

## REQUEST FOR COUNCIL ACTION

### SUBJECT:

Proposed amendments to Title 13, Chapter 5, Sections 13-5-5 and 13-5-6 in the 2009 City Code

### SUMMARY:

Section 13-5-5 is amended to cross reference former and current Rural Residential and Rural Estate zoning map designations for ease of research by the public. Section 13-5-6 is amended to reflect the discontinued practice of zoning conditions while preserving the validity of old zoning conditions still affecting properties. .

### FISCAL IMPACT:

N/A.

### STAFF RECOMMENDATION:

Staff recommends adoption of the proposed changes.

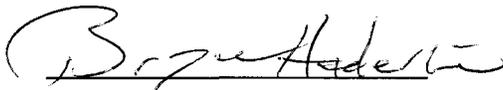
### MOTION RECOMMENDED:

"I move that the City Council adopt and approve Ordinance 15-19, amending Title 13, Chapter 5, Sections 13-5-5 and 13-5-6 in the 2009 City Code, all as provided in the Ordinance attached to the Request for Council Action."

### PUBLIC HEARING REQUIRED

Roll Call Vote  required.  not required.

Recommended By



Bryce Haderlie  
Interim City Manager

Prepared by:



Robert Thorup  
Deputy City Attorney

## DISCUSSION

In connection with an item on the June 16, 2015 Planning Commission agenda, it was discovered that no information existed in the 2009 City Code concerning properties shown on the zoning map as RR-1, RR-.5, RE-1 and RE-.5. This situation arose, in part, by the City Council's decision some time before 2000 to change the names of these zones to RR-40, RR-20, RE-40 and RE-20. Although the West Jordan Unified Development Code contemplated, in 2000, that changes would be made to zoning map to reflect the new names of these zones, no action of this type was taken. Subsequent iterations of the City Code in 2001 and 2009 apparently assumed that changes to the zoning map had been made, and all references to RR-1, RR-.5, RE-1 and RE-.5 were eliminated. Section 13-5-5, "Clarification of Zoning" in the 2009 City Code is proposed to be amended to insert a reference to these old zones and their renamed counterparts so that a search of the 2009 Code will find "RR-1", for example, in this new subpart C and the searcher will learn that the RR-1 zone was renamed the RR-40 zone.

In looking at Section 13-5-5, staff's attention was drawn to Section 13-5-6, "Zoning Conditions", because the City no longer imposes conditions on zoning changes. Changes to Section 13-5-6 are proposed that will preserve references to zoning conditions imposed in the past on certain properties while recognizing that zoning conditions are no longer permitted.

## FINDINGS OF FACT

Section 13-7D-7(B) provide findings for the amendment of the Zoning Title. Because of the affinity of the Subdivision Title to the Zoning Title, the same findings should support the amendment to the Subdivision title.

**Criteria 1: *The proposed amendment conforms to the general plan and is consistent with the adopted goals, objectives and policies described therein.***

**Discussion:** One of the goals of the General Plan is to "promote the public interest, the interest of the community at large, rather than the interests of individuals or special interest groups within the community". Another goal is to "inject long range considerations into the determination of short range actions". The proposed amendments are clearly intended to meet both of these goals by eliminating confusion over existing zoning map designations, and by eliminating confusion over the issue of zoning conditions.

**Finding:** The proposed amendments conform to the general plan and are consistent with the adopted goals, objectives and policies described therein.

**Criteria 2: *The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to these titles.***

**Discussion:** As noted earlier in this report, actual confusion and problem confronted the Planning Commission when a property zoned as RR-1 was found not to have any Code-based authority for an accessory living unit, even though its renamed zone, RR-40 has such authority. The insertion of a provision in the City

Code drawing attention to the name changes of these zones will eliminate confusion and problem in the future. Moreover, amendments to the “Zoning Conditions” section will also clarify and eliminate misunderstandings as to zoning conditions, both as to existing “ZC” properties and as to future consideration of conditions on a rezone request. Bringing the zoning provisions of the City Code into clarity and transparency is a public good to be supported as part of good government.

**Finding:** The proposed amendments are appropriate given the context and there is sufficient justification for a modification of these titles.

**Criteria 3: The proposed amendment will not create a conflict with any other section or part of this title or the general plan.**

**Discussion:** These amendments repeal problematic parts of the City Code and implement other new parts, all in a well-coordinated effort to eliminate confusion and problem.

**Finding:** The proposed amendments will not create a conflict with any other section or part of this title or of the general plan.

**Criteria 4: The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner or cause, and it is only necessary to make a modification to this title in light of corrections or changes in public policy.**

**Discussion:** These amendments are part of a City-wide effort to provide a City Code which can be effectively used and searched.

**Finding:** The proposed amendments do not relieve a particular hardship, nor do they confer any special privileges to a single property owner or cause, and the proposed amendments make necessary modifications to these titles in the light of correction and expansion of public policy.

## CONCLUSION

Staff finds that the proposed amendments meet all of the criteria for City Code amendments set forth above. They make valuable and important improvements and clarifications to the existing “Zoning” title of the 2009 City Code.

