has looked at the ordinance, and has had to stick with the ordinance and turn others down. Another issue is that the general plan is being reviewed right now, and feels that right now may not be a good time to change the subdivision standards. Another issue, when the Daley's came in, back in the 1990's, and wanted to build just one home, the council allowed that one home to be built. Now it is the same story.

Councilperson Brent Hanks stated that he has a commercial business in the same area, and the county would not allow him to have a septic tank. It was stated that it might have been because it is a commercial business.

Councilperson Todd Gordon stated that, with the fire code, it requires that you have water lines so that the fire hydrants have good flow. The problem is the water line that services the existing home ends at the home. It needs to connect to another water line, so you have fire flow protection. The water line would need to extend to Woodland Hills Drive, where there is another water line. The fire flow protection is in the subdivision standards, and would need to be met. The Daley's stated that they would be willing to put the water line in, if they needed it.

The gravel road to the first home is another issue, where it is not a city road. It was mentioned that with the first home, the agreement before was to allow the gravel right away, but that the Daley's would be required to maintain it.

Councilperson Durrant stated that she feels for them, but we have had to deny similar request.

Mayor Henderson stated that the issue we are facing is that when the property was divided it became a subdivision, and by becoming a subdivision, it must meet our subdivision standards. Attorney Baker stated that the Utah State Code states that the first time a lot is split it is considered a subdivision. Just as the mayor stated that once it is a subdivision, then it must meet our requirements. The lot has already been split twice. We have allowed septic tanks on a single lot, but once the lot is subdivided, then they are required to have sewer.

Councilperson Green stated that the sewer is one issue, and it sounds like the water line could be another issue. There may also be more issues associated with the standards that they would need to meet.

Mayor Henderson asked the council what their thoughts are. Councilperson Ficklin stated that he feels five lots are too many, but wondering if we could lower it down to two or three. He would like to see what planning and zoning thinks about allowing few lots.

Councilperson Durrant stated that we also need to keep in mind that we are in the middle of reviewing the general plan

The council felt that they would like to have planning and zoning review this, and get thoughts and feelings on it. Also have them look at allowing subdivisions that are two or three lots, but feel that five is too many.

## **5. UTAH COUNTY CDBG INTERLOCAL AGREEMENT**

Mayor Henderson stated that this is an interlocal agreement that the city would be a part of. This would allow the city to apply for CDBG grants, and that they would be a little easier because they would be working through Utah County, and not MAG.

Attorney Baker stated that MAG used to control the money for grants, and it was difficult to get the money. Now the cities would still need to meet the requirements for the grants, but now Utah County is in control of the money and would be determining how the money would be spent. The agreement is with Utah County.

**MOTION BY:** Councilperson Lynn Durrant to approve the mayor to sign the CDBG interlocal agreement with Utah County.

**SECONDED BY:** Councilperson Stanley Green.

**VOTE:** All Affirmative (5-0).

## **6. ORDINANCE AUTHORIZING STREET LEGAL ATVS UPON CITY STREETS**

Attorney Baker stated that in the past the Utah State Code would allow ATV's to be driven on roads, if they had access to a trail from the street. This year the state has changed the code to allow ATV's legal to be on the road, if they are street legal. He went over the ordinance with the council. He stated he has talked with Chief James on it, and feels that it would be okay. We would require that the driver have a drivers license, and also the ATV would need to be registered by the state as a street legal ATV. There are a few restrictions that will need to be met.

Councilperson Todd Gordon stated that it cost about three to four hundred dollars to make an ATV street legal.

Councilperson Durrant stated that the ATV would need to be registered twice, once for the street and then for off road. It was stated that is correct that they would have the two separate stickers for the registration.

**MOTION BY:** Councilperson Lynn Durrant to approve ordinance 91609B approving ATV's to be driven on the road if they are street legal.

**SECONDED BY:** Councilperson Brent Hanks.

**VOTE:** All Affirmative (5-0).

4. Slower Speeds
  - a. Start lower down the hill for younger class.

Mayor Henderson stated that there was an accident the last year we had it. That was very scary and could have had some serious injuries. Russ stated that they would line both sides of the race track with straw to make it better. Also, for younger drivers, we would start the race further down the hill so they would not get as much speed.

Chief James stated that our insurance has recommended not having this event because of how unsafe it has been. Another concern would be the cleanup of the straw and also the expense of the event. It has not done very well in the past. Russ stated that they would clean up after themselves and they are also looking at making sure they make enough money to cover the expenses. One thing they will do is have the participants purchase their own wheels.

