



## Ogden City

### City Council Work Session Notice

December 1, 2015

City Council Work Room

Municipal Building – Third Floor

2549 Washington Boulevard, Ogden, Utah 84401

Notice is hereby given that the Ogden City Council will meet in a work session on Tuesday, December 1, 2015, in the Council Work Room on the third floor of the Municipal Building located at 2549 Washington Boulevard in Ogden City, Weber County, Utah.

The work session will be held immediately following the City Council meeting which begins at 6:00 p.m.

The purpose of the work session includes presentations and discussions regarding:

- Linear Blocks/Private Clubs Amendments,
- Accessory Dwelling Units,
- RAMP Tax Grant Proposal Projects,
- Open and Public Meetings and Conflict of Interest Training; and
- Council Business.

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In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the Management Services Department at 629-8701 (TDD # 629-8949) or by email: [ADACompliance@ci.ogden.ut.us](mailto:ADACompliance@ci.ogden.ut.us) at least 48 hours in advance of the meeting.

### CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and/or agenda was posted in three public places within the Ogden City Limits on this 25th day of November, 2015. These public places being: 1) City Recorder's Office on the 2nd floor of the Municipal Building; 2) 2nd floor foyer of the Municipal Building; and 3) the Weber County Library. A copy was posted to the Utah State Public Notice Website and the Ogden City Website, as well as provided to the Standard-Examiner.

TRACY HANSEN, MMC  
OGDEN CITY RECORDER

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Ogden City Council Agenda Information Line – 801-629-8159



# City Council Work Session

## COUNCIL STAFF REVIEW

### PROPOSED AMENDMENT TO CHANGE THE LIMITATION ON THE NUMBER OF TAVERNS OR PRIVATE CLUBS ON A LINEAR BLOCK

### PROPOSED AMENDMENT REDEFINING PRIVATE CLUBS

#### PURPOSE OF

**WORK SESSION:** Review the proposed amendments

#### PLANNING COMMISSION

**RECOMMENDATION:** Denial of the petition to amend the 2 per block restriction (4-2)

Approval of the proposed amendment to redefine private clubs (6-0)

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#### ***Executive Summary***

The proposed amendments include a petitioner-initiated amendment to change the number of taverns and private clubs permitted per linear block and a city-initiated change to the definition of private clubs. The amendment to the linear block restriction would change the definition of a linear block to include only one side of a street rather than both sides. This would allow up to four taverns or private clubs per block (two per side) instead of the current restriction of two overall. The amendment to the definition of private clubs is being proposed to align the City's code with state code classifications of certain clubs serving alcohol. The Planning Commission recommended denial of the amendment to the linear block definition but recommended approval of the amendment to the private club definition.

#### ***Background***

The petitioner, Thaine Fischer, has submitted a petition to amend the City's definition of a linear block for the purposes of restricting the number of taverns and private clubs allowed per linear block. Currently, the City's code defines a linear block as including both sides of a street with addresses ranging between increments of 100, e.g. 100-199, 200-299, etc. The code limits the number of taverns and private clubs to two per linear block. The proposed amendment would eliminate the inclusion of both sides of the street in the definition and would therefore allow four taverns or private clubs per linear block with two per side. The ordinance restriction of two per block would remain in place. The difference would be how that block is defined.



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In addition to the proposed linear block definition proposed by Mr. Fischer, the City is proposing an amendment to the term “private clubs.” Recent state law changes have eliminated the term in the state code and have replaced it with several other classifications of clubs that serve alcohol. As a way to keep the City’s ordinance in line with state code, the Administration is proposing to eliminate the private club definition and replace it with a definition for “drinking establishments.” The definition of drinking establishments would then cover each of the four types of clubs listed in state code which serve alcohol and have alcohol sales exceed thirty percent (30%) of total sales. The state code now includes standards for equity clubs, fraternal clubs, dining clubs, and social clubs in its licensing and food/alcohol sales totals. The term “tavern” remains in the City code and applies to establishments serving beer only with no food service or other mixed drinks or spirits.

### *Linear Block Definition*

Mr. Fischer has submitted the petition to amend the definition of a linear block in order to open an establishment serving alcohol that would fall under the current private club definition or the proposed drinking establishment definition. The proposed location is on 25<sup>th</sup> Street between Grant and Lincoln Avenues. Since the number of drinking establishments on that block has been reached, an amendment would need to be made to the ordinance to open an additional drinking establishment. Mr. Fischer has provided input on why he feels the proposal is in the best interest of the City. The reasons included with the petition are as follows:

*By allowing additional and diverse business establishments to enter the market place, it increases economic development, opportunity for the redevelopment of historic structures and allows the community more choices.*

*It fits with Ogden City’s written vision for a “Nightlife District.” This enhances Ogden’s market position in tourism, convention and outdoor recreation. It also increases tourism dollars spent in our community; sales and transient room tax proceeds, which benefit Ogden City and retail business in our downtown core.*

*Also, it aligns our City ordinances with other Utah cities (Salt Lake City, Park City). This allows us to increase our marketability when competing for events, conventions and other economic development opportunities.*



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As Planning Staff reviewed the petition they determined that an amendment to allow four drinking establishments per block was not in the best interest of the City. The concerns included the potential negative impact of an increased number of drinking establishments within a close proximity. Planning Staff consulted the State Office of Tourism as well as the CVB to get additional information on the potential impacts to tourism. The Planning Commission report indicates that these organizations felt that tourism is not impacted by the proximity and concentration of drinking establishments, but rather the liquor restrictions themselves and confusion regarding what can be ordered when and where.

Planning Staff was concerned with increasing the concentration of drinking establishments due to the behavior of some of the patrons of these establishments. An increase in the concentration of drinking establishments can often increase the need for police activity at or around those locations. This behavior can create areas where people feel less safe. This, of course, can lead to a decline in the positive perception of an area and a decrease in the wider variety of establishments located in that area.

In an effort to identify problems related to drinking establishments on 25<sup>th</sup> Street in particular, Planning Staff worked with the Police Department to identify and map calls for service in relation to the existing drinking establishments on 25<sup>th</sup> Street. The information, attached to the report, includes a heat map of calls for service on 25<sup>th</sup> Street and a call log for certain types of calls for service. The data seem to indicate a strong correlation between drinking establishments and calls for service indicating that an increase in the number of drinking establishments would result in an increase in the number of calls for service and an increase in the overall need for police presence and resources.

Mr. Fischer petitioned the City to make the same amendment in 2009. The petition in 2009 was denied on similar grounds as the Planning Commission's recommendation for denial of the current petition. As noted in the Planning Staff report and with the Commission's recommendation, there are 11 other locations available in the downtown area where a drinking establishment could be placed that would meet the current linear block restriction.



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## COUNCIL STAFF REVIEW

### *Drinking Establishment Definition*

Over the past few years, the definitions and licensing requirements for private clubs in Utah have changed. These changes have resulted in updated definitions for several types of clubs as well as the standards under which each of them operate, including ratios for alcohol and food sales. The state code no longer has a definition for private clubs, but rather the code defines several different types of clubs in the code. The Utah Department of Alcohol Beverage Control (DABC) has provided definitions and licensing standards for establishments for which alcohol sales exceed 30% of the total annual receipts. Establishments for which food sales exceed 70% of the total receipts are not classified as clubs but rather as restaurants and therefore do not count against the City's linear block restriction. The state code and the DABC licensing regulations cover equity clubs, fraternal clubs, dining clubs, and social clubs.

The Ogden City code has two primary definitions for establishments that serve alcohol. Private clubs and taverns are the defined uses in the code that allow for the service of alcohol and beer in receipt totals that place them outside the category of a restaurant. Because the recent state code changes use different terminology, Planning Staff felt it was important to amend the City's code to create definitions that better match the state code and DABC standards. The proposal is to remove the term "private club" and replace it with the term "drinking establishment." The new term would cover all of the different clubs listed in the state code and DABC regulations. Planning Staff has provided additional information on the standards of operation for each of the different club types.

Initially, the Planning Commission recommended approval of the new term "social clubs" for the old "private clubs" term; however, because social clubs exist in other forms in the City code, the term "drinking establishment" was substituted.

**Current Proposal** The current proposal is to deny the petition to amend the definition of a linear block to allow up to four drinking establishments (private clubs under the current ordinance) per linear block and to approve the change in the definition from private clubs to drinking establishments.

### **Planning Commission**

The proposal was reviewed by the Planning Commission at the August 5, 2015 meeting. The Commission provided a recommendation of *denial* to the Council of the proposed amendments of City ordinances 5-3A-1, 5-



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3C-8, 15-23-5.J, 15-34-2.A, and 15-38-5.P to allow four taverns or private clubs per linear block. The motion was made with a 4-2 vote and was based on the finding that the amendments are not consistent with the intent of the zoning ordinance and policies outlined in the general plan.

The Planning Commission also reviewed the proposed private club definition amendments at the meeting of August 5, 2015 and recommended approval with a 6-0 vote. This recommendation was made with the finding that the amendment is consistent with the intent of the zoning ordinance and policies outlined in the general plan. As a note, the recommendation made by the Commission at the August 5<sup>th</sup> meeting was to change the definition of a “private club” to a “social club.” Planning Staff met with the Planning Commission on September 16, 2015 to review the decision to change the new definition from “social club” to “drinking establishment” as a way to reduce confusion within City code regarding allowable social clubs as they relate to the state code.

**Public Comment** No public comment was received at the meeting.

### **Attachments**

1. Transmittal
2. Ordinance
3. Planning Commission Report
4. Petition 2015-9
  - a. Attachment A – Petitioner request and proposed findings
5. Supplemental Information
  - a. Dining and drinking establishment descriptions
  - b. Ogden Police Calls for Service Report
  - c. Utah Department of Alcohol Beverage Control Club Liquor License Summary

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<b>Memos Prepared By:</b>	<b>Administrative Contact:</b>	<b>Greg Montgomery, 629-8931</b>
	<b>Council Staff</b>	<b>Glenn Symes, 629-8164</b>

RECEIVED

OCT 27 2015

OGDEN CITY  
COUNCIL OFFICE

**OGDEN CITY COUNCIL TRANSMITTAL**

**DATE:** September 23, 2015

**TO:** Ogden City Council

**THRU:** Mark Johnson, CAO

**FROM:** Tom Christopoulos, CED Director

**RE:** Petition #2015-9 to amend Ordinances 5-3A-1, 5-3C-8, 15-23-5.J, 15-34-2.A, 15-38-5.P to allow four taverns or social clubs per linear block and to redefine "private clubs" to be consistent with changes in State Codes.

**STAFF CONTACT:** Greg Montgomery, Planning Manager

**REQUESTED TIMELINE:** October 20, 2015

**RECOMMENDATION:** *Denial* of the petition to amend the ordinance to redefine "linear block" to allow four (4) taverns or social clubs per linear block.

*Approval* to amend applicable ordinances to redefine "private clubs" to "social clubs" to follow changes in State codes.

**DOCUMENTS:** Ordinance, August 5, 2015 Staff Report

**DISCUSSION:**

The petitioner, Mr. Thaine Fischer indicated that he owns two buildings on 25<sup>th</sup> Street and that there are already two taverns on the linear block that prevent him from adding any additional taverns. The petitioner explained that he has received requests to develop a martini bar in the basement of one of his restaurants and has had to turn away two potential tenants due to the regulation that allows only two taverns per linear block. The petitioner also explained that there is a new trend for restaurants to pair wine with their food and the sale value of the wine typically exceeds the sale value of the food, which could classify them as a tavern and put the business in violation with the city regulations. The petition also explained that both Park City and Salt Lake City have revised their regulations to remove the linear block restrictions to embrace the nightlife concept and that Ogden City would benefit by doing the same. The petitioner indicated that his request is to allow two taverns per side of a block.

Staff explained to the Commission that there are two items being reviewed with this petition. The first item is the petition to redefine "linear block" to allow 4 taverns instead of 2 taverns per linear block. The second item is a recommendation of staff to eliminate the reference of "private clubs" and create a new definition to be consistent with changes in the State codes.

Staff explained that the regulation for limiting the number of taverns per linear block was established due to a high concentration of taverns that were on 25<sup>th</sup> Street, which at one point there was only taverns and vacant buildings on the street. Staff noted that this same petition was reviewed in 2009 and it was determined that there were still plenty of other places in the downtown for taverns to be located and that concentrating them on 25<sup>th</sup> Street could impact the

image of the downtown and also amplify issues created by overdrinking, which is a concern by the City Police Department. Staff noted that while the General Plan supports increasing tourism and nightlife in the downtown, there have also been efforts to increase the residential population in the downtown to support this night life. Staff explained that there is concern that the quality of the residential life may be affected if there is an increased concentration of taverns in the downtown.

Staff discussed the changes in the State codes, which have eliminated “private clubs” and have created four classifications of “clubs.” Staff noted that it has always been the intent of the city ordinance that taverns and private clubs are establishments that revenue sales of alcohol exceed the revenue sales of food. To stay in line with the intent of the ordinance staff recommended to the commission that the ordinance be amended to redefine “private clubs” (since it is no longer a title of drinking establishment) to “social clubs,” which is a term presently used by the State.

Some of the Commissioners expressed concern that the recommendation for denial to increase tavern density may be based on perceptions and not studies or surveys that show whether or not there is actually a basis for concerns to safety or impacts to economic growth. Other Commissioners questioned if there would actually be any benefit to increasing the density of taverns and noted that there are still several areas in the downtown that a tavern or social club could locate.

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**PLANNING COMMISSION ACTION:**

The Planning Commission reviewed this petition (#2015-9) on August 5, 2015 and recommended the following *denial* of the proposed amendment of Ordinances 5-3A-1, 5-3C-8, 15-23-5.J, 15-34-2.A, 15-38-5.P to allow four taverns or social clubs per linear block, finding that the amendment is not consistent with the intent of the zoning ordinance and policies outlined in the general plan.

<b>PLANNING COMMISSIONERS VOTE:</b>	<u>Yes</u>	<u>No</u>
Blaisdell.....	X	
Herman.....		X
Orton.....	X	
Schade.....	X	
Southwick.....		X
Wright.....	X	

Commissioner Southwick explained his vote, stating that he felt the amendment is consistent with the General Plan and would increase the economic viability of the downtown, and that there is a demand for the change and Ogden City should catch-up with other cities by approving this change.

Commissioner Herman stated some changes may be in order, but felt more study should be accomplished regarding both the city’s regulations and the interpretation of the ordinance, as well as State laws relative to alcohol sales.

The Planning Commission also made a recommendation of *approval* of the proposed amendment Ordinances 5-3A-1, 5-3C-8, 15-23-5.J, 15-34-2.A, 15-38-5.P to redefine “private clubs” to “social clubs” to follow changes in State codes, finding that the amendment is consistent with the intent of the zoning ordinance and policies outlined in the general plan.

<b>PLANNING COMMISSIONERS VOTE:</b>	<u>Yes</u>	<u>No</u>
Blaisdell.....	X	
Herman.....	X	
Orton.....	X	
Schade.....	X	
Southwick.....	X	
Wright.....	X	

It should be noted that staff met with the Planning Commission in a work session on September 16, 2015 to discuss the change from “private clubs” to “social clubs.” The reason for the work session was it was determined that using the State’s term of “social club” may cause confusion with city regulations, especially where the State has four different types of clubs in the State Code. From this work session it was determined that the term “drinking establishment” would be more appropriate and less confusing. Staff explained to the Commission it was the intent that an establishment which sold more food than alcohol would still be a restaurant, but using State wording may give the idea that the food requirement may increase to 60% or none at all depending on which “club” definition from the State is used. The attached ordinance reflects this change in the term, but the intent and meaning of the ordinance has remained intact (i.e. only the term has been changed).