**If the moving Councilmember disagrees with the staff’s findings and conclusions as set out above, and finds substantial evidence supporting a different result, the following motion may be given:**

**Based on the findings set forth in this staff report, and upon the evidence and explanations received today, I move that the reject the proposed Title 13 text amendment as discussed in this report. Specifically, I disagree with the Staff and find that the following required criterion/criteria for a code amendment has/have not been met:**

**Criteria 1: The proposed amendment conforms to the general plan and is consistent with the adopted goals, objectives and policies described therein.**

**Criteria 2: The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to these titles.**

**Criteria 3: The proposed amendment will not create a conflict with any other section or part of this title or the general plan.**

**Criteria 4: The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner or cause, and it is only necessary to make a modification to this title in light of corrections or changes in public policy.**

**Which criterion/criteria has/have not been met? Why?**

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**Note: All applicable criteria must be met to support a positive action by the City Council.**



**Melanie S. Briggs, MMC**

**City Clerk**

8000 South Redwood Road

West Jordan, Utah 84088

(801) 569-5117

Fax (801) 563-4716

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**THE CITY OF WEST JORDAN, UTAH  
NOTICE OF PUBLIC HEARING**

The City of West Jordan City Council will hold a public hearing Wednesday, July 22, 2015, at 6:00 p.m. at West Jordan City Hall 8000 South Redwood Road, 3rd Floor, Council Chambers, to receive public comments prior to consideration and approval to amend the 2009 West Jordan Municipal Code Sections 13-5-5 'Clarification of Zoning' and 13-5-6 'Zoning Conditions,' City-wide applicability, City of West Jordan, applicant. More information at [Wjordan.com](http://Wjordan.com) or you can email questions to [info@wjordan](mailto:info@wjordan). Copies of the City Council agenda packet for the items listed below will be available at the City offices or on the City Council Agenda webpage the Friday prior to the meeting.

Published this 12<sup>th</sup> day of July 2015  
Melanie S Briggs, MMC  
City Clerk

**THE CITY OF WEST JORDAN, UTAH**  
A Municipal Corporation

**ORDINANCE NO. 15-19**  
**[ZONING CLARIFICATION]**

**AN ORDINANCE AMENDING TITLE 13, "ZONING REGULATIONS."**

WHEREAS, the City of West Jordan adopted a City Code in 2009, for the purpose of carrying into effect and discharging all powers and duties conferred by law upon the city and its officers, employees and inhabitants, and to provide for the safety, preserve the health, promote the prosperity, improve the morals, peace, good order, comfort and convenience of the city and its inhabitants, and to protect property in the city; and

WHEREAS, the West Jordan City Council finds and determines that the purpose of the 2009 City Code, and the public health and welfare, will best be reached by the adoption of the following amendments to Title 13, Chapter 5 of the 2009 City Code.

NOW THEREFORE, IT IS ORDAINED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH:

**Section 1.** Title 13, Chapter 5, Sections 5 and 6 of the 2009 City Code shall hereafter read as follows:

**13-5-5: CLARIFICATION OF ZONING:**

- A. **Ambiguous Zoning Classification:** Any property which, for any reason, is not clearly zoned on the city's official zoning map or is determined not to be subject to the requirements of a zone classification as provided by this title, is hereby declared to be in the agricultural zone A-5, and shall be subject to the requirements of the A-5 zone.
- B. **Ambiguous Use Classification:** If ambiguity arises concerning the appropriate classification of a particular land use within the meaning and intent of this title, or with respect to matters of height, yard requirements, area requirements or zone boundaries, as set forth in this title and as they may pertain to unforeseen circumstances, including technological changes and processing of materials, the planning commission shall ascertain all pertinent facts and shall make such recommendations to the city council as are appropriate.
- C. **RR-1, RR-.5, RE-1 and RE-.5 Zones:** Properties zoned on the zoning map as RR-1 are renamed RR-40. Properties zoned on the zoning map as RR-.5 are renamed RR-20. Properties zoned on the zoning map as RE-1 are renamed RE-40. Properties zoned on the zoning map as RE-.5 are renamed RE-20. (2001 Code § 89-3-105; amd. Ord. 15-\_\_\_, 07-22-2015)