Mayor Henderson stated that he appreciates the work they have done to try to make sure the event would be safer. He felt that if the guidelines were met to make it safer and they work with Chief James, that the event could be a part of Salem Days again.

**MOTION BY:** Councilperson Lynn Durrant to approve the Gran Prix event to be a part of Salem Days events, as long as they enforce the safety recommendation they have proposed and to work with Chief James.

**SECONDED BY:** Councilperson Brent Hanks.

**VOTE:** All Affirmative (5-0).

## **5. MIKE & JAN DALEY – SEPTIC TANK ORDINANCE**

Jan Daley stated that they went to Planning and Zoning like the council asked them to do. Planning and Zoning stated that back in 2005 they went over the recommended ordinance and made their recommendation to it, and then was given back to council and nothing was done. Planning and Zoning told the Daley's that they did not want to do anything more with it, because they have given their recommendations and told them to take those recommendations back to the council. Mike Daley stated that they have now brought the information back to the council.

Mayor Henderson stated that this has gone back and forth a lot, and back in 2005 it went back and forth. He stated that with all fairness to the Daley's a decision should be made. He stated that if we allow septic tanks, even with the smaller subdivision of five lots and less is the city ready to open it up for a lot of other developments.

Councilperson Green stated that, by allowing the septic tank ordinance, it would be allowing building to happen without hooking onto city sewer.

Councilperson Hanks stated that he feels that it could really open up a lot of problems that the city is not ready for. Some of the issues are the roads and public safety.

Jan Daley feels that this could allow people to build a home, who might not be able to build one. Mike stated that with the one house per acre, that it could be controlled.

Councilperson Durrant stated that there are other issues too; the water, pressurized irrigation and power are other concerns.

Councilperson Gordon stated that it would probably fit in their situation, but the problem is that if we change it, we would open up for other land, that would not fit as well. And the building would be hard to plan around when the property around is ready to develop. He stated that he too feels it would cause problems in the future.

Jan stated that they have installed the small water line for the existing home.

Mike Daley stated that he can understand the concern for other developments, but they have tried to conform to what the city wants and feels that it would be very beneficial for their area.

**MOTION BY:** Councilperson Brent to deny any changes that would allow septic tanks in a subdivision.

**SECONDED BY:** Councilperson Lynn Durrant.

**VOTE:** (3 Aye, 2 Nay) Councilperson Brent Hanks, Aye; Councilperson Lynn Durrant, Aye; Councilperson Stanley Green, Aye; Councilperson Terry Ficklin, Nay; Councilperson Todd Gordon, Nay.

## 6. YOUTH COUNCIL REPORT

Salem Youth Council representatives came and reported to the council what they have done for their activities. They stated that the trick or treat at the park went well, but they wished that more businesses would have supported. They have discussed some ideas to help it out next year, and hope to see more businesses. They are planning on helping out with the lighting of Pond Town Christmas, with handing out donuts and hot cocoa again. They have also been helping out at the library.

Mayor Henderson and council thanked them for all that they are doing.

## 7. AWARD CONTRACT TO UPDATE WATER SOURCE PROTECTION PLAN

Bruce Ward stated that according to State Drinking Water Rules we are required to review and update our water source protection plans for each of our water sources every 6 years. We have two sources (Maple Canyon Well, Lower Well) that are due for updates by the end of 2009. Water Canyon Springs is due in 2011. He stated that he recommends doing the report for all three sources at this time. We need to make sure that with the Woods Pit in operation that our water source protection is still okay.

**ADDENDUM TO THE AMENDED DEVELOPMENT AGREEMENT  
FOR THE SALEM PARK PROJECT**

WHEREAS, Salem Capital, LLC., (Developer) and Salem City (Salem) entered into a Development Agreement in 2006, which was subsequently amended by an Amended Development Agreement dated the 2<sup>nd</sup> day of September, 2009 which agreement sets forth the responsibilities and obligations of the parties with respect to the development of a residential subdivision known as Salem Park Estates; and

WHEREAS, the Amended Development Agreement provides for reimbursement to Developer for oversized culinary water and sewer lines; and

WHEREAS, the Amended Development Agreement, in paragraphs 5(a) and 6(a) contemplates an addendum to the agreement to set forth the percentage of reimbursement from impact fees for the culinary water and sewer line upgrades; and

WHEREAS, the updated impact fee analysis is complete and the percentage of reimbursement is now known; and

WHEREAS, it is in the best interest of the parties to modify the Amended Development Agreement dated September 2, 2009 by this addendum, as contemplated;

NOW THEREFORE, the parties hereto contract covenant, and agree as follows:

1. Developer will be reimbursed fourteen percent (14%) from all culinary water impact fees collected within Salem City until the amount set forth in paragraph 5a of the Amended Development Agreement is fully paid.