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

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY AMENDING SECTIONS 12-18-2, 15-2-4, 15-2-5, AND 15-2-13 TO REVISE ALCOHOL-RELATED DEFINITIONS FOR DRINKING ESTABLISHMENTS; AMENDING SECTION 15-2-17 TO REMOVE THE DEFINITION OF PRIVATE CLUB; AMENDING SECTION 15-2-21 TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTIONS 15-21-2, 15-33-2, 15-34-2, 15-38.5, 15-41-7 AND SUBSECTIONS 15-13-13.F, 15-23.5J, AND 15-33-5.I TO AMEND USES AS RELATED TO TAVERNS AND DRINKING ESTABLISHMENTS; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

SECTION 1. Section amended. Section 12-18-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**12-18-2: [DEFINITIONS:]**

As used in this chapter, the following terms shall have the indicated meaning:

AMBIENT AIR: That portion of the atmosphere, external to buildings, to which the general public has access.

ANIMAL AND MARINE MATTER: Any product or derivative of animal life.

BEST AVAILABLE CONTROL TECHNOLOGY ("BACT"): The utilization of those technologies, processes, procedures, or operating methods or alterations by an industry or other source which results in the elimination or the maximum achievable reduction of odor pollution from an odor emission point source.

CODE ENFORCEMENT OFFICER: The duly appointed building official of the city, or the building official's duly authorized representative.

FOOD SERVICE ESTABLISHMENT: Any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, [private] club, drinking establishment, roadside stand, private, public, nonprofit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food is prepared, served and sold for human consumption on or off the premises; and any other eating or drinking establishment or operation where food is served or provided for public consumption, with or without charge.

ODOR: That property of an emission which stimulates the sense of smell.

PROCESS: Any action, operation, or treatment and the equipment used in connection therewith, and all methods or forms of manufacturing or processing that may emit smoke, particulate matter or gaseous matter.

RENDERING: Any heating process, including cooking, drying, dehydrating, digesting, evaporating and protein and/or oil concentrating of animal or marine matter.

**SECTION 2.** Section amended. Section 15-2-4 of the Ogden Municipal Code is hereby

amended to read and provide as follows:

**15-2-4: ["C" DEFINITIONS:]**

**CABARET:** A restaurant with beer license, restaurant with liquor consumption license, tavern, [~~private club~~] drinking establishment, or other business licensed for the on premises consumption of alcoholic beverages, which business is licensed to permit its patrons to dance or to entertain its patrons with live performers who sing, dance or play musical instruments. Cabarets do not include sexually oriented businesses.

**CAR WASH, LAUNDRY TYPE:** A structure or portion thereof containing facilities for washing passenger automobiles, using production line methods such as, but not limited to, chain conveyor, movable or revolving cleaning brushes, blower, steam cleaning, or similar mechanical devices.

**CAR WASH, MANUAL SPRAY:** A structure or portion thereof containing facilities for washing passenger automobiles, limited to using only hand operated manual spray cleaning equipment and techniques.

**CELLAR:** A story having more than one-half ( $1/2$ ) its height below the average level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement.

**CHECK CASHER:** A person engaged in the business of cashing checks.

- A. A check is a draft, other than a documentary draft, payable on demand and drawn on a bank; a cashier's check or teller's check; or a demand draft. An instrument may be a check even though it is described on its face by another term, such as "money order".
- B. A check casher does not include: a depository institution; a depository institution holding company; an institution directly owned or controlled by one or more depository institutions or depository institution holding companies; or a person that cashes checks in a transaction that is incidental to the retail sale of goods or services and for consideration that does not exceed the greater of one percent (1%) of the amount of the cashed check or one dollar (\$1.00).

**CLUSTER SUBDIVISION:** A subdivision of land in which the areas and widths of residential lots are reduced below the minimum lot areas and lot width requirements of the zone in which the subdivision is located and where equivalent common open space areas are provided to compensate for such lot reduction.

**COIN:** A piece of currency, usually metallic and usually in the shape of a disc that is:

- A. Stamped metal, and issued by a government as monetary currency; or
- B. Is worth more than its current value as currency and is also worth more than its metal content value.

**COMMERCIAL GRADE PRECIOUS METALS:** Ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

- A. .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or
- B. .925 fine sterling silver ingots, art bars, and medallions.

**COMMUNITY CORRECTIONAL FACILITY:** A facility licensed by or contracted by the state of Utah to provide temporary occupancy for previously incarcerated persons which assists such persons in making a transition from a correctional institution environment to independent living. Such facility may also provide ancillary, temporary occupancy for individuals placed as part of, or in lieu of, confinement rehabilitation, or treatment in a correctional institution.

**CONDOMINIUM PROJECT:** A real estate condominium project where ownership of a single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property, is transferred; a plan or project whereby four (4) or more apartments, rooms, office spaces, or other existing and proposed apartments, or commercial or industrial buildings or structures are separately offered or proposed to be offered for sale and meeting all requirements of Utah Code Annotated title 57, chapter 8, condominium ownership act. Structures shall conform with all area, yard, frontage and height regulations of the zone district in which they are located.

**CONTACT PERSON:** The individual designated in an application or petition, filed pursuant to the provisions of this title, to receive notices, copies of staff reports, and notices of final actions on a pending application.

**CONVENIENCE STORE:** A place of retail business primarily engaged in the sale of food or drink for consumption either on or off premises and the retail sales of motor fuel from pumps on the site.

**CORRAL:** A space, other than a building, less than one acre in area, or less than one hundred feet (100') in width, used for the confinement of animals so they can be easily captured.

**CORRECTIONAL INSTITUTION:** A prison, jail, juvenile detention facility or juvenile secure facility.

**COUNTRY CLUB:** A chartered, nonprofit membership club with or without dining facilities and cocktail lounge, catering primarily to its membership, providing one or more of the following recreational and social amenities: golf, horseback riding, tennis, swimming, any of which shall be located on a site of not less than two (2) acres and open only to members and their duly authorized guests.

**COURT:** An unoccupied open space, other than a yard, on the same lot with a building or buildings, which is bounded on two (2) or more sides by the walls of such buildings.

**COVERAGE, LOT:** The percent of lot area covered by the main and accessory buildings.

**SECTION 3.** Section amended. Section 15-2-5 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-2-5: ["D" DEFINITIONS:]**

**DAIRY:** A commercial establishment for the manufacture, processing or sale of dairy products.

**DAYCARE CENTER:** Any building or structure other than an occupied residence furnishing care, supervision, and guidance for three (3) or more children unaccompanied by parent or guardian for periods of less than twenty four (24) hours per day; or, an occupied residence which furnishes care, supervision and guidance for six (6) or more children unaccompanied by parent or guardian for periods of less than twenty four (24) hours per day. Occupied residence shall refer to being used as a residence by a family. The term "daycare center" is inclusive of kindergartens, nursery schools, and all other similar facilities, except preschools as defined by this chapter, specializing in the education and/or care of children prior to their entrance into the first grade, other than facilities owned and/or operated by the public school system.

**DEFERRED DEPOSIT LENDER:** A person engaged in the business of making loans or transactions where:

- A. A person presents to the deferred deposit lender one or more checks written on that person's account, or provides written or electronic authorization to the deferred deposit lender to effect one or more debits from the person's account using an electronic payment; and
- B. The deferred deposit lender provides the person an amount of money that is equal to the face value of the check(s) or the amount of the debit(s) less any fee or interest charged for the transaction; and agrees not to cash the check(s) or process the debit(s) until a specific date.

**DEPARTMENT:** The department of community and economic development.

**DIRECTOR:** The director of the department of community and economic development, or the director's designee.

**DISABILITY:** A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in section 102 of the controlled substances act, 21 USC 802, or successor law. As used in this definition:

**Has A Record Of Such An Impairment:** Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

**Is Regarded As Having An Impairment:** A. Has a physical or mental impairment that does not

substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

- B. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- C. Has none of the impairments defined herein under definition of "physical or mental impairment", but is treated by another person as having such an impairment.

Major Life Activities: Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Physical Or Mental Impairment: Includes:

- A. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- B. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- C. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

DOMESTIC STAFF: Persons employed or residing on the premises of a dwelling unit or other residential facility to perform domestic services or to assist residents in performing major life activities.

DRINKING ESTABLISHMENT: A restaurant or other establishment that serves food and drink to the general public, or to its members and their guests, for on-premises consumption and whose annual revenue from the sale of alcoholic beverages and mix for drinks equals or exceeds the revenue from the sale of food. A drinking establishment shall also be licensed and hold a class D beer license, if applicable, under title 5, chapter 3, article C of this code. A drinking establishment shall not include entertainment for its patrons, unless the premises are zoned for and licensed as a cabaret or adult live entertainment business.

DRY CLEANER: An establishment which has as its sole purpose the cleansing of fabrics with substantially nonaqueous organic solvents. Laundry establishments with individual dry cleaning machines shall not be classified as a dry cleaner.

DWELLING: Any building or portion thereof containing one or more dwelling units occupied as, or designed or intended for occupancy as, a residence by one or more families.

DWELLING, BACHELOR OR BACHELORETTE: A building arranged or designed to include three (3) or more dwelling units, each dwelling unit to be occupied by not less than five (5) but not more than ten (10) unrelated individuals.

DWELLING, GROUP: Two (2) or more dwellings located in more than one building placed upon a single lot. A group dwelling development may be subdivided into more than one lot, if approved under the provisions of chapter 10 of this title and title 14, chapter 5 of this code.

DWELLING, MULTIPLE-FAMILY: A building arranged or designed to include three (3) or more dwelling units, each to be occupied by one family.

DWELLING, SINGLE-FAMILY: A building arranged or designed to include only one dwelling unit or a building arranged or designed to include a dwelling unit and an accessory dwelling unit that is permitted according to the regulations of this title.

DWELLING, SINGLE-FAMILY ROW HOUSE: A building built directly against an adjoining building without an open space between, and containing a one-family dwelling unit extending from basement to roof. Each single-family attached dwelling unit shall have a front and rear entrance. Each group of single-family attached dwellings shall be considered one structure, for purposes of front, rear and side yard requirements.

DWELLING, TWO-FAMILY/DUPLEX: A building arranged or designed to include two (2) dwelling units, each to be occupied by one family.

DWELLING UNIT: Any building or portion thereof designed, occupied, or intended as a residence for a family with complete, and independent facilities for living, sleeping, eating, cooking and sanitation.

**SECTION 4.** Section amended. Section 15-2-13 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-2-13: ["L" DEFINITIONS:]**

LAND USE ORDINANCE: Any planning, zoning, development or subdivision ordinance of the city, including, but not limited to, the provisions of title 14 of this code, commonly referred to as the subdivision ordinance of Ogden City, and this title, commonly referred to as the zoning ordinances of Ogden City, Utah. It is not intended to refer to the Ogden City general plan.

LAND USE PERMIT: A permit, approval or authorization under the provisions of this title for the erection, construction, reconstruction or alteration of any building or structure, or the use of any building, structure or land.

LANDSCAPE OR LANDSCAPING: The installation of living plant material (i.e., turf grasses or turf type fescues, ground cover, annual and perennial flowering plants, vines, shrubs, and trees) planted directly on the property and kept free from all hard surfaces. The following may also be defined as landscaping when they are combined with installed living plant material:

A. Water features (i.e., pools, fountains, falls and streams) and sculptures;

- B. Paving materials (i.e., bricks, pavers, flagstones, textured concrete) used to create a useful open space, add color or texture to the design, and create visual interest provided that such materials in the front yard setback are used only as trim or edging and not used as patios, sports surfaces, or areas where vehicles can be parked;
- C. Existing natural vegetation of shrubs (e.g., Wood's rose, willows, currant, sagebrush) or trees (e.g., box elder, Gambel oak, maple, birch); or
- D. Landscaping rocks, gravel, mulches, artificial turf or wood chips may be used solely or as ground covers under other plant materials, provided such materials used solely as ground cover without plants above do not cover more than ten percent (10%) of the ground area required to be landscaped. If more than ten percent (10%) is desired, approval must be given by the planning staff based on the criteria in section 15-13-16 of this title.

**LAUNDROMAT OR LAUNDERETTE:** A self-service laundry establishment where clothes are cleansed in a coin operated machine. Laundromats or laundrettes may include individual dry cleaning machines.

**LINEAR BLOCK:** Both sides of that portion of any street that has street numbers ranging between any two (2) consecutive multiples of 100, such as 100 and 200, or between 2200 and 2300, etc. A corner tavern or ~~[private-club]~~ drinking establishment shall be included in the particular linear block indicated by the street address of such establishment.

**LODGE:** A building used by a local chapter of a national fraternal beneficiary society or domestic fraternal society for meetings and activities associated with the organization and its programs.

**LOT:** A parcel of land occupied or to be occupied by a main building or group of buildings (main or accessory), together with such yards, open spaces, lot width and lot areas as are required by this title and having frontage upon a street; provided, that frontage upon a street shall not be required for lots in PRUD subdivisions as permitted in the subdivision title. Except for group dwellings and a guesthouse, not more than one dwelling structure shall occupy one lot.

**LOT, CORNER:** A lot abutting on two (2) intersecting streets where the interior angle of intersection or interception does not exceed one hundred thirty five degrees (135°).

**LOT, INTERIOR:** A lot other than a corner lot.

**SECTION 5:** Section amended. Section 15-2-17 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-2-17: ["P" DEFINITIONS:]**

**PARKING LOT:** An open area, other than a street, used for parking of more than four (4) automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

**PARKING SPACE:** Space within a building, lot, or parking lot for parking or storage of one automobile.

**PAYING GUEST:** Any person hiring a room in a dwelling unit for living, eating or sleeping purposes.

**PERSONAL SERVICE BUSINESS:** A business specializing in grooming or hygiene service, limited to hairdressers, barbers, manicurists. Also to include dry cleaning pick up station, tailoring and alteration of garments.

**PIGEON LOFT:** Any structure in which pigeons are housed and which complies with the provisions of this title, as well as the Weber-Morgan district health department's rules and regulations governing the keeping of homing pigeons.

**PIGEON, RACING:** Only such pigeons which are maintained and housed by the owner thereof in a pigeon loft, and which may be identified by means of a leg band, including "homing pigeons", "Antwerp messengers" and "carrier pigeons". These pigeons are not to be identified or classified as fowl when raised and used in the sport and hobby of racing carrier pigeons.

**PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD):** A residential development planned as a whole, single complex, incorporating a definite development theme which includes the elements of usable open spaces, diversity of lot design or residential use, amenities, a well planned circulation system, and attractive entrances as part of the design.

**PLANNING COMMISSION:** The planning commission of Ogden City, Utah, as established in title 3, chapter 3 of this code.

**PRECIOUS METAL PURCHASING:** A business that purchases precious metals in any form from the general public, whether or not the metal is part of a finished product or in pure form; except that a precious metal purchaser may not purchase coins or commercial grade precious metals. For the purpose of this title, a business whose principal business includes the sale of the same types of forms of precious metal items that it buys is not considered precious metal purchasing.

**PRECIOUS METALS:** Refined metals with high economic value which can be used in the makeup of items such as commercial grade precious metals, coins, jewelry or other items and which also have investment value. For the purposes of this title precious metals are limited to gold, silver, palladium and the platinum group of metals.

**PRESCHOOL:** Home occupation furnishing teaching for no more than eight (8) children between the ages of three (3) and six (6), where teaching of these children is carried out in a structured format for not more than four (4) hours per session during normal daytime working hours and not on weekends. No child in a preschool shall be taught more than one session per day.