### **13-5-6: ZONING CONDITIONS:**

- A. Conditions On Zoning Map Amendments: Although placing conditions on zoning map amendments is no longer permitted, to provide more specific land use designations and land development suitability, to ensure that proposed development is compatible with surrounding neighborhoods, and to provide notice to property owners of limitations and requirements for development of property, the city council has in the past attached conditions to some zoning map amendments which amended, limited or restricted some or all of the following:
1. Uses.
  2. Dwelling unit density.
  3. Building square footage.
  4. Height of structures.
  5. Buffering.
  6. Setback.
  7. Building materials and architecture.
- B. Map Notation: A zoning map amendment to which was attached any zoning condition is designated with the suffix "ZC" after the zoning classification on the zoning map and any such condition shall be on record with the city clerk/recorder.
- C. Effect Of Declaration Of Invalidity: If a court of competent jurisdiction declares any zoning condition invalid, the entire zoning map area of the amendment shall be void. Any deletion in or change to a zoning condition shall be considered an amendment to this title and shall be subject to the requirements of this chapter.
- D. Effect On Conditional Use Permits: The attachment of conditions to any zoning map amendment shall not prohibit or affect the applicability of the requirements imposed by a conditional use permit. (2001 Code § 89-3-106; amd. 2009 Code; Ord. 15-\_\_\_, 07-22-2015)
- Section 2.** Additions or amendments to the 2009 City Code when passed in such form as to indicate the intention of the city council to make the same a part of the 2009 City Code shall be deemed to be incorporated in the 2009 City Code, so that reference to the 2009 City Code hereafter includes the additions and amendments.

**Section 3.** This Ordinance shall become immediately effective.

Passed and adopted by the City Council of the City of West Jordan, Utah this \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF WEST JORDAN

By: \_\_\_\_\_  
KIM V. ROLFE  
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC  
City Clerk

**Voting by the City Council**

	<b>“AYE”</b>	<b>“NAY”</b>
<b>Council Member Jeff Haaga</b>	_____	_____
<b>Council Member Judy Hansen</b>	_____	_____
<b>Council Member Chris McConnehey</b>	_____	_____
<b>Council Member Chad Nichols</b>	_____	_____
<b>Council Member Sophie Rice</b>	_____	_____
<b>Council Member Ben Southworth</b>	_____	_____
<b>Mayor Kim V. Rolfe</b>	_____	_____

**CITY CLERK/RECORDER'S CERTIFICATE OF PUBLICATION**

I, Melanie S. Briggs, certify that I am the City Clerk/Recorder of the City of West Jordan, Utah, and that the foregoing ordinance was published in the Legal Section, of the Salt Lake Tribune, on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, pursuant to Utah Code Annotated, 10-3-711.

MELANIE S. BRIGGS, MMC  
City Clerk/Recorder  
[SEAL]

# Legislative

## 13-5-5: CLARIFICATION OF ZONING:

- A. Ambiguous Zoning Classification: Any property which, for any reason, is not clearly zoned on the city's official zoning map or is determined not to be subject to the requirements of a zone classification as provided by this title, is hereby declared to be in the agricultural zone A-5, and shall be subject to the requirements of the A-5 zone.
- B. Ambiguous Use Classification: If ambiguity arises concerning the appropriate classification of a particular land use within the meaning and intent of this title, or with respect to matters of height, yard requirements, area requirements or zone boundaries, as set forth in this title and as they may pertain to unforeseen circumstances, including technological changes and processing of materials, the planning commission shall ascertain all pertinent facts and shall make such recommendations to the city council as are appropriate.
- ~~C. RR-1, RR-.5, RE-1 and RE-.5 Zones: Properties zoned on the zoning map as RR-1 are renamed RR-40. Properties zoned on the zoning map as RR-.5 are renamed RR-20. Properties zoned on the zoning map as RE-1 are renamed RE-40. Properties zoned on the zoning map as RE-.5 are renamed RE-20. (2001 Code § 89-3-105; amd. Ord. 15-\_\_\_\_, 07-22-2015)~~

## 13-5-6: ZONING CONDITIONS:

- A. Conditions On Zoning Map Amendments: ~~Although placing conditions on zoning map amendments is no longer permitted, to~~ ~~Te~~ provide more specific land use designations and land development suitability, to ensure that proposed development is compatible with surrounding neighborhoods, and to provide notice to property owners of limitations and requirements for development of property, the city council ~~may~~ ~~has in the past attached~~ conditions to ~~any some~~ zoning map amendments which amended, limited or restricted ~~some or all of~~ the following:
1. Uses.
  2. Dwelling unit density.
  3. Building square footage.
  4. Height of structures.
  5. Buffering.
  6. Setback.
  7. Building materials and architecture.
- ~~B. Effect: The imposition of specific zoning conditions pursuant to this section shall not be deemed to allow the granting of permission to comply with land use limitations or requirements which are less restrictive than those of the underlying zone.~~
- ~~C. B.~~ Map Notation: A zoning map amendment ~~attaching to which was attached~~ any zoning condition ~~shall be~~ ~~is~~ designated with the suffix "ZC" after the zoning classification on the zoning map and any such condition shall be on record with the city clerk/recorder.

D C. Effect Of Declaration Of Invalidity: If a court of competent jurisdiction declares any zoning condition invalid, the entire zoning map area of the amendment shall be void. Any deletion in or change to a zoning condition shall be considered an amendment to this title and shall be subject to the requirements of this chapter.

E D. Effect On Conditional Use Permits: The attachment of conditions to any zoning map amendment shall not prohibit or affect the applicability of the requirements of imposed by a conditional uses permit. (2001 Code § 89-3-106; amd. 2009 Code, Ord. 15-\_\_\_, 07-22-2015)