2. Developer will be reimbursed thirty-one percent (31%) from all sewer impact fees collected within Salem City until the amount set forth in paragraph 6a of the Amended Development Agreement is fully paid.

3. The payment schedule, terms, and conditions of the reimbursement are set forth in

the Amended Development Agreement and are not affected by this addendum.

4. Except as specifically modified herein, all of the terms and conditions of the Amended Development Agreement remain in full force and effect and are binding upon both parties.

DATED this \_\_\_\_\_ day of March, 2010.

SALEM CAPITAL, LLC by:  
CW Management Corporation,  
its Manager by:

\_\_\_\_\_  
Christopher K. McCandless, President

SALEM CITY by:

\_\_\_\_\_  
Stanley W. Green, Mayor

Attest:

\_\_\_\_\_  
Jeffrey D. Nielson, Recorder

## AMENDED DEVELOPMENT AGREEMENT

This Agreement is made and entered into this \_\_\_ day of September, 2009 by and between Salem City Corporation, hereinafter referred to as "City" and Salem Capital, LLC, hereinafter referred to as "Developer".

### RECITALS

A. Developer is currently the owner of certain real property located in Salem City, Utah commonly known as Salem Park Subdivision, with all phases ("Salem Park").

B. Developer and City have previously entered into a Development Agreement dated September 20, 2006 wherein Developer and City agreed that Developer would provide certain infrastructure developments including the cost of an electrical substation and installation of sewer lines; and whereas it has been determined that it is in the interest of the City and the Developer to amend the Development Agreement to provide for the expansion of the proposed sewer development and to expand the infrastructure for the provision of electrical service.

C. The City has authority under Utah Code Ann. Section 10-9a-101 et seq., and in furtherance of its land use policies, goals, objectives, ordinances, resolutions and regulations to enter into development agreements that are appropriate and to provide for reimbursement of certain infrastructure costs advanced by the Developer from impact fees collected from future connections to the systems installed by the Developer.

Now therefore, for good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the parties do hereby mutually covenant and agree as follows:

1. Purpose. The purpose of this Agreement is to provide a means whereby Developer will be reimbursed for a portion of the costs it incurs for the installation of certain infrastructure and facilities described herein which reimbursement will come through impact fees charged by the City to future developers, property owners and users of the infrastructures described herein. This Amended Development Agreement replaces the Development Agreement dated September 20, 2006.

2. Acknowledgment of Assignment. The City hereby acknowledges that certain assignment and option of the Development Agreement between Developer and Priority Land, LLC ("Priority") wherein Priority assigned its interest in the September 20, 2006 Development Agreement to Developer and City acknowledges that all rights and interest under the September 20, 2006 Development Agreement are owned and belong to Developer and are incorporated herein.

3. Acknowledgment of Developer Contributions. City acknowledges that Developer's contributions under the September 20, 2006 Development Agreement toward the electrical substation have been fulfilled as follows:

Contribution of \$1,750,000.00 by Developer.

- a. The Developer is obligated to contribute up to an additional \$50,000.00 toward the electrical substation (the "Additional Contribution"). The total amount contributed by Developer will be hereinafter referred to as the "Developer's Contribution".
- c. To date, City has expended \$1,679,381.06 towards the construction of the substation, with additional work to finish the project estimated to exceed the Developer's obligation of \$1,800,000.00. The Additional Contribution shall be due from Developer when City has completed the project and invoiced Developer. This obligation may also be met by assigning the reimbursement amounts, as set forth in paragraph 4, back to City.

4. Reimbursement for Contributions for electrical substation. City acknowledges an obligation to reimburse the Developer and Developer's Sellers for the contributions made by the Developer and Developer's Sellers to the City for the electrical substation. The City reaffirms its obligation to Developer and Developer's Sellers to repay the Developer's Contribution from all of the electric impact fees assessed to all properties within City which are assessed electric impact fees. Developer and Developer's Sellers shall be entitled to fifty percent (50%) of the electric impact fee collected. The reimbursements that have been made to Developer as of April 1, 2009 are \$505,258.00. City will continue to reimburse the Developer and Developer's Sellers, Thone Heppler and Dave Hatton ("Sellers"), for the electrical substation contributions until the full amount of the contributions have been repaid. The reimbursements from the impact fees shall be made by the City within 30 days after the end of each calendar quarter. Included with the reimbursement will be a summary to date of the fees collected by the City in total, less previously reimbursed amounts. The reimbursements will be divided pro rata so that the Developer will receive 44.5% and Sellers will receive 55.5% of each quarterly distribution until the total amount of the Developer's Contribution is paid in full. City may withhold from Developers' 44.5% of the reimbursement amount the sums of \$121,928.35 and \$50,000.00 which Developer owes to City for electrical work performed by City on Developer's Salem Park project and to complete the substation, which sums have been assigned to City. When those sums have been paid in full, City shall resume its payments to Developer. Upon reasonable request, Developer may request an accounting from the City of the impact fees charged relating to the electrical substation.