**PRISON:** A place of incarceration owned and operated by the state of Utah.

~~[PRIVATE CLUB: A private nonprofit corporation or association operating as a social club, recreational, fraternal or athletic association or kindred association organized pursuant to the provisions of the alcoholic beverage control act, Utah Code Annotated title 32A, chapter 5, which:~~

- ~~A. Is organized for the main purpose of on-premises consumption of liquor by the membership;~~
- ~~B. Maintains a board or committee authorized to control and conduct the business and social affairs of the association; and~~
- ~~C. Is frequented only by members who are regular dues-paying persons with full club privileges and their duly authorized guests.~~

~~A private club shall also be licensed as a private club and hold a class D beer license, if applicable, under title 5, chapter 3, article C of this code. A private club shall not include entertainment for its patrons, unless the premises are zoned for and licensed as a cabaret or adult live entertainment business.]~~

**PRIVATE JAIL:** A place of incarceration established or operated under a contract with the county.

**PRIVATE PRISON:** A correctional facility established or operated under a contract with the state of Utah under the provisions of the private correctional facilities act, title 64, chapter 13D, Utah Code Annotated, as amended.

**PROFESSIONAL, BUSINESS OR CIVIC ASSOCIATION HALL:** A place intended for conducting the business of a recognized professional, business or civic association. Such activities include planning, training, recordkeeping, social assembly, exercise and relaxation and general meetings. This use specifically does not include the issuance of beer, liquor, tavern, club, cabaret or restaurant licenses.

**PROTECTIVE HOUSING FACILITY:** A facility either:

- A. Operated, licensed or contracted by a governmental entity, or
- B. Operated by a charitable, nonprofit organization, where, for no compensation, temporary, protective housing is provided to:
  1. Abused or neglected children awaiting placement in foster care;
  2. Pregnant or parenting teens;
  3. Victims of sexual abuse; or
  4. Victims of domestic abuse.

**SECTION 6.** Section amended. Subsection 15-2-21 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-2-21: ["T" DEFINITIONS:]**

**TAVERN:** Any business establishment engaged primarily in the retail sale or distribution of beer

to public patrons for consumption on the establishment's premises, in accordance with [~~Utah Code Annotated title 32A, chapter 10, of~~] the alcoholic beverage control act of the state of Utah, and holding a class C beer license under title 5, chapter 3, article C of this code. The term "tavern" is inclusive of beer bars, beer parlors, lounges, cabarets, and nightclubs where the main purpose is the sale of beer and mix for drinks to public patrons and the revenue from the sale of beer and mix for drinks exceeds the revenue from the sale of food; provided, that a tavern shall not include entertainment for its patrons or customers unless zoned for and licensed as a cabaret or adult live entertainment business.

**TELEVISION SATELLITE ANTENNA (OR DISH ANTENNA):** A combination of an antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites; a low noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and coaxial cable whose purpose is to carry the signals into the interior of the building.

**TEMPORARY AUTOMOTIVE SUMMER SALES IN COMMERCIAL PARKING LOTS:** The occasional sale of automobiles, trucks or RVs on a shopping center or large store parking lot in the C-2 or C-3 zones, so long as:

- A. The sale takes place from March 1 to and including September 30;
- B. The space used must not exceed twenty five percent (25%) of the available parking at that location;
- C. The person engaging in the sale must have a permanent retail location within Weber County and show that such person is a dealer licensed by the state; and
- D. Any sale shall not last longer than fourteen (14) days; provided, that no dealer may conduct more than one 14-day sale or two (2) 7-day sales per calendar year, per location.

**TEMPORARY BUSINESS:** A permitted wholesale or retail business conducted on a lot without a permanent building or on a lot with a permanent building but disassociated with any business located within said building.

**THEATER, INDOOR PICTURE:** A building or part of a building devoted to the showing of moving pictures on a paid admission basis.

**THEATER, OUTDOOR DRIVE-IN:** An open lot or part thereof, with its appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles.

**TITLE LENDER:** A person engaged in the business of making loans or transactions that are:

- A. Secured by the title to a:
  - 1. Motor vehicle, as defined in Utah code section 41-6a-102;
  - 2. Mobile home, as defined in Utah code section 41-6a-102; or

3. Motorboat, as defined in Utah code section 73-18-2.

B. "Title loan" includes a title loan extended at the same premises on which any of the following are sold:

1. A motor vehicle, as defined in Utah code section 41-6a-102;

2. A mobile home, as defined in Utah code section 41-6a-102; or

3. A motorboat, as defined in Utah code section 73-18-2.

"Title loan" does not include:

1. A purchase money loan;

2. A loan made in connection with the sale of a motor vehicle, as defined in Utah code section 41-6a-102; a mobile home, as defined in Utah code section 41-6a-102; or a motorboat, as defined in Utah code section 73-18-2; or

3. A loan extended by an institution listed in Utah code section 7-24-305.

**TOWING OR IMPOUND LOT:** A secure facility where a licensed tow truck operator temporarily stores vehicles, belonging to another, which have been damaged, disabled, abandoned, seized, or impounded.

**TRADE OR VOCATIONAL SCHOOL:** A post-high school educational or vocational training facility.

**TRANSITIONAL HOUSING FACILITY:** A facility owned, operated or contracted by a governmental entity or a charitable, nonprofit organization, where, for no compensation, temporary housing (for usually 3 to 24 months, but in no event less than 30 days) is provided to homeless persons, while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility shall not include a shelter for the homeless. A dwelling unit provided to a family for their exclusive use as part of a transitional housing program, for more than thirty (30) days, shall not be considered to be a transitional housing facility.

**SECTION 7. Subsection amended.** Subsection 15-13-13.F of the Ogden Municipal

Code is hereby amended to read and provide as follows:

F. **[Taverns And ~~[Private Clubs]~~ Drinking Establishments:]** If a proposed tavern or ~~[private club]~~ drinking establishment is already licensed as an adult live entertainment business, or if approvals are being sought for both uses concurrently, it shall be presumed that any location in a zone allowing a tavern or ~~[private club]~~ drinking establishment and meeting the distance requirements for an adult live entertainment business, is an appropriate location for a tavern or ~~[private club]~~ drinking establishment and shall be considered a permitted use, notwithstanding any other provisions of this title classifying such use as a conditional use.

Any tavern or ~~[private club]~~ drinking establishment so allowed as a permitted use shall also be subject to the following:

1. No more than two (2) taverns or ~~[private clubs]~~ drinking establishments per linear block.
2. The location is in a zone allowing a tavern or a ~~[private club]~~ drinking establishment as a conditional use.
3. The parking location meets the requirements of parking for a sexually oriented business.

**SECTION 8.** Section amended. Section 15-21-2 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-21-2: [USES ALLOWED IN EACH MANUFACTURING AND INDUSTRIAL ZONE:]**

Of the following list of possible uses, those designated in any district as a "P" are permitted uses; uses designated as a "C" will be allowed only when authorized by a conditional use permit obtained as provided in chapter 7 of this title; uses designated as "N" are not allowed in that district. Uses which are designated with an asterisk (\*) indicate special requirements exist for the design or location of the use, which requirements can be found in chapter 23 of this title. Accessory uses to the permitted or conditional uses are allowed. Uses that are not listed are not allowed.

Uses	MRD	M-1	M-2	DDR	OCIP
Entertainment and recreational:					
Cabarets (see main use classification of taverns, <del>[private clubs]</del> <u>drinking establishments</u> , or restaurants, under the category of Sales).					
Indoor entertainment business which provides activities for patrons of all ages by means of film, performance or activities, e.g., theaters, movies, bowling alleys.	N	N	N	N	N
Indoor recreation business which provides activities for patrons of all ages by means of indoor sports, human powered or motor vehicle use, e.g., soccer, BMX, motor tracks.	N	P	P	N	N
Outdoor entertainment or recreation businesses which provide activities for patrons of all ages by means of film, performance or activities, e.g., drive-ins, outdoor sports, go-cart tracks, stadiums.	N	C	C	N	N
Outdoor gun range*.	N	C	C	N	N
Sexually oriented businesses*:					

	Adult live entertainment businesses or adult movie theaters.	N	P*	P*	N	N
	Outcall services or adult entertainment dance agencies.	N	N	N	N	N
Institutional:						
	Churches or houses of worship.	N	P	N	N	N
	Correctional institution.	N	C	C	N	N
	Educational institutions.	N	N	N	N	N
	Private jail or prison.	N	N	N	N	N
	Public buildings or other public uses.	N	C	C	C	N
	Rehabilitation/treatment facility.	N	P	P	N	N
	Soup kitchens, shelters for the homeless and low income multiple-unit housing provided housing is:	N	C	C	N	N
	A. Part of the campus or in the same building as the homeless shelter.					
	B. Includes counseling and other lifestyle services in the facility on site.					
	Trade or vocational school or post-high school education.	P	P	P	P	N
Manufacturing:						
Already processed materials:						
	Establishment engaged in the assembly of already processed materials into new products, provided, all activities and storage are inside an enclosed building and outside noise, smell, or smoke is not a significant byproduct of the manufacturing process and no outdoor storage occurs, e.g., toys, book publishing, electronic components, medical, clothing. Accessory sales are allowed of product created on site, provided, the sales area does not exceed 15 percent of the floor area of the building. Warehousing of the manufacturer's product line produced or assembled at another location is allowed to be stored in the same building; provided, that a	P	P	P	P	P

	minimum of 74 percent of the required parking of the building is for nonwarehousing uses contained in the building.					
	Establishment engaged in the assembly of already processed materials into new products, provided, all activities are inside an enclosed building and outside noise, smell, or smoke is not a significant byproduct of the manufacturing process, e.g., sign shops, sheet metal shops, trailers, truss plants, etc. No accessory outdoor storage shall be allowed, except that outdoor storage of finished product is allowed to the following percentage of total lot area usage:					
	No outdoor storage.	P	P	P	P	P
	Outdoor storage area is 15 percent or less of lot area.	P*	P	P	P*	P
	Outdoor storage area is between 15.1 percent and 25 percent.	N	P*	P	P*	P
	Outdoor storage area is between 25.1 percent and 50 percent.	N	P*	P	N	P
	Outdoor storage area is greater than 50 percent.	N	N	C	N	P
	Food products:					
	Manufacturing, packaging, or storage inside an enclosed building of food products, provided, any objectionable fumes or odors which could be emitted are controlled by environmental devices to eliminate such smells, e.g., dog food, sugar processing, slaughtering and meatpacking, smoked meats, etc. Accessory sales of products created on site are allowed, provided, the sales area does not exceed 15 percent of the floor area of the building.	N	N	P	N	N
	Manufacturing, packaging, or storing inside an enclosed building of food products for human consumption, provided, no objectionable fumes or odors are emitted. Objectionable odors are such odors as come from sugar beet processing, rendering of fat, sauerkraut, vinegar, animal byproducts other than dairy	N	P	P	P	P

	products and other similar smells. Objectionable odors shall not include odors emitted from bakeries, ice cream manufacturing, egg handling or other manufacturing processes involving dairy products. Accessory sales of products created on site are allowed, provided, the sales area does not exceed 15 percent of the floor area of the building.					
	Manufacturing, processing, packaging and storage inside an enclosed building of food products for nonhuman consumption which do not create objectionable fumes or odors that can be detected outside the building. Outdoor storage of raw, unprocessed or finished products or byproducts is not allowed.	N	N	P	N	P
Metals:						
	Manufacturing process and storage inside an enclosed building which involves refining, casting, cutting or assembling metals and which does not produce noise, fumes or waste products which can be detected outside the building, e.g., light metal part molding. Warehousing of the manufacturer's product line produced or assembled at another location is allowed to be stored in the same building; provided, that a minimum of 75 percent of the required parking of the building is for nonwarehousing uses contained in the building.	C	P	P	P	P
	Manufacturing process inside an enclosed building which involves refining, casting, cutting or assembling metals and which does not produce noise, fumes or waste products which can be detected outside the building but which stores the finished product outside. The allowable outdoor storage less than 50 percent of the lot area, e.g., fuel tank construction, I-beam construction, etc.*	N	N	P	P*	P
	Outdoor storage area between 50 and 80 percent of the lot area.	N	N	N	N	P
Noise, fumes, and waste:						
	Manufacturing process inside an enclosed	N	N	N	N	N

	building which involves refining, processing or creating a product in which the process creates noise, fumes or waste which are detectable outside the building, e.g., steel or iron foundries, petroleum refining, etc.					
	Manufacturing process inside an enclosed building which involves refining, processing or creating a product in which the process does not create noise, fumes or waste which are detectable outside the building and which does not have outdoor storage of materials, e.g., semiconductors, crystals, etc.	P	N	P	P	P
Raw organic and inorganic materials:						
	Manufacturing processes involving assembly of raw inorganic materials, such as sand and gravel, into a new product, which raw and finished materials may be stored outdoors, e.g., concrete mixing, glass, brick, tile, pipe.	N	N	C	N	N
	Manufacturing processes involving assembly of raw organic materials, such as wood or plant material but excluding animals or their parts, into a new product, which raw material or finished material may be stored outdoors, e.g., mulch or fertilizer.	N	N	C	N	N
Removal of materials from ground:						
	Removal of materials from the ground for use in their existing state or crushed or treated and intended for use off site, e.g., sand and gravel extraction, mining, etc.	N	N	N	N	N
Residential:						
	Single-family, duplex or multiple-family units.	N	N	N	N	N
	Single-family dwelling unit for night watchman and family, provided, accessory to allowed business use on the site.	N	P	P	N	P
Sales:						
	A restaurant with cabaret license shall only be allowed as shown herein.	N	C*	C*	N	N
	Accessory sales of products warehoused or held in association with the main use of the building,	P	N	N	P	N

	but not produced or assembled on site, provided the sales area does not exceed the lesser of 15 percent of the floor area of the building or 10,000 square feet. Such sales area may be a part of, but not in addition to, any sales area otherwise allowed.					
	An establishment engaged in the preparing, serving and selling of food and drink for human consumption on or off premises, e.g., restaurants, drive-ins, etc.	P	P	P	C	P*
	An establishment engaged in the selling within an enclosed building of goods or merchandise to the general public for personal, household or business use, e.g., grocery stores, furniture, or clothing stores, etc.	N	N	N	N	N
	An establishment engaged in the selling within an enclosed building of goods or merchandise to the general public for personal, household or business use limited to the following items:					
	Manufactured houses displayed on lot.	N	N	P	N	N
	Retail sales of commodities warehoused in the same building or a separate building located in the DDR zone and said building is part of the same business operation and the sales area is not greater than 50 percent of the associated warehousing floor area; excluding sales of food, personal and household goods, and tobacco products.	N	N	N	P	N
	Retail tobacco specialty business provided it meets the requirements of section 15-13-35 of this title.	N	N	N/P <sup>1</sup>	N	N/P <sup>1</sup>
	Sales of goods and merchandise, excluding grocery stores, new or used cars, and tire stores; provided, stores are located and front only along 1900 West or 2550 South.	N	N	P	N	P
	Sales (or rental) establishments classified as sexually oriented businesses* including adult bookstores or adult videos; provided, that in the OCIP zone such sales are limited to businesses located along 1900 West or 2550 South.	N	P	P	N	P
	Used and rebuildable car lot*.	N	N	P*	N	N

	Used car lot, provided the display area is located out of the front yard setback and does not exceed the lesser of 2,500 square feet or 15 percent of the lot area, and there be 2 or more main uses on site.	N	N	N	N	N/P <sup>1</sup>
	Wholesale or retail sales of bulk petroleum products, e.g., oils, lubricants, propane.	N	C*	C*	N	C*
	Wood or coal for heating.	N	N	P	N	N
	An establishment primarily involved in the retail sale of motor fuels dispensed on site, e.g., convenience stores, service stations, gas stations.	C	P	P	N	P
	An establishment within an enclosed building engaged in the sale of building materials, equipment or supplies for the construction trade. The use may utilize outdoor storage as an accessory use, e.g., lumberyard, plumbing supplies, cabinet shop, etc.	N	P	P	C*	P*
	<u>Taverns, [<del>private clubs</del>]drinking establishments:</u>					
	<u>[<del>Private clubs</del>] Drinking establishments.</u>	C*	C*	C*	N	N
	Taverns.	N	C*	C*	N	N
	Taverns or [ <del>private club</del> ] <u>drinking establishment</u> with cabaret.	N	C*	C*	N	N
	<u>Services:</u>					
	A business engaged in providing health, grooming and kenneling services for animals, provided, all activities other than kenneling are in a completely enclosed building.	N	P	P	N	N/P <sup>3</sup>
	A business engaged in repairs of motor vehicles, recreational vehicles, aircraft or boats, provided, all the work occurs in a completely enclosed building. Retail sales or related items to these vehicles are permitted, provided, not more than 10 percent of the floor area is utilized for such sales, e.g., brake, body shop, repair, machine shop, changing oil, etc.*	N	P*	P*	C*	P*
	A business engaged in the construction trade and located in a permanent enclosed building which may include outside storage of construction	N	P*	P*	C*	P*

	materials or equipment of the business, e.g., general contractor, planing mill, roofing, plumbing, rental agencies, or other specific contractors*.					
	A business located in an enclosed building engaged in providing data processing, telemarketing, product user support services, or other business support services. Such businesses do not have contact with the general public except by means of mail or telecommunications.	P	N	N	P	P
	A business located in an enclosed building engaged in providing services directly to individuals, businesses or agencies such as personal, professional, financial, and business services, e.g., barbershop, laundry, daycare, architects, doctors, funeral homes, banking, copy centers, real estate, hotels, etc.	P	N	N	P	N/P <sup>2</sup>
	A business located in an enclosed building which does research and development of products or processes but does not include materials in amounts which would be considered hazardous to general health and welfare.	P	P	P	P	P
	A business located in an enclosed building which provides storage for businesses excluding personal storage units, e.g., warehousing, distribution centers, etc.:					
	Buildings 50,000 square feet or less.	P	P	P	P	P
	Buildings over 50,000 square feet.	N/C*	N	P	P	P
	Including outdoor storage not exceeding 30 percent of lot area*.	N	P*	P*	N	P
	Personal storage units.	N	P	P	N	N
	Petroleum products, flammable or hazardous materials as main storage.	N	N	C	N	C
	A business located on a lot without a main building which offers outdoor storage of recreational vehicles or storage of finished manufactured products assembled in Ogden City limits.	N	P	P	N	N
	A medical clinic located in an enclosed building	P	N	N	P	P

	engaged in providing medical services for workplace injuries or other work related conditions.					
	A use of land or business that provides outdoor storage, collection, or recycling of used materials:					
	Junk or salvage yards*.	N	N	C*	N	N
	Landfill.	N	N	N	N	N
	Recycling collection center*.	N	P*	P*	N	N
	Towing or impound lots*.	N	P*	P*	N	N
	Waste transfer station*.	N	N	C*	N	N
	Construction trade contractor storage within the area from 3300 South to Hinckley Drive, and from 1600 West to Pennsylvania Avenue if the company has its main office in Ogden City.	N	P*	P*	N	N
	Indoor/outdoor recreation business which provides activities for patrons of all ages by means of education, training, meditation and physical and spiritual wellness, e.g., martial arts and related training businesses.	N	P	P	N	N
	Transportation, utilities, communication uses:					
	Business and land use which has an enclosed building and is engaged in trucking uses such as a truck terminal or transfer business.	N	N	P	P	P
	Businesses or land uses which are primarily engaged in uses of public transportation, e.g., parking lots, bus stations, handitrans, airports, etc.	P*	P	P	P	N
	Communication business engaged in the delivery of communication services, e.g., business office, studios, broadcast, multimedia.	P	P	P	P	P
	Freestanding utility or communication facilities, e.g., substations, relay towers, commercial transmitting towers.	C	C	C	C	C
	Railroads and related uses:					
	Main lines.	N	N	P	P	N

	Spurs which deliver service only to businesses.	P	P	P	P	P
	Switching yards and repair facilities.	N	N	P	P	N

Notes:

1. On 1900 West and 2550 South only.
2. On 1900 West only.
3. On 1900 West and 2550 South only with no outdoor kenneling.

**SECTION 9.** Subsection amended. Subsection 15-23.5.J of the Ogden Municipal

Code is hereby amended to read and provide as follows:

J. **[Additional Conditions For ~~[Private Clubs]~~ Drinking Establishments And Taverns:] In addition to the requirements of the conditional use process, the following conditions shall apply to taverns and ~~[private clubs]~~ drinking establishments:**

1. Maximum Number: No more than two (2) ~~[private clubs]~~ drinking establishments or taverns per linear block;
2. Parking: Parking shall be located on the same lot with the building and conveniently located to the entrance of the building. In determining conveniently located parking, the planning commission shall consider:
  - a. The visibility of the parking area from the building;
  - b. The lighting, existing physical development, and types of uses adjacent to the parking lot and tavern or ~~[private club]~~ drinking establishment;
  - c. The lighting, existing physical development, and types of uses adjacent to the parking lot and tavern or ~~[private club]~~ drinking establishment;
  - d. The potential for parking conflicts with the parking lots of adjacent uses;
  - e. The potential for customer usage of on street parking in front of residential uses.
3. Operational Hours: Operational hours shall be considered to assure compatibility with the surrounding uses.
4. ~~[Private Club]~~ Drinking Establishment Or Tavern With Cabaret License: In addition to the above requirements, the planning commission shall consider, in granting a conditional use permit for a ~~[private club]~~ drinking establishment or tavern with cabaret, the potential effects of cabaret operations on adjacent uses, including in particular any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.

**SECTION 10.** Section amended. Section 15-33-2 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-33-2: [ALLOWED USES IN EACH PI ZONE:]**

Of the following list of possible uses, those designated in any district as a "P" are permitted uses; uses designated as a "C" will be allowed only when authorized by a conditional use permit obtained as provided in chapter 7 of this title; uses designated as "N" are not allowed in that district. Uses which are designated with an asterisk (\*) indicate special requirements exist for the design or location of the use, which requirements can be found in section 15-33-5 of this chapter. Accessory uses to the permitted or conditional uses are allowed. Uses that are not listed are not allowed.

<b>Uses</b>	<b>PI</b>
<b>Entertainment And Recreational</b>	
Cabarets and taverns.	N
Indoor entertainment business which provides entertainment or activities by means of film, performance, or other similar entertainment activities, e.g., theaters, indoor sports, bowling alleys.	N
Indoor recreation business that provides athletic, exercise or other similar health related activities for patrons of all ages, e.g., gyms, spas.	C
Outdoor entertainment or recreation business which provides activities for patrons of all ages by means of film, performance or other recreation activities, e.g., drive-ins, outdoor sports, go-cart tracks, stadiums.	N
[ <del>Private clubs</del> ] <u>Drinking establishments.</u>	C*
Sexually oriented businesses:	
Adult live entertainment businesses or adult movie theaters.	N
Outcall services and adult entertainment dancing agencies.	P
<b>Institutional</b>	
Churches or houses of worship.	P
Educational institution, e.g., elementary, middle school, high school.	P
Public buildings which are limited to only indoor office use.	P
Public facilities or private nonprofit facilities which provide correctional services, e.g., jails, halfway houses, rehabilitation housing.	N

## Manufacturing

Establishment engaged in the assembly, processing or any type of manufacturing use. N

## Residential

Fraternity and sorority houses. C\*

Group dwelling. C\*

Nursing home, assisted living facility or retirement homes. C\*

Single-family dwelling unit, detached. N/P\*

Single-family, two-family or multiple-family dwellings provided they are located on the floors above professional and business offices. P

Two-family dwelling units, detached. N/P\*

## Sales

A retail sales establishment located in a limited portion of an enclosed building where a service use is the primary purpose of such building and the retail sales is to provide accessory services for the convenience of the other occupants of the building and not directed to the general public, although service to the general public is not prohibited, e.g., retail sales, restaurants, ~~private club~~ drinking establishment, flower shops, gift shops. C\*

Flower shops, gift shops, or restaurants located inside a portion of a hospital approved as a conditional use. P\*

An establishment located in an enclosed building engaged in the selling of goods or merchandise to the general public, for personal business or household use. N

Prescription pharmacies. P\*

Retail sales establishment. N

## Services

A business located in an enclosed building engaged in providing financial services directly to individuals, business or agencies, e.g., banks, consumer credit services. P

An establishment located in an enclosed building, which provides personal, professional and public services, e.g., barbershop, architects, doctors, real estate, etc. P

An establishment which provides care for children with or without an outside play area, e.g., daycare. P

Fraternal and beneficial societies, order and social clubs of a nonprofit nature. C

Hospital. C

Indoor studio for the creation or teaching of the fine arts, e.g., dance studios, art studios. P\*

Wedding chapels. C

Transportation, Utilities, Communication Uses

Freestanding communication tower. N

Hospital owned off site parking facility, constructed prior to March 15, 2006, with more than one level for hospital campus. P

Public utility substation.

**SECTION 11.** Subsection amended. Subsection 15-33-5.1 of the Ogden Municipal Code

is hereby amended to read and provide as follows:

- i. ~~[Private clubs]~~ Drinking Establishments: A ~~[private club]~~ drinking establishment may be allowed as retail sales established as an accessory use.

**SECTION 12.** Section amended. Section 15-34-2 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-34-2: [USES:]**

In the following list of possible uses, those designated in any district as "P" will be a permitted use. Uses designated as "C" will be allowed only when authorized by a conditional use permit obtained as provided in chapter 7 of this title. Uses designated as "N" will not be allowed in that district.

	<b>Intensive</b>	<b>CBD</b>
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		District	
A.	Sales:		
	A sales establishment classified as retail tobacco specialty business.	N	N
	A sales establishment classified as sexually oriented business (see section 15-13-13 of this title for applicable conditions), including:	N	N
	Adult bookstores or adult video stores.		
	A sales establishment doing business in an enclosed permanent structure engaged in selling goods or merchandise to the general public for personal, household, or business use (excluding retail tobacco specialty business) and rendering services incidental to the sale of such goods, e.g., grocery, clothing, supplies, office products, jewelry, toys, home furnishings.		
1.	With no on site outdoor display.	P	P
2.	With accessory outdoor on site display subject to the following minimum requirements:	C	C
	a. Display does not occupy parking or building setbacks, or required parking areas;		
	b. Display is limited to plants and unpacked and assembled outdoor yard furnishings or amenities;		
	c. Display is located only on an improved landscaped area;		
	d. Display is in scale with surrounding uses;		
	e. Display area is maintained in clean and litter free condition, with no broken merchandise; and		
	f. Outdoor display area cannot exceed the square footage of the ground level of the main building.		
	An establishment engaged in preparing, serving and selling food and drink for human consumption on or off premises; provided that such use shall not include drive-in restaurants, e.g., restaurants, cafes, etc.	P	P
	Mobile food truck, except that operation is not allowed in The Junction (the area from the west side of Washington to the east side of Grant and from the south side of 22nd to the north side of 24th), or the 25th Street historic district.	P	P
	Restaurant with cabaret: In addition to the requirements of the	C	C

	conditional use process, the planning commission shall consider the potential effects of the type of proposed cabaret operations on adjacent uses, including, but not limited to, any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.		
	Sales establishments engaging in the sale of building materials as a principal use within a completely enclosed building.	C	C
	Sales establishments which engage in the sale of motorized vehicles, e.g., automobile sales, boat sales, motorcycle sales.	N	P
	Sales establishments which engage mainly in selling alcoholic beverages, e.g., taverns, liquor stores, <del>[private-clubs]</del> <u>drinking clubs</u> . In addition to the requirements of the conditional use process, the following conditions shall apply to taverns and <del>[private-clubs]</del> <u>drinking establishments</u> :	C	C
1.	Maximum Number: No more than 2 <del>[private-clubs]</del> <u>drinking establishments</u> or taverns per linear block;		
2.	Parking: Parking shall be conveniently located to the entrance of the building. In determining conveniently located parking, the planning commission shall consider:		
	a. The visibility of the parking area from the building;		
	b. The lighting, existing physical development, and types of uses adjacent to the parking lot and between the parking lot and tavern or <del>[private-club]</del> <u>drinking establishments</u> ;		
	c. The potential for parking conflicts with the parking lots of adjacent uses;		
	d. The potential for customer usage of on street parking in front of residential uses.		
3.	Operational Hours: Operational hours shall be considered to assure compatibility with the surrounding uses.		
4.	<del>[Private Club]</del> <u>Drinking Establishment</u> Or Tavern With Cabaret: In addition to the requirements applicable generally to <del>[private-clubs]</del> <u>drinking establishments</u> or taverns, the planning commission shall consider the potential effects of cabaret operations on adjacent uses, including, but not limited to, any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.		

	Sales establishments which utilize outdoor storage of materials, e.g., lumber, plumbing and heating supplies, garden supplies.	N	C
	Seasonal sale of produce subject to the following:	P	P
1.	Although listed as a permitted use, seasonal sale of produce will be allowed only within the area described as being between the 2300 and 2700 blocks of Wall Avenue, and the 100 and 200 blocks of 25th Street;		
2.	All stands or trucks and displayed produce must be located on private property;		
3.	Such stands or displays shall be set back at least 20 feet from adjoining street right of way lines;		
4.	Off street parking must be available on site or within 500 feet of the site;		
5.	No portable, flashing, or banner signs shall be permitted; and		
6.	Such use shall either locate in a temporary building under 400 square feet for a period not to exceed 6 months in 1 calendar year, or in a permanent building year round.		
	Seasonal sales in conjunction with a holiday market subject to the following:	P	N
1.	Shall be located only in the Union Station plaza area;		
2.	Shall be for crafts, food and beverages;		
3.	Shall be allowed from the day after Thanksgiving through the month of December;		
4.	Structures shall be a unified design.		
	Seasonal sales of Christmas trees and fireworks. Temporary buildings incidental to sales of these items permitted only for length of sales.	N	P
	Service station, drive-in restaurant, gas pumps, convenience stores.	N	P
	Sidewalk vendor: Sales conducted as a sidewalk vendor only in such locations set forth in the approved vendor location map referenced in title 5, chapter 13, article B of this code.	P	P
	Swap meet, subject to the following condition:	N	C
	Must be operated within a completely enclosed building,		

	except for incidental outdoor displays, and accessory fenced areas for storage of such things as living plant materials or items which, because of fire code regulations, may not be stored inside of a building, e.g., gas lawn mowers, rototillers, compressors, or other machinery producing fumes or exhaust.		
B.	Services:		
	Service businesses located in a permanent building which provide health and grooming services to household pets, but not boarding, provided business is conducted completely within an enclosed building and keeping of pets is limited to hours between 7:00 A.M. and 7:00 P.M., e.g., veterinary, pet grooming.	P	P
	Service businesses located in a permanent building which provide storage for individuals or businesses, e.g., warehousing, personal storage units, refrigerated storage.	N	P
	Service businesses located within a permanent building, and requiring outside storage on site, e.g., general contractors, roofing, plumbing, heating contractors.	N	N
	Service businesses located within a permanent building primarily engaged in providing rental of equipment for individuals, businesses, or agencies with outdoor display of equipment for rent, e.g., equipment rental business, trailer rental, car and truck rental. Outdoor storage of items to be repaired and repair areas shall be screened from public view.	N	P
	Service businesses located within a permanent building primarily engaged in providing services for individuals, businesses, or agencies. Personal, professional, retail, financial, and business services, but not including short term loan businesses, e.g., beauty and barber shops, laundry, dry cleaning, funeral homes, architects, doctors, hotels, banking, insurance, real estate, advertising, employment agencies, daycare.	P	P
	Service businesses primarily engaged in automotive repair services, provided work is done completely within an enclosed building, e.g., brake, muffler, painting, bodywork, transmission, washing. Outdoor storage of vehicles shall be screened from public view.	N	P
	Short term loan businesses.	N	N
C.	Institutional:		
	Halfway houses, prisons.	N	N
	Institutional uses which are public, religious or educational and	P	P

	used for instruction, education or worship, e.g., daycare, schools, libraries, government buildings, courts, plazas, churches.		
	Jails.	C	C
	Soup kitchens, shelters for the homeless, missions.	N	N
	Transitional housing, assisted living facilities.	N	C
D.	Residential:		
	1 or more dwelling units, provided they are located above first floor commercial uses and 1 additional on site parking space is provided for each unit.	P	P
	3 or more dwelling units used for the purpose of providing living quarters for families, e.g., apartments, condominiums, retirement homes.	P	P
	Lodging houses, boarding houses, single room occupancies.	N	N
	Single- or two-family dwelling units only.	N	N
E.	Cultural, entertainment and recreation:		
	Activities which require the use of motorized vehicles or which are conducted outside a building such as miniature golf, driving ranges, batting cages, go-carts, racetracks.	N	N
	Cabarets (see main use categories applicable to restaurants, [ <del>private clubs</del> ] <u>drinking establishments</u> or taverns).		
	Cultural, entertainment and recreation uses and businesses which provide as a main use activities for patrons by means of performance, film, or action, e.g., movie theaters, live theater, dance halls, sporting events, but not including sexually oriented businesses or cabarets. Arcades are permitted under the following conditions:	P	P
	1. That no arcade be located within 600 feet of any public elementary or secondary school, measured linearly between closest property lines.		
	2. That no 2 arcades shall be closer than 600 feet apart, measured linearly between closest property lines.		
	Indoor or outdoor public events or civic activities.	P	P
	Sexually oriented businesses (see section 15-13-13 of this title for applicable conditions).		
	Adult businesses and adult live entertainment businesses.	N	N