5. Installation of Off-Site Water Line. The City has required the Developer to install a water line that is not located on the Developer's property but will benefit the Developer's property and adjacent properties. The location, engineering and installation requirements will be those as set forth on Exhibit "B" and incorporated herein by this reference. Upon approval of the engineering and specifications by Developer and City, Developer will diligently proceed with the installation of the water line in accordance

with the engineering specifications, doing all work in a good and workman like manner and in accordance with City's construction and development standards. All work is subject to inspection by City. The Developer will notify City when it believes that any or all of the improvements have been fully completed as contemplated herein and, when completed, submit the improvements for inspection and acceptance by City.

a. Upon submission of the water line improvements for acceptance by City, Developer will provide to City documentation regarding the exact costs of the water line improvements. City agrees that the cost of the water line improvements will be reimbursed to Developer through collection of impact fees. However, in order to be reimbursable, the costs need to be included in City's capital facilities plan and impact fee enactment ordinance. Developer shall provide the funding of \$5,000.00 to obtain the impact fee analysis to include this project in the capital facilities plan and impact fee enactment. This cost shall be part of the overall cost to be reimbursed to Developer. When the analysis and ordinance are complete, City will determine the percent of the culinary water impact which can be reimbursed to Developer. An addendum will be added to this agreement, setting forth the costs incurred and the percent of culinary water impact fees to be reimbursed. City will pay to the Developer the percent determined of all culinary water impact fees collected by City and such reimbursements will continue until the cost of the water line is fully reimbursed. Such reimbursement will be without interest. Reimbursements shall be made by the City within 30 days after the end of each calendar quarter. Included with the reimbursement will be a summary to date of the fees collected by the City in total, less previously reimbursed amounts. Upon reasonable request, Developer may request an accounting from the City of the fees charged relating to the water line improvements.

6. Sewer System. Since the date of the original Development Agreement the design for the sewer system for Salem Park has changed and has been installed. The installation of the Sewer System is a substitution for the sewer line requirements under the September 20, 2006 Development Agreement.

Upon inspection and acceptance by City, Developer will provide to City documentation regarding the exact costs of Sewer System improvement. City agrees that the cost of the Sewer System improvement will be reimbursed to Developer through collection of sewer impact fees. The City will pay to the Developer twenty-five percent (25%) of all sewer impact fees collected by City and such reimbursements will continue until the cost of the Sewer System is fully reimbursed. Such reimbursement will be without interest. Reimbursements shall be made by City within 30 days after the end of each calendar quarter. Included with the reimbursement will be a summary to date of the fees collected by City in total, less previously reimbursed amounts. Upon reasonable request, Developer may request an accounting from City of the fees charged by City relating to the Sewer System.

7. Minimum reimbursements. The percent of impact fees to be reimbursed have been calculated by City based upon its existing obligations for impact fees, plus its estimate of projects to be completed in the foreseeable future with impact fees. The amounts set forth in this agreement, therefore, represent minimum payments due from City to Developer. In City's sole discretion, it may determine to pay greater sums in order to retire the debt earlier. In such event, payment of a higher percent does not obligate City to continue to pay such higher percent for any future payment.

8. General provisions.

a. It is understood that City's sole obligation to Developer for reimbursement of the infrastructure improvements described herein is through the collection of impact fees. Should legislation be enacted which repeals or modifies the collection of such fees and if Developer chooses to, in any way, to challenge those changes, Developer will do so at its own costs, agreeing to defend and indemnify City for any costs of defense City may be exposed to from the challenge. If a third party challenges City's right, under this Agreement, to continue to collect the fees to pay for the costs and reimbursements identified herein, Developer agrees to indemnify and defend City in any such action. Developer may obtain a release from its obligation of indemnification if it notifies City, in writing, that City need not collect impact fees pursuant to this Agreement. City agrees to act in good faith to cooperate with Developer in any reasonable adjustment or amendment of this Agreement to coincide with any new legislation, whether the adjustment or amendment includes the enforcement of this Agreement, other connectors agreements, the proposing special improvements districts, etc., with the understanding that any associated costs for these adjustments or amendments will be paid by Developer. In the event that the legislation authorizing the charging of impact fees is repealed or modified, City agrees to reimburse to Developer for the agreed portion of the infrastructure costs with other fees which fees are based and assessed on new development and growth within the agreed service areas.