	Outcall services and adult entertainment dancing agencies.	P	P
	Spook alleys, haunted houses.	N	N
F.	Transportation, utilities, communications:		
	Businesses and/or land uses which are primarily engaged in furnishing land for uses incidental to transportation, e.g., parking lots, parking terraces, bus terminals.	C	P
	Utility and communication uses which are primarily engaged in furnishing the delivery of utility or communication services, e.g., substations, relay towers.	C	C
G.	Manufacturing:		
	Manufacturing establishments solely engaged in the assembly of already processed materials or the substances into new products, provided the activity is conducted and all materials are stored within a completely enclosed building. Manufacturing in this chapter is limited only to food products for human consumption, clothing, textiles, printing, and publishing, and plastic consumer products, e.g., bakery, beverage, dairy products, apparel, textiles, newspaper publishing, book publishing, toys, cases, helmets.	N	C
	Manufacturing of food products for human consumption as an accessory use to an allowed sales use; provided, that not more than 15 percent of the floor area is used for the manufacturing process, the street frontage is used for permitted sales uses, and no deliveries of the produced product by delivery truck are allowed.	C	C
	Manufacturing which involves the processing, collecting or storage of raw materials or scrap, e.g., junkyard, metal salvage, metal collection.	N	N
	Manufacturing which involves the processing or collecting of raw materials, animals, or animal byproducts or plants, e.g., meat packaging, poultry processing, grain and cereal mills, pharmaceuticals.	N	N
H.	Temporary buildings:		
	Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of construction work.	P	P

**SECTION 13.** Section amended. Section 15-38-5 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-38-5: [USES:]**

In the following list of possible uses, those designated in any zone as "P" will be a permitted use. Uses designated as "C" will be allowed only when authorized by a conditional use permit obtained as provided in chapter 7 of this title. Uses designated as "N" will not be allowed in that zone.

		C-1 And CP- 1	C-2 And CP-2	C-3 And CP- 3
A.	Accessory apartment, 1 unit.	P	P	P
	Accessory apartment, 2 or more units (only allowed in C-3/CBD and provided 1 additional parking space is provided on site for each unit in excess of 1).	N	N	N
	Accessory buildings and uses customarily incidental to a permitted use.	P	P	P
	Adult daycare with hours of operation between 6:00 A.M. and 6:00 P.M. on weekdays.	P	N	N
	Air conditioning, sales and service.	N	N	P
	Altering, pressing and repairing of wearing apparel.	P	P	P
	Ambulance base stations.	N	C	P
	Amusement park.	N	N	C
	Animal hospital, small animals only, and provided all animals are maintained and kept within completely enclosed building.	N	P	P
	Animal hospital, small animals only, and provided conducted within completely enclosed building. Outdoor kenneling of animals, patients provided.	N	C	C
	Apartment, multi-family.	N	P	P
	Arcade (on the following conditions):	N	P	P
	1. That in C-2 zones, arcades be located in planned shopping centers or malls; and that such mall or shopping center be on at least a 4 acre site;			
	2. That in both C-2 and C-3 zones, no arcade be located within 600 feet of any public elementary or secondary school, measured linearly between closest property lines;			

	3. That in C-3 zones, no 2 arcades shall be closer than 600 feet apart, measured linearly between closest property lines.			
	Archery shop and range, provided conducted within completely enclosed building.	N	P	P
	Athletic club.	N	P	P
	Auction establishment.	N	N	P
	Automobile lube and oil center.	N	P	P
	Automobile, new or used, sales and service.	N	N	P
	Automobile part sales.	N	P	P
	Automobile repair, including paint, body and fender, brake, muffler, upholstery or transmission work, provided conducted within completely enclosed building.	N	N	P
	Automobile service station; provided, that service bays are part of the main building and limited to a maximum of 1 bay in a C-1 and 2 bays in a C-2. No outside display of accessory items to be sold nor outside storage shall be permitted. 1 freestanding single bay, rotating brush car wash shall be permitted as an accessory use.	P	P	P
	Awning sales and service.	N	P	P
B.	Baby formula service.	P	P	P
	Bakery goods manufacturing.	N	N	P
	Bakery manufacture limited to goods retailed on premises.	P	P	P
	Bank or financial institution.	P	P	P
	Barbershop.	P	P	P
	Bath and massage establishment.	N	P	P
	Beauty culture school.	N	N	P
	Beauty shop.	P	P	P
	Bed and breakfast inn, subject to the following standards:	N	P	P
	1. 2 parking spaces shall be provided for the host family, plus 1 space for each guestroom;			
	2. Proprietor or owner must occupy the property;			
	3. Meals may only be served to overnight guests;			

	4. Signs are limited to nameplate signs, not exceeding 2 square feet in residential zones. In addition, a freestanding identification sign not to exceed 4 square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.			
	Beer parlor, sale or draft beer.	N	N	C
	Billiard parlor.	N	N	P
	Blueprinting and photostating.	N	P	P
	Boarding house.	N	P	P
	Boat sales and service.	N	C	P
	Bookbinding.	N	N	P
	Bottling and distribution plant.	N	N	P
	Bowling alley.	N	P	P
	Boxing arena.	N	N	P
	Bus terminal.	N	P	P
	Business or professional office.	P	P	P
C.	Cafe or cafeteria.	P	P	P
	Candy manufacture.	N	N	P
	Car wash, laundry type.	N	C	P
	Car wash, manual spray.	C	P	P
	Carbonated water sales.	N	P	P
	Carpenter and cabinet shop.	N	N	P
	Carpet and rug cleaning.	N	N	P
	Carpet, rug and linoleum service.	N	P	P
	Cash register sales and service.	N	P	P
	Catering establishment.	N	P	P
	Charitable soup kitchen, provided the following conditions are complied with:	C	C	C
	1. Minimum lot size shall be 1 acre;			

	2. Minimum building size shall be 3,500 square feet of floor space;			
	3. 1 parking space shall be provided per employee or volunteer on the highest shift;			
	4. At least 1 accessible restroom or "port-a-john" shall be provided on the site and kept open to patrons during off hours;			
	5. All yard areas not used for parking and associated accessways shall be landscaped;			
	6. The site shall be fenced with a minimum 5 foot high fence along adjoining properties;			
	7. The planning commission may allow the installation of open space improvements to occur in phases.			
	Christmas tree sales.	P	P	P
	Church.	N	P	P
	Church, temporary revival.	N	C	C
	Circus, carnival or other transient amusement.	N	N	C
	Coal and fuel sales office.	N	N	P
	Communication equipment building.	N	P	P
	Contractor shop, provided work conducted within a completely enclosed building.	N	N	P
	Convenience store.	P	P	P
	Convenience store, 1 freestanding single bay rotating brush car wash shall be permitted as accessory use.	P	P	P
	Costume rental.	N	P	P
D.	Dance hall.	N	N	C
	Data processing service and supplies.	N	P	P
	Delicatessen.	P	P	P
	Detective agency.	P	P	P
	Diaper service, including cleaning.	N	P	P
	Drapery and curtain store.	N	P	P

	<u>Drinking establishment. In addition to the requirements of the conditional use process, the following conditions shall apply:</u>	<u>N</u>	<u>N/C</u>	<u>C</u>
	<u>1. No more than 2 drinking establishments or taverns per linear block;</u>			
	<u>2. Parking shall be located on the same lot with the building and conveniently located to the entrance of the building. In determining conveniently located parking, the planning commission shall consider:</u>			
	<u>a. The visibility of the parking area from the building;</u>			
	<u>b. The lighting, existing physical development, and types of uses adjacent to the parking lot and drinking establishment;</u>			
	<u>c. The potential for parking conflicts with the parking lots of adjacent uses;</u>			
	<u>d. The potential for customer usage of on street parking in front of residential uses.</u>			
	<u>3. Operational hours shall be considered to assure compatibility with the surrounding uses.</u>			
	<u>4. In addition, the following conditions shall apply to the CP-2 zone:</u>			
	<u>a. Must be located in a multi-tenant retail or office center of at least 3 separate uses in the building;</u>			
	<u>b. The drinking establishment shall not be located on the ground floor;</u>			
	<u>c. The drinking establishment shall be no closer than 200 feet to any residential use, measured by a direct pedestrian route from the main entrance of the establishment to the property line of the residential use.</u>			
	<u>Drinking establishment with cabaret license. In addition to the requirements applicable generally to drinking establishments, the planning commission shall consider the potential effects of cabaret operations on adjacent uses, including, but not limited to, any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.</u>	<u>N</u>	<u>N</u>	<u>C</u>
	<u>Drive-it-yourself agency or business.</u>	<u>N</u>	<u>P</u>	<u>P</u>
	<u>Driving range.</u>	<u>N</u>	<u>N</u>	<u>C</u>

	Dry cleaning establishment:			
	Industrial.	N	N	P
	Personal service.	N	P	P
	Dry cleaning pick up station.	P	P	P
	Dwelling, two-family.	N	N	P
E.	Educational institution.	N	P	P
	Educational institution with housing.	N	N	P
	Electrical and heating appliances and fixtures, sales and service.	N	P	P
	Electronic equipment sales and service.	N	P	P
	Employment agency.	N	P	P
	Express and transfer service.	N	N	C
F.	Farm implement sales.	N	N	P
	Film exchange establishment.	P	P	P
	Fireworks stands and sales.	N	P	P
	Frozen food lockers, incidental to a grocery store or food business.	P	P	P
	Fruit store or stand.	P	P	P
G.	Garden supplies and plant material sales.	P	P	P
	Glass sales and service.	N	P	P
	Go-cart track, indoor.	N	N	C
	Government buildings or uses, nonindustrial.	P	P	P
	Greenhouse and nursery.	N	P	P
	Gunsmith.	N	P	P
	Gymnasium.	N	P	P
H.	Health club.	N	P	P
	Heliport.	N	C	C
	Hospital supplies.	N	P	P

	Hotel.	N	P	P
	House cleaning and repair.	N	P	P
	House equipment display.	N	P	P
	Household pets, dwelling units only.	P	P	P
I.	Ice cream manufacture.	N	N	P
	Ice cream parlor.	P	P	P
	Ice manufacture and storage.	N	N	P
	Ice store and vending station.	P	P	P
	Indoor batting ranges.	N	P	P
	Insulation sales.	N	P	P
	Interior decorating and design establishment.	N	P	P
J.	Janitor service and supply.	N	P	P
K.	Kenneling (indoor) with outdoor exercise area.	N	N	C
	Knitting mills.	N	N	P
L.	Laboratory, dental or medical.	N	P	P
	Launderette or laundromat.	P	P	P
	Laundry or dry cleaning establishment, industrial.	N	N	P
	Library.	P	P	P
	Linen supply service.	N	N	P
	Liquor store.	N	C	C
	Locksmith.	P	P	P
	Lodge.	P	P	P
	Lodging house.	N	C	P
	Luggage store.	N	P	P
	Lumberyard.	N	N	C
M.	Machine shop operations incidental to any use permitted in C-3 zone.	N	N	P
	Manufacture of goods subject to the following conditions:	N	P	P

	1. All uses and storage shall be inside a building;			
	2. Manufacturing uses are limited to assembly of products only;			
	3. A portion of the building shall be used as office or retail area;			
	4. Maximum total building size is 15,000 square feet.			
	Millinery.	N	P	P
	Miniature golf.	N	N	C
	Mobile food truck.	N	P	P
	Mobile home sales lot and service.	N	N	P
	Monument works and sales.	N	P	P
	Mortuary.	N	P	P
	Motel.	N	P	P
	Motorboat sales and service.	N	C	P
	Museum.	N	P	P
N.	Newsstand.	P	P	P
	Nursery school.	P	P	P
O.	Office in which goods or merchandise are not commercially created, exchanged or sold.	N	P	P
	Office supply.	N	P	P
	Ornamental iron sales or repair.	N	C	P
	Outdoor batting cages.	N	C	C
P.	Paperhanger shop.	N	P	P
	Park and playground.	P	P	P
	Parking lot or garage for passenger automobiles.	C	C	C
	Pawnshop.	N	N	P
	Pest control and extermination.	N	P	P
	Pet grooming.	C	P	P

	Pet store.	N	P	P
	Photo studio.	P	P	P
	Photocopying and printing services, with floor area of 1,200 square feet or less.	P	P	P
	Pie manufacture.	N	P	P
	Plumbing shop.	N	C	P
	Pony ring, without stables.	N	N	C
	Pool hall.	N	N	P
	Post office.	P	P	P
	Precious metal purchasing provided it is an accessory use to a use permitted in the zone.	P	P	P
	Printing, lithographing, publishing or reproductions sales and service.	N	P	P
	<del>{Private club. In addition to the requirements of the conditional use process, the following conditions shall apply:—</del>	<del>N</del>	<del>N/C</del>	<del>C</del>
	<del>1. No more than 2 private clubs or taverns per linear block;—</del>			
	<del>2. Parking shall be located on the same lot with the building and conveniently located to the entrance of the building. In determining conveniently located parking, the planning commission shall consider:—</del>			
	<del>a. The visibility of the parking area from the building;—</del>			
	<del>b. The lighting, existing physical development, and types of uses adjacent to the parking lot and private club;—</del>			
	<del>c. The potential for parking conflicts with the parking lots of adjacent uses;—</del>			
	<del>d. The potential for customer usage of on street parking in front of residential uses.—</del>			
	<del>3. Operational hours shall be considered to assure compatibility with the surrounding uses.—</del>			
	<del>4. In addition, the following conditions shall apply to the CP-2 zone:—</del>			
	<del>a. Must be located in a multi-tenant retail or office</del>			

		center of at least 3 separate uses in the building;—			
		b. The private club shall not be located on the ground floor;—			
		c. The private club shall be no closer than 200 feet to any residential use, measured by a direct pedestrian route from the main entrance of the club to the property line of the residential use.—			
		Private club with cabaret license. In addition to the requirements applicable generally to private clubs, the planning commission shall consider the potential effects of cabaret operations on adjacent uses, including, but not limited to, any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.]	N-	N-	C-
		Privately operated concession or amusement business in a public park.	C	C	C
		Propane retail sales as an accessory use:	N	P	P
		1. An aboveground bulk propane storage tank shall:			
		a. Be located outside of any required setback;			
		b. Not exceed 16 feet in length if tank is horizontal;			
		c. Not exceed the primary building height or 10 feet, whichever is lower, if tank is vertical;			
		d. Not exceed a volume of 1,100 gallons;			
		e. Be limited to 1 tank per site.			
		Public utilities substation.	C	C	C
Q.		Reserved.			
R.		Racquet club.	N	P	P
		Radio and television sales and service.	C	P	P
		Radio, television or FM broadcasting station.	N	P	P
		Real estate agency.	N	P	P
		Reception center or wedding chapel.	N	C	P
		Recreational vehicle storage.	C	C	P
		Rental agency for home and garden equipment.	N	P	P

	Restaurant.	P	P	P
	Restaurant, drive-in.	P	P	P
	Drive-in restaurants in the C-1 zone shall comply with the following conditions of approval:			
	1. Shall be located only on arterial roads.			
	2. Hours of business be from 7:00 A.M. to 11:30 P.M.			
	3. The minimum square footage of the building shall be 2,600 square feet and the maximum 4,000 square feet.			
	4. Exterior speakers shall be designed and installed to minimize the audible impact to the adjacent residences.			
	5. Drive-up windows shall face either the street or nonresidential uses.			
	6. Business signs shall be only monument signs and they shall not exceed 8 feet in height.			
	7. At least 60 percent of the building square footage shall be designed and devoted for sit down dining.			
	Restaurant with cabaret. In addition to the requirements of the conditional use process, the planning commission shall consider the potential effects of the type of proposed cabaret operations on adjacent uses, including, but not limited to, any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.	N	N	C
	Retail sales establishment doing business and having displays inside an enclosed building whose main use is the selling of goods or merchandise to the general public for personal, household or business use and rendering services incidental to the sale of such goods:			
	Total building size 3,000 square feet or less.	P	P	P
	Total building size 3,001 to 10,000 square feet.	C	P	P
	Total building size 10,001 to 40,000 square feet.	N	P	P
	Total building size 40,001 to 60,000 square feet.	N	C	P
	Total building size 60,001 or greater.	N	C	C

	Retail sales establishment doing business whose main use is the selling of goods or merchandise to the general public for personal, household or business use and rendering services incidental to the sale of such goods, including outdoor displays or storage of such things as building materials, garden supplies, but not tires, vehicles or vehicle parts:			
	Total building size less than 10,000 square feet.	N	N	C
	Total building size 10,000 square feet or greater.	N	C	C
	Retail tobacco specialty business provided it meets the requirements of section 15-13-35 of this title.	N	N	P
	Rollerskating rink. Rollerskating rinks in the C-1 and C-2 zones, as well as CP-1 and CP-2 zones, shall comply with the following conditions of approval:	P	P	P
	1. Shall be located in a commercial center or site of at least 1 acre in size;			
	2. Such establishment shall not be open for business later than 10:00 P.M. Sunday through Thursday, and not later than 11:30 P.M. on Fridays and Saturdays;			
	3. No alcoholic beverages shall be sold or consumed on the premises of the skating rink;			
	4. Minimum of 5 foot high screening fence shall be required along all property lines abutting residential property except that no fence shall be higher than 3 <sup>1</sup> / <sub>2</sub> feet in a front yard setback or side yard facing a street on a corner lot;			
	5. No musical instruments, phonograph, sound amplifier or similar device shall be operated in such a manner as to create a noise disturbance across a real property boundary. If such a device is plainly audible on the property of another or within a building other than that within which the device is located, and if a complaint is made to the police department and verified by them that a noise disturbance exists, this shall serve as prima facie evidence of a violation of this condition of approval.			
	Roofing sales or shop.	N	P	P
S.	Seasonal sales of produce and beverage, subject to the following standards:	P	P	P
	1. All stands or trucks and displayed produce must be located on private property and not in the public right of way;			

	2. Such stands or displays shall be set back at least 20 feet from adjoining street right of way lines;			
	3. Off street parking must be available on site or within 500 feet of the site;			
	4. No portable, flashing or banner signs shall be permitted;			
	5. Such use shall either locate in a temporary building under 400 square feet for a period not to exceed 6 months in 1 calendar year, or in a permanent building year round. (The requirement to locate in a permanent or temporary building shall not apply in the M-1 and M-2 zones.)			
	Service station automobile, excluding painting, body and fender and upholstery work.	P	P	P
	Sexually oriented businesses (see section 15-13-13 of this title for applicable conditions):			
	Adult business and adult live entertainment businesses.	N	N	P
	Outcall services and adult entertainment dancing agencies.	N	P	P
	Sheet metal shop and retinning, provided all operations are conducted within completely enclosed building.	N	N	C
	Shelter for the homeless.	N	N	C
	Sheltered workshop, provided the activities and processes are allowed as uses in the zone.	N	N	P
	Shoe repair or shoeshine shop.	P	P	P
	Shooting gallery.	N	N	P
	Short term loan business (see section 15-13-34 of this title for applicable regulations).	N	P	P
	Sidewalk vendor.	N	N	N
	Sign manufacture or sign painting.	N	N	P
	Signs (see title 18, chapter 5, "Appendix A", of this code).			
	Single room occupancy.	N	N	N
	Social hall, subject to the following minimum standards which may be further restricted or added to by the planning commission:	N	C	C
	1. The social hall has a maximum size of 4,000 square feet.			

		2. The facility is open for business at least 5 days per week with a maximum of 2 days per week allowed for events where individual paid entry is linked to: dancing to live music; or an event or performance by an individual or group, such as live music or live entertainment.			
		3. Hours of operation to be determined based on site location and characteristics.			
		4. No alcohol is permitted in the building or the property unless a special event license is issued for a private function.			
		5. The use has games, social areas, programs or other activities available for use during the hours of operation but not a sufficient number of devices to be an arcade or pool hall.			
		6. The use for private functions does not allow for ticket sales to the function or for participating in events associated with the function.			
		Studio for professional work, teaching, performance or exhibitions of fine arts.	P	P	P
		Swap meet, subject to the following conditions: Must be operated in a completely enclosed building, except for incidental outdoor displays, and accessory fenced areas for storage of such things as living plant materials or items that because of fire code regulations may not be stored inside of building, i.e., gas lawn mowers, rototillers, compressors, or other machinery producing fumes or exhaust.	N	N	C
		Swimming pools.	N	C	P
T.		Tailor shop.	N	P	P
		Tavern. In addition to the requirements of the conditional use process, the following conditions shall apply:	N	N	C
		1. No more than 2 [ <del>private clubs</del> ] <u>drinking establishments</u> or taverns per linear block;			
		2. Parking shall be located on the same lot with the building and conveniently located to the entrance of the building. In determining conveniently located parking, the planning commission shall consider:			
		a. The visibility of the parking area from the building;			

		b. The lighting, existing physical development, and types of uses adjacent to the parking lot and tavern;			
		c. The potential for parking conflicts with the parking lots of adjacent uses;			
		d. The potential for customer usage of on street parking in front of residential uses.			
		3. Operational hours shall be considered to assure compatibility with the surrounding uses.			
		4. Tavern with cabaret license. In addition to the requirements applicable generally to [ <del>conditional uses, or private clubs and</del> ] taverns, [ <del>as applicable,</del> ] the planning commission shall consider the potential effects of the type of proposed cabaret operations on adjacent uses, including, but not limited to, any residential dwellings in the vicinity, considering hours of operation, noise, parking and traffic conflicts, and possible activities of patrons on and around the site.			
		Taxicab stand.	P	P	P
		Taxidermist.	N	P	P
		Telegraph office.	P	P	P
		Temporary automotive summer sales in commercial parking lots.	N	P	P
		Temporary building for uses incidental to construction work. Such buildings shall be removed upon completion of the construction work.	P	P	P
		Temporary business.	N	N	N
		Theater, indoor.	N	P	P
		Theater, outdoor.	N	N	C
		Tire stores, sales and service, subject to the following standards:	N	P*	P
		1. No outside tire storage is permitted;			
		2. Incidental repair work is permitted such as alignments, inspections, minor tune ups, but no muffler, transmission, bodywork, or major engine repair shall be permitted.			
		*3. Stores in the C-2 zone shall be subject to the following additional standards:			

		a. The store shall be located in a minimum 10 acre shopping center and only as a portion of a main building;			
		b. The building design shall not be altered contrary to the established theme of the shopping center;			
		c. No freestanding accessory structures shall be allowed;			
		d. Vehicle access doors to the building shall not be visible from any public street or residential zoned property;			
		e. No customer cars shall be kept overnight outside the building.			
		Tool design (precision) repair and manufacture.	N	N	C
		Towing or impound lot.	N	N	C
		Trade or industrial school.	N	C	P
		Trailer sales and service.	N	N	P
		Transitional housing. Subject to the site development standards meeting section 15-38-2 of this chapter for the C-2 zone and section 15-38-2 of this chapter for the C-3 zone.	N	C	C
		Travel agency.	P	P	P
		Truck terminal.	N	N	C
U.		Upholstery shop.	P	P	P
		Used car lot.	N	N	C
V.		Ventilating equipment, sales and service.	N	C	P
W.		Warehouse storage, except storage of goods listed as a conditional use in section 15-21-2 of this title in M-2 zone; no outside storage permitted.	N	N	P
		Waterslide.	N	C	C
		Weather stripping shop.	N	P	P
		Welding shop.	N	N	C
		Wholesale business.	N	N	P
		Window washing establishment.	N	P	P

**SECTION 14. Section amended.** Section 15-41-7 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-41-7: [USES:]**

The following uses are permitted (P), conditional (C), or not allowed (N) in the NC zones. Accessory uses to the permitted or conditional uses are allowed. If a specific use is not listed it is considered as a use that is not allowed in the zone.

Land Use	NC-1	NC-2
<b>Entertainment And Recreation</b>		
Indoor business which provides activities for patrons of all ages by means of film, performance or activities (e.g., theaters, arcades, indoor sports); maximum floor area 10,000 square feet	N	C
Sexually oriented business by live entertainment, movies, etc.	N	N
<b>Institutional</b>		
Churches or houses of worship	P	P
Correctional facilities	N	N
Government building	N	N
High school or post high school education	N	P
Rehabilitation/treatment facilities	N	N
Soup kitchens/shelters for homeless	N	N
<b>Manufacturing</b>		
Establishment engaged in the assembly of already processed materials into new products, provided all activities and storage are in a permanent enclosed building no greater than 5,000 square feet and there are no outside noises, smoke or smells. Products created are sold on site and not shipped to other locations for sale (e.g., jewelry, pottery, ceramics, food for human consumption, artwork)	C	C
Establishment engaged in the assembly of processed materials into new products, provided all activities and storage are in a permanent enclosed building and there are no outside noises, smoke or smells. Products created are shipped for sale at other locations	N	N
Warehousing or storage indoors or outdoors as main use	N	N
<b>Residential</b>		

Assisted living/nursing home	N	N
Dwelling units above the ground floor	N	P
Live-work space on ground level	P	P
Multiple-family dwelling (apartment building)	N	P
Single-family detached dwelling	N	N
Single-family row house dwellings	N	P
<b>Sales</b>		
A sales establishment doing business in a permanent enclosed building of 5,000 square feet or less which prepares and serves food and drink for human consumption on and off site provided that the facility has no drive-up window and that outdoor dining areas are allowed along the front and/or side of the building which is visible from the street (e.g., restaurants, cafes, diners, sandwich shops, delis, etc.)	P	P
A sales establishment with no drive-up window where all activities and storage are in a permanent enclosed building that is engaged in the selling of new goods or new merchandise to the general public for personal, household, or business use and rendering service incidental to the sale of such goods (e.g., clothing, food, office supplies, jewelry, toys, hobbies)		
Floor area 3,000 or less square feet	P	P
Floor area 3,001 to 10,000 square feet	C	P
Floor area 10,001 to 40,000 square feet	N	C
Greater than 40,000 square feet	N	N
Adult business	N	N
Convenience store	N	P
[Private club] <u>Drinking establishment</u> or tavern	N	N
Sales of motorized vehicles	N	N
<b>Services</b>		
Contractor office located in a permanent enclosed building of 3,000 square feet or less floor area provided no indoor or outdoor storage of materials or equipment used for the business occurs on the property	P	P
Deferred deposit lender, short term loan business, payday lenders	N	N
Laundry service located in a permanent enclosed building of 5,000 square feet or less floor area (e.g., self-service laundromat, professional laundry)	P	P

and dry cleaner)		
Manual or laundry type car wash	N	N
Medical treatment facilities which require overnight stay	N	N
Motorized vehicle repair and service	N	N
Personal care services located in a permanent enclosed building of 3,000 square feet or less floor area (e.g., barber, beautician, nails, tanning salon)	P	P
Personal services which involve tattoos	N	N
Professional and business offices located in a permanent enclosed building that provides services directly to individuals, businesses and agencies such as offices of professional, personal, financial and business services and which does not store vehicles or other equipment of the business outdoors (e.g., architect, medical office, financial institutions, real estate offices, insurance office, etc.)		
3,000 square foot floor area or less	P	P
3,001 square feet to 5,000 square foot floor area	N	P
Service located in a permanent enclosed building of 3,000 square feet or less floor area which provides care and supervision of children or adults on a daily basis with no overnight housing and operation hours limited between 6:00 A.M. and 7:00 P.M.	P	P
Service which provides temporary lodging for individuals, travelers, etc. (e.g., hotel, motel, boarding house, bed and breakfast inn)	N	N
Veterinary, small animal grooming, training or daily care service located in a permanent enclosed building of 5,000 square feet or less floor area provided no outdoor kenneling of animals	C	P
Transportation, Utilities And Communication		
Bus or other public transportation facility storage	N	N
Parking lot, RV storage	N	N
Utility substations	N	N
Wireless communication towers	C	C

**SECTION 15. Effective date.** This ordinance shall be effective immediately upon posting after final passage.



Report by Joseph Simpson

**Agenda Name: PETITION #2015-9 TO AMEND ORDINANCES (5-3A-1, 5-3C-8, 15-23-5.J, 15-34-2.A, 15-38-5.P) TO ALLOW FOUR TAVERNS OR SOCIAL CLUBS PER LINEAR BLOCK AND TO REDEFINE “PRIVATE CLUBS” TO BE CONSISTENT WITH CHANGES IN STATE CODES**

**Petitioner/ Developer:** Thaine Fischer  
Star Noodle, LLC  
2444 Washington Blvd.  
Ogden, Utah 84401

**Petitioner/ Developer’s requested action:** Approval of having four (4) taverns or social clubs per linear block.

**Planning Staff’s Recommended Action**

**Denial** of the petition to amend the ordinance to redefine “linear block” to allow four (4) taverns or social clubs per linear block.

**Approval** to amend applicable ordinances to redefine “private clubs” to “social clubs” to follow changes in State codes.

**Planning Commission’s determination for action**

**Petition to amend the ordinance to redefine “linear block” to allow four (4) taverns or social clubs per linear block:**

1. The zoning ordinance amendments *are/ are not* consistent with the intent of the zoning ordinance.
2. The zoning ordinance amendments *are/ are not* consistent with the policies outline in the general plan.