b. Nothing in this Agreement shall limit the future exercise of the police power by City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement.

c. This Agreement is assignable with the consent of City and with City's approval of Developer's assignees or successors, which consent shall not be unreasonably withheld.

d. In the event that any one or more of the phrases, sentences, clauses, paragraphs or sections contained in this Agreement shall be

declared invalid by a final and unappealed order, decree, or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses, paragraphs or sections were not a part hereof.

e. This Agreement does not create any joint venture, partnership, undertaking or business arrangement between City and Developer nor does it provide any rights for a third party beneficiary or otherwise to any third party.

f. City agrees that in connection with its collection of impact fees, that it will use its best and diligent efforts to collect such fees and that it will not waive or reduce the payment of any such fees for any property owner or developer to whom such fees would normally be charged.

g. This agreement merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties. There are no other agreements, assurances, conditions or covenants, or other terms with respect to such items not contained herein.

h. This Agreement may be changed or amended only by a written instrument duly executed on behalf of each party hereto.

In witness whereof the parties have signed and executed this Agreement after resolutions duly and lawfully pass, as of the dates listed below.

Dated this \_\_\_ day of September, 2009

SALEM CITY by:

\_\_\_\_\_  
J. Lane Henderson, Mayor

Attest:

\_\_\_\_\_  
Jeffrey D. Neilson, City Recorder

SALEM CAPITAL, LLC by:

CW Management Corporation, its  
Manager by:

---

Chris McCandless, Manager

**ORDINANCE NO. \_\_\_\_\_**

**ROLL CALL**

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>STANLEY W. GREEN</b> Mayor (votes only in case of tie)		
<b>LYNN DURRANT</b> City Council member		
<b>TERRY A. FICKLIN</b> City Council member		
<b>TODD R. GORDON</b> City Council member		
<b>SIDNEY M. JORGENSEN</b> City Council member		
<b>STERLING M. REES</b> City Council member		

I MOVE this ordinance be adopted: \_\_\_\_\_  
City Council member

I SECOND the foregoing motion: \_\_\_\_\_  
City Council member

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE WALL SIGN  
REQUIREMENTS OF THE SALEM CITY MUNICIPAL CODE**

WHEREAS, Salem City has adopted signage regulations in order to enhance the aesthetics and beautify the City; and

WHEREAS, the sign ordinance includes regulations for wall signs; and

WHEREAS, the wall sign regulations permit signage on only two walls, and limit the size on the second wall; and

WHEREAS, commercial centers now being established in the City, together with street configurations, are creating a need to place wall signs on three sides of a business, and to increase the size of the second and third wall signs; and

WHEREAS, it is the intent of the Council to foster a vibrant economic base within the City while providing regulations to assure that signage does not deteriorate from the aesthetics of the community;

NOW THEREFORE, be it ordained and enacted by the Salem City Council as follows:

**I.**

Salem City Municipal Code section 6-8-040(D) "On Premises Sign Regulations" is hereby amended as follows:

**6-8-040 On Premise Sign Regulations.** The following regulations apply to on premise signs:

A.~ C. [unchanged]

D. Wall signs may occupy twenty percent of the wall area where the main entrance is located. Wall signs may be located on two additional walls, not exceeding ten percent of each subsequent wall surface.

E.~ G. [unchanged]

**II.**

This Ordinance shall become effective 20 days after passage and posting.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
STANLEY W. GREEN, Mayor

ATTEST:

\_\_\_\_\_  
JEFFERY D. NIELSON, City Recorder

**AFFIDAVIT OF POSTING**

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State of Utah, and that on the \_\_\_\_ day of \_\_\_\_\_, 2010 he posted a true and correct copy of Ordinance No. \_\_\_\_\_ as enacted by Salem City Council on the \_\_\_\_ day of \_\_\_\_\_, 2010 said posting being made at the City Offices, at the United States Post Office, and at \_\_\_\_\_ all being public places and located within the City Limits of Salem, Utah County, Utah.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

STATE OF UTAH    )  
                          : ss  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by Jeffrey D. Nielson.

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