**Petition to amend the ordinance to redefine “private clubs” to “social clubs” to follow changes in State codes:**

1. The zoning ordinance amendments *are/ are not* consistent with the intent of the zoning ordinance.
2. The zoning ordinance amendments *are/ are not* consistent with the policies outline in the general plan.

**Past History**

July 2004- Approval of an ordinance amendment to allow corner buildings to be considered for either linear block street.

February 2009- Denial of an ordinance amendment to redefine “linear block” to mean just one side of the street so that four (4) taverns or private clubs could be allowed per street.

**Description of request**

As shown in the attached petition, the petitioner is requesting that “the definition of Linear Block” [be] REMOVED from 5-3A-1 and 5-C3-8 paragraphs B. Thus allowing 2 establishments per block on each side of the street.” In essence, the petitioner is requesting the same amendment he requested in February of 2009, which is to have four (4) taverns or social clubs per linear block, as “linear block” is currently defined. Linear block is currently defined as:

“Both sides of that portion of any street that has street numbers ranging between any two (2) consecutive multiples of 100, such as between 100 and 200, or between 2200 and 2300, etc. A corner tavern or private club shall be included in the particular linear block indicated by the street address of such establishment.”

As State laws have changed and there is no longer “private clubs,” staff is recommending the ordinance be amended to match State laws by replacing “private clubs” in the ordinance to “social clubs” as they are now defined by the State as “a social drinking club that does less than 50% of its business from the sale of food.”

**What Planning Commission reviews**

The Commission is required to review ordinance amendments and make a recommendation to the City Council. The Commission will need to determine whether or not the ordinance amendment is consistent with the intent of the zoning ordinance and policies of the general plan. The key in this review is determine potential impacts or benefits to properties, people of the community, the downtown, and the image of the City.

Once the Commission takes an action regarding the proposed amendment, the recommendation is then forwarded to the City Council for their determination on the final action the City should take regarding the ordinance amendment.

## Factors for consideration of action

### 1. Reason for the regulation

When the petition was made in the February 2009 meeting it was pointed out that the regulation of limiting taverns to no more than 2 per linear block was established in the City in 1964 and was clarified in 1981 with the present language that defines a lineal block as being both sides of the street. This regulation was established as part of the restoration of 25<sup>th</sup> Street. Comparisons show this change:

- a. In 1920 there were 12 taverns, 33 retail shops, 22 hotels, 12 restaurants, 10 grocery stores, 4 barber shops, 1 theater.
- b. In 1979 there were 8 taverns, 6 retail shops, 4 long term housing hotels, 2 restaurants and 2 barber shops. These uses occupied 10 of the 43 buildings on 25<sup>th</sup> Street, the rest were vacant.

In the previous meeting, one of the major concerns was developing a concentration of taverns, particularly in the downtown area. It was determined that this is one of the main reasons for having the regulation, so these types of uses could be more spread-out. Separation regulations are also applied in State regulations which require taverns to be located distances from schools and churches, but these are not defined in City regulations.

It should be pointed-out that City definition of taverns does not apply to restaurants where the majority of its sales (51%) are from food.

Other reasons for the regulation of taverns and clubs are concerns with the activities associated with these uses, particularly with those who over drink and can become harmful to themselves and others, as well as property. Concerns of overdrinking are disorderly conduct, impaired judgement, and sometimes violence and vandalism. These are concerns that a community must address to ensure that all its citizens are safe and that persons and property are protected. The police have expressed concerns before and now about this petition that would allow for additional taverns as they would be the ones who would respond to the secondary impact of the drinking establishments.

### 2. Downtown input

The Commission may recall in the February 2009 meeting that staff was directed to receive input from businesses in the downtown regarding the same amendment to the ordinance. The responses received were 50/50 as far as being for or against the changes. Some argued that it could improve the nightlife in the downtown area, while others pointed-out the concerns addressed in the "reasons for the regulation" section above.

### **3. Tourism impact**

The petitioner argued previously and is making his case now based on his belief that allowing additional taverns and bars will improve the nightlife and tourism in the City. The petitioner notes that improvement to the nightlife and tourism is supported in the general plan. In the previous petition the State Office of Tourism and local Convention and Visitors office was consulted and they explained the biggest concern is the present State liquor law and people outside of Utah's perception that alcohol does not exist in Utah. The questions they frequently deal with are the ability to buy a drink in Utah because it is their understanding you cannot do that. Once they explain the laws they seem to calm people's fears. Tourists are not concerned about being able to find a place to drink because of spacing requirements but rather some of the general liquor serving requirements. The Commission determined previously that nightlife has a broad range of activities and is not limited to taverns only, but includes movies, dancing, music, comedy, and places to eat.

### **4. Concerns**

One of the key considerations in looking at changing present regulations is the question: will it negatively impact the work that is going on to change the image of the City? If the impact is more disorderly conduct, assaults, and public intoxication then such a change is not in the best interest, especially if it creates a section of the city that is not inviting to all people. A key consideration is the viability of an area around a club or tavern, which can discourage residential uses because of noise in the street in the late evening which makes it an undesirable area to live.

Staff recommends supporting the original decision of the Commission by denying the petition to increase the density of taverns and social clubs in the City to four (4) per linear block. As pointed-out in the previous petition, there are still additional locations (approximately 11 more locations) a tavern can be located in the downtown area and the increasing of the density is not necessary. Increasing the density of taverns and social clubs will also have the potential to negatively impact the image of the City and the overall community, particularly in the downtown area.

### **5. Change from "private clubs" to "social clubs"**

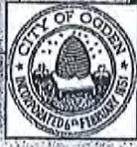
The State no longer defines the use of "private clubs" rather these have been defined under a type of club referred to as "social clubs." To bring the City ordinance in line with the State regulations, staff is recommending that City Ordinance be amended to replace "private clubs" with the State term and definition of "social clubs." This amendment does not change the intent of the City regulation from what was intended under "private clubs," rather it is updating the changed term and definition with the State regulations.



Attachments

1. Petition
-

1. Petition (2 pages)



**Petition to Amend Ogden City's  
Zoning, Sign or Subdivision Ordinance**

Ogden City Recorder's Office  
2549 Washington Blvd. Suite 220  
Ogden, Utah 84401  
(801) 629-8930

Please print legibly and complete all areas:

The following checklist will assist you with your application to change the existing language in the Ogden City zoning, sign or subdivision ordinance.

**Petition Checklist**

- Review this application with a Planner prior to filing at the City Recorder's office. *M.R. Dji*
- In the space provided below, explain what portion of the ordinance you want to change and why the change would be in the best interest of the general public. Attach another sheet, if necessary.
- Include suggestions of how the regulations or requirement *should* read, if amended.
- Attach any documentation showing that other cities have similar requirements.
- Pay the \$220 filing fee at the City Recorder's office and submit this petition at the same time. *\$1600.00 T/H*

**Petitioner Contact Information**

Name: *Star Noodle, LLC : Thaine Fischer*

Address: *2444 Washington Blvd.* City: *Ogden* State: *UT*

Zip: *84401* Phone: *801 823 3320*

E-mail (please print): *thaine.fischer-regan.com*

**Petition to amend the Zoning, Sign or Subdivision Ordinance** (please circle one)

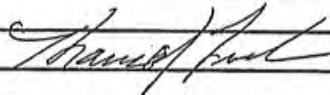
I (we) the undersigned do respectfully request that the Ogden City Zoning Sign Subdivision (circle one) Ordinance be amended by changing or eliminating 5-3A-1 + 5-3C-8, p.B (Ordinance reference)

Please amend the ordinance as follows: *See Attachment "A"*

This change is in the best interest of the general public because:

*See Attachment "A"*

Petitioner's signature(s):



**Filed in office of City Recorder**

Petition No. *2015-9*  
By *Thaine Fischer*  
Date *7/2/15*  
Fee *\$1600.00, CMA, CC*

Date: *7-2-15*

**Petition to Amend Ogden City's  
Zoning, Sign or Subdivision Ordinance**

**Attachment "A"**

*Please amend the ordinance as follows:*

Applicant petitions to have the definition "Linear Block" **REMOVED** from 5-3A-1 and 5-C3-8 paragraphs "B". Thus allowing 2 establishments per block on each side of the street.

**5-3A-1: ALCOHOLIC BEVERAGE DEFINITIONS:**

LINEAR BLOCK: Both sides of that portion of any street that has street numbers ranging between any two (2) consecutive multiples of 100, such as between 100 and 200, or between 2200 and 2300, etc. A corner tavern or private club shall be included in the particular linear block indicated by the street address of such establishment.

**5-3C-8: LOCATION REGULATIONS:**

B. Within those areas to which the establishment and maintenance of taverns or private clubs is limited, there shall be no more than a total of two (2) establishments licensed or maintained as a tavern or private club in any linear block. This means only two (2) such establishments shall be allowed in a block, including both sides of the block (see section 5-3A-1 of this chapter).

*This change is in the best interest of the general public because:*

By allowing additional and diverse business establishments to enter the market place, it increases economic development, opportunity for the redevelopment of historical structures and allows the community more choices.

It fits with Ogden City's written vision for a "Nightlife District". This enhances Ogden's market position in the tourism, convention and outdoor recreation. It also increases tourism dollars spent in our community; sales and transient tax proceeds, which benefit Ogden City and retail business in our downtown core.

Also it aligns our City Ordinances with other Utah Cities (Salt Lake City, Park City). This allows us to increase our marketability when competing for events, conventions and other economic development opportunities.

Thursday, July 2, 2015

## Dining and Drinking establishments

### Types of establishments

Restaurant with Beer license-	Needs to have annual receipts with 70% food sales City class B beer license. (4 licensed in Ogden 50% of licenses in Weber County, e.g. Javiers at 7 <sup>th</sup> and Washington, Taco Taco 2931 Washington)
Limited Service Restaurant-	Needs to have annual receipts with 70% food sales. City class B and Liquor license. Can sale only beer or wine. (16 licensed in Ogden 47% of licenses in Weber County, e.g. Greenery, Hug Hes, LaFerrovia, Slackwater, Steiny's Family Sports Grill, Tokyo Station )
Full Service Restaurant	Needs to have annual receipts with 70% food sales. City class B and liquor license. Can sale beer, wine and spirits. (23 licensed in Ogden 52% of licenses in Weber County, e.g. Bistro 258, El Matador, Hearth on 25 <sup>th</sup> , Iggy's, Lucky Slice Pizza, Roosters, Sonora Grill, Timbermine, Zucca)
Club Liquor license	Total number of licenses is limited to 1 per 7, 850 people in state. There are 4 types of clubs that are licensed
1. Equity Club	Requires membership and governing body and hold meetings to approve membership. Minors allowed if accompanied by a person 21 years of age or older. e.g. country clubs
2. Fraternal Club	Requires membership and governing body and hold meetings to approve membership. Minors allowed if accompanied by a person 21 years of age or older. e.g. mutual benefit associations, Eagles Elks, VFW.
3. Dining Clubs	Portion of premises used for dining area of full meal service. 60% of overall sales in food. Wine in excess of \$250 a bottle is not counted in calculating food to alcohol ratio. Minors allowed if accompanied by a person 21 years of age or older. (2 licensed in Ogden e.g. Maccools, 'Bout Time Pub and Grub in Newgate Mall.
4. Social Club	Required food to be sold. Minors not permitted. ( 17 licensed in Ogden 52% of licenses in Weber County. e.g. Alleged, Brewski's, City Club, Dars, Funk and Dive Bar, Kokomo, Sandtrap, Century Club)
Tavern	This is a facility that sales beer only. There are no licensed facilities in Ogden and only three in the county.



# Ogden City Police Department

Real Time Crime Center



prepared by: J. Gorman

13 October 2015

This is a comparison of CAD Calls for Service for the date range **Oct 6, 2012 – Oct 6, 2015** for the requested businesses serving alcohol. The CFS were sorted, arranged, and analyzed for information based on Call Description types, focusing on Police Response.

Below is the total number for each business that may have resulted in a Police response during the specified three year period. Since the Union Grill and Union Station share the same address, calls could not be differentiated, so the total number includes calls for both.

Tavern Name	Count of CFS
ALLEGED BAR	105
BREWSKIS	338
CITY CLUB	22
KOKOMO	151
LIGHTHOUSE BAR	30
THE HISTORIC PLACE	79
Grand Total	725

Business Name	Count of CFS
IGGYS	32
MACCOOLS	1
ROCK BOTTOM	46
ROOSTERS	36
UNION STATION	155
Grand Total	270

IGGYS	32
ALARM-BURGLAR	2
DISTURBANCE (10-74)	2
DRIVING UNDER INFLUENCE (10-55)	1
DRUG VIOLATIONS	1
FIRE-STRUCTURE	1
FOUND CHILD	1
FRAUD	1
LIQUOR VIOLATION	1
PROPERTY-LOST	1
PUBLIC INTOXICATION (10-56)	3
SUSPICIOUS CIRCUMSTANCE-IN PROGRESS	1
THEFT (10-92)	10
THEFT IN PROGRESS (10-92 IN PROGRESS)	2
THEFT JUST OCCURRED (10-92 JUST OCCURRED)	3
TRESPASS IN PROGRESS	1
WELFARE CHECK	1

MACCOOLS	1
THEFT JUST OCCURRED (10-92 JUST OCCURRED)	1



# Ogden City Police Department

Real Time Crime Center



prepared by: J. Gorman

13 October 2015

<b>ROCK BOTTOM</b>	<b>46</b>
911 HANGUP	1
ALARM-BURGLAR	12
ASSAULT	2
ASSAULT-POSSIBLY DANGEROUS BODY AREA	2
ASSISTANCE	3
COMMUNITY POLICING	1
CRIMINAL MISCHIEF-IN PROGRESS	1
DISTURBANCE (10-74)	5
DISTURBANCE-FIGHT (10-74)	4
FIRE-STRUCTURE	2
FORGED PRESCRIPTION	1
HARASSMENT	1
ORDINANCE VIOLATION	1
OVERDOSE/POISONING (INGESTION) BRAVO	1
SUSPICIOUS PERSON-IN PROGRESS	1
SUSPICIOUS VEHICLE-IN PROGRESS	1
THEFT JUST OCCURRED (10-92 JUST OCCURRED)	1
THREATS	1
TRESPASS IN PROGRESS	2
UNKNOWN TROUBLE	1
VEHICLE BURGLARY (10-91 VEHICLE)	1
VEHICLE BURGLARY JUST OCCURRED (10-91 VEH JUST OC)	1



# Ogden City Police Department

## Real Time Crime Center



Prepared by: J. Gorman

13 October 2015

ROOSTERS	36
911 HANGUP	1
ALARM-BURGLAR	3
ASSISTANCE	3
BLOCKED DRIVE	1
COMMUNITY POLICING	1
CRIMINAL MISCHIEF (10-64)	1
DISTURBANCE (10-74)	1
DISTURBANCE-FIGHT (10-74)	2
DISTURBANCE-NOISE (10-48)	5
DISTURBANCE-WEAPON	1
DRUG VIOLATIONS	1
FRAUD	1
LEWDNESS	2
OVERDOSE/POISONING (INGESTION)	2
PROPERTY-FOUND	1
PUBLIC INTOXICATION (10-56)	2
SUSPICIOUS CIRCUMSTANCE-IN PROGRESS	1
SUSPICIOUS PERSON-IN PROGRESS	2
THEFT (10-92)	1
THEFT JUST OCCURRED (10-92 JUST OCCURRED)	1
TRESPASS	1
TRESPASS IN PROGRESS	1
UNKNOWN PROBLEM/MAN DOWN-LIFE STATUS QUESTIONABLE	1



# Ogden City Police Department

Real Time Crime Center



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13 October 2015

UNION STATION	155
911 HANGUP	5
ALARM-BURGLAR	21
ALARM-HOLDUP/PANIC (10-90)	1
ANIMAL COMPLAINT	2
ASSAULT	2
ASSAULT JUST OCCURRED	1
ASSAULT-DOMESTIC VIOLENCE	1
ASSIST OTHER JURISDICTION	2
ASSISTANCE	3
BURGLARY (10-91)	2
CRIMINAL MISCHIEF (10-64)	13
CRIMINAL MISCHIEF-IN PROGRESS	1
CRUELTY TO ANIMALS	2
DISTURBANCE (10-74)	4
DISTURBANCE-FAMILY (10-75)	3
DISTURBANCE-FIGHT (10-74)	3
DRIVING UNDER INFLUENCE (10-55)	1
FIRE-CAR (THREATENING STRUCTURE)	1
FRAUD	2
KEEP THE PEACE	1
KIDNAP ATTEMPT	1
LARGE GATHERING	1
LIQUOR VIOLATION	1
MAN WITH A GUN (10-88)	1
MISSING PERSON (10-69)	1
OPEN DOOR	1
OVERDOSE/POISONING (INGESTION) CHARLIE	1
PROPERTY-FOUND	6
PSYCHIATRIC/ABNORMAL BEHAVIOR/SUICIDE ATTEMPT	2
PSYCHIATRIC/ABNORMAL BEHAVIOR/SUICIDE ATTEMPT-B	1
PUBLIC INTOXICATION (10-56)	4
SAFETY HAZARD	5
SEXUAL OFFENSE	1
SUSPICIOUS CIRCUMSTANCE (10-47 CIRCUMSTANCE)	4
SUSPICIOUS CIRCUMSTANCE-IN PROGRESS	4
SUSPICIOUS PERSON (10-47 PERSON)	1
SUSPICIOUS PERSON-IN PROGRESS	6

SUSPICIOUS VEHICLE-IN PROGRESS	1
SUSPICIOUS VEHICLE (10-47 VEHICLE)	2
THEFT (10-92)	8
THEFT JUST OCCURRED (10-92 JUST OCCURRED)	1
THREATENED SUICIDE	2
TRAUMATIC INJURIES(SPECIFIC)-POSSIBLY DANGEROUS	1
TRESPASS	4
TRESPASS IN PROGRESS	8
UNKNOWN PROBLEM/MAN DOWN-LIFE STATUS QUESTIONABLE	3
UNKNOWN PROBLEM/MAN DOWN-STANDING, SITTING	4
VEHICLE BURGLARY (10-91 VEHICLE)	3
VEHICLE BURGLARY IN PROGRESS (10-91 VEH IN PROG)	1
VEHICLE THEFT (10-99 VEHICLE)	1
WARRANT (10-29)	1
WELFARE CHECK	3



# Ogden City Police Department

Real Time Crime Center



Prepared by: I. Gorman

## TAVERNS ON 25<sup>th</sup> St STUDY

6 October 2015

We pulled all of the CAD Calls for Service for the date range Oct 6, 2012 – Oct 6, 2015 for 25<sup>th</sup> Street between Wall Ave and Washington Blvd. During that time period there were 2511 Police Calls for Service. We then sorted, arranged, and analyzed the results based on the addresses of the six Taverns/Bars registered on 25<sup>th</sup> St. We further sorted and analyzed the information based on Call Description types, focusing on Assaults, Disorderly, Public Intoxication, and similar crime types.

-Of the 2511 Police Calls for Service on 25<sup>th</sup> St, 725 (29%) were reported at the six Taverns.

-Of the 450 Specific Crime Incidents (Assault, Disorderly Conduct, etc), 211 (47%) of them were reported at the six Taverns.

### Total Police Calls for Service on 25<sup>th</sup> St. Oct 2012- Oct 2015

2511

Tavern Name	Count of CFS	% OF TOTAL
ALLEGED BAR	105	4%
BREWSKIS	338	13%
CITY CLUB	22	1%
KOKOMO	151	6%
LIGHTHOUSE BAR	30	1%
THE HISTORIC PLACE	79	3%
Grand Total	725	29%

Call Types	CFS on 25 <sup>th</sup> St
ASSAULT	46
ASSAULT IN PROGRESS	4
ASSAULT JUST OCCURRED	29
BURGLARY (10-91)	10
BURGLARY ATTEMPT (10-91 ATTEMPT)	2
BURGLARY IN PROGRESS (10-91 IN PROGRESS)	1
DISTURBANCE (10-74)	140
DISTURBANCE-FIGHT (10-74)	92
DISTURBANCE-WEAPON	16
DRIVING UNDER INFLUENCE (10-55)	23
DRUG VIOLATIONS	8
DRUG VIOLATIONS IN PROGRESS	7
DRUG VIOLATIONS JUST OCCURRED	2
PUBLIC INTOXICATION (10-56)	59
ROBBERY	4
ROBBERY IN PROGRESS	1
SEXUAL OFFENSE	6



# Ogden City Police Department

Real Time Crime Center



Prepared by: I. Gorman

## TAVERNS ON 25<sup>th</sup> St STUDY

6 October 2015

Grand Total	450
Call Types	CFS at Each Tavern
<b>ALLEGED BAR</b>	
<b>ALLEGED BAR</b>	<b>33</b>
ASSAULT	8
ASSAULT JUST OCCURRED	2
DISTURBANCE (10-74)	10
DISTURBANCE-FIGHT (10-74)	9
PUBLIC INTOXICATION (10-56)	2
SEXUAL OFFENSE	2
<b>BREWSKIS</b>	
<b>BREWSKIS</b>	<b>85</b>
ASSAULT	13
ASSAULT IN PROGRESS	1
ASSAULT JUST OCCURRED	9
DISTURBANCE (10-74)	16
DISTURBANCE-FIGHT (10-74)	21
DISTURBANCE-WEAPON	2
DRIVING UNDER INFLUENCE (10-55)	9
DRUG VIOLATIONS	1
DRUG VIOLATIONS IN PROGRESS	1
PUBLIC INTOXICATION (10-56)	9
ROBBERY	2
SEXUAL OFFENSE	1
<b>CITY CLUB</b>	
<b>CITY CLUB</b>	<b>2</b>
DISTURBANCE (10-74)	1
SEXUAL OFFENSE	1
<b>KOKOMO</b>	
<b>in KOKOMO</b>	<b>1</b>
ASSAULT	1
<b>KOKOMO</b>	<b>57</b>
ASSAULT	9
ASSAULT JUST OCCURRED	3
DISTURBANCE (10-74)	10
DISTURBANCE-FIGHT (10-74)	22
DRIVING UNDER INFLUENCE (10-55)	4
DRUG VIOLATIONS	1
DRUG VIOLATIONS JUST OCCURRED	2
PUBLIC INTOXICATION (10-56)	5
ROBBERY	1



# Ogden City Police Department

Real Time Crime Center



Prepared by: I. Gorman

## TAVERNS ON 25<sup>th</sup> St STUDY

6 October 2015

### LIGHTHOUSE BAR

<b>LIGHT HOUSE BAR</b>	<b>1</b>
DRIVING UNDER INFLUENCE (10-55)	1
<b>LIGHTHOUSE BAR</b>	<b>4</b>
ASSAULT	1
DISTURBANCE (10-74)	1
DISTURBANCE-FIGHT (10-74)	2

### THE HISTORIC PLACE

<b>THE HISTORIC PLACE</b>	<b>28</b>
ASSAULT	2
ASSAULT JUST OCCURRED	5
DISTURBANCE (10-74)	11
DISTURBANCE-FIGHT (10-74)	3
DISTURBANCE-WEAPON	3
DRIVING UNDER INFLUENCE (10-55)	2
PUBLIC INTOXICATION (10-56)	2

**Grand Total 211**

Pin Map (with Hot Spots). 25<sup>th</sup> St.





# Ogden City Police Department

Real Time Crime Center

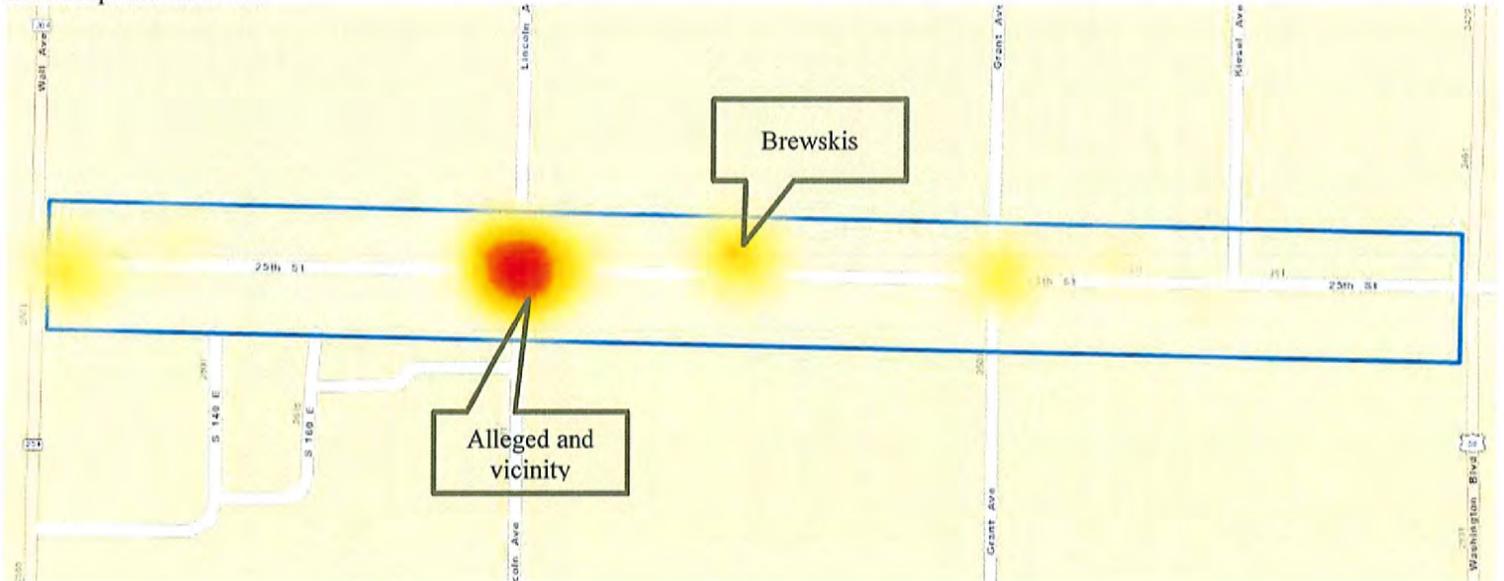


Prepared by: I. Gorman

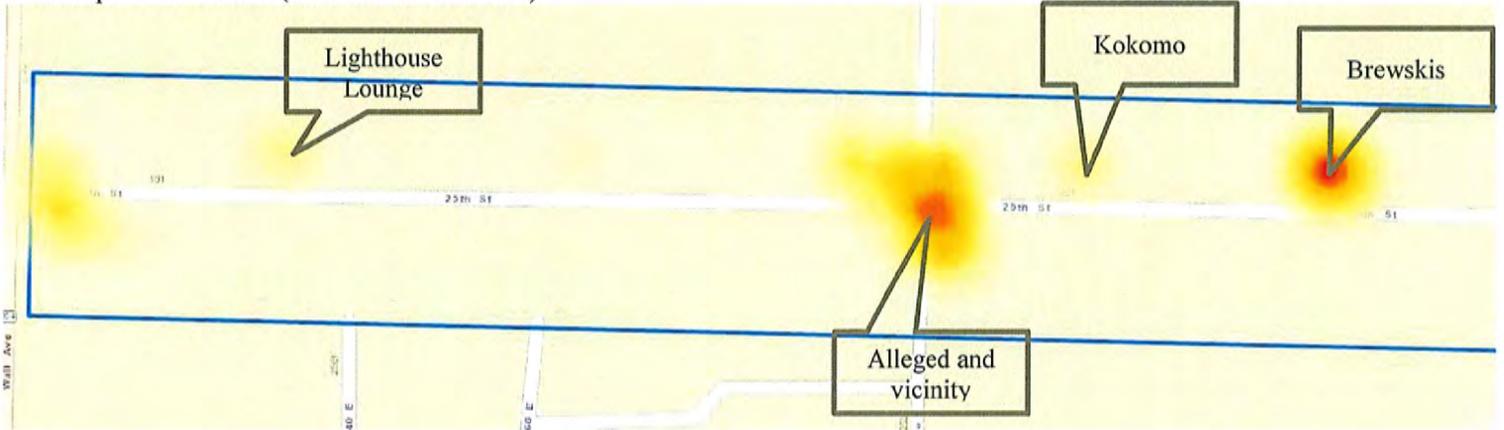
## TAVERNS ON 25<sup>th</sup> St STUDY

6 October 2015

Heat Map. All of 25<sup>th</sup> St.



Heat Map. Wall to Grant (all of the Taverns/Bars)



### **Club Liquor License Summary**

*Note: This is general information only and should not be considered conclusive. For further detail, please consult Title 32B of the Utah Code (<http://le.utah.gov/UtahCode/chapter.jsp?code=32B>) or the Rules of the Commission (<http://www.rules.utah.gov/publicat/code/r081/r081.htm>)*

A club liquor license allows the sale, storage, service, and consumption of alcoholic beverages (liquor, wine, heavy beer, and beer) on the premises. Licenses run from July 1 to June 30. The total number of licenses allowed by law is one per 7,850 people in the state.

#### **There are four types of clubs**

- Equity clubs such as country clubs.
- Fraternal clubs such as mutual benefit associations that are organized under a lodge system such as fraternal or patriotic clubs.
- Dining clubs:
  - must have a portion of the premises used for a dining area, and adequate culinary facilities to serve full meals,
  -  Effective July 1, 2011: dining clubs must maintain at least 60% of their overall sales in food sales except that any dining club that was licensed on or before June 30, 2011 may maintain 50% food sales until July 1, 2012, but must then maintain 60%. Expensive wines in excess of \$250 per bottle are not included in calculating the food to alcohol ratio.
- Social clubs include any other club that does not qualify as an equity, fraternal or dining club, such as a social drinking club that does less than 50% of its business from the sale of food.

#### **Club Structure**

- Licenses may be issued to sole proprietors, partnerships, corporations, or limited liability companies.
- An equity or fraternal club must have a governing body comprised of at least three members that holds regular meetings to approve memberships (and conducts any other business required by the club's bylaws or house rules).
- Dining and social clubs are open to the public but the club licensee may choose to restrict access to only those who are on a list and/or pay a fee.

#### **Membership Requirements are only applicable to Equity and Fraternal Clubs**

- Qualifications for membership are set in the club's bylaws or house rules, however a member must be an individual who is 21 years of age or older.
- *Membership Applications.* A club may admit an individual as a member only on written application signed by the applicant subject to investigation, vote and approval of the governing body. The applicant must pay an application fee and membership dues as established in the club's bylaws or house rules.
- A member's spouse is entitled to all rights and privileges of the member to the extent permitted by the bylaws or house rules of the club, except to the extent restricted by law (i.e. a spouse who is a minor, cannot be in a bar area, purchase or consume alcohol, etc.).
- A minor child of a member is entitled to all rights and privileges of the member to the extent permitted by the club's bylaws or house rules, except to the extent restricted by law (i.e. cannot be in a bar area, purchase or consume alcohol, etc.).

- A patron, in order to be admitted to or use the premises of an equity or fraternal club, and/or to purchase alcoholic beverages at the club, must be a club member, or guest of a member to the extent permitted in the clubs bylaws or house rules. (see below: Guest Hosting applicable to Equity and Fraternal Clubs)

### **Guest Hosting applicable to Equity and Fraternal Clubs**

#### **• Guests**

- must be previously authorized by a member;
- allowed to use the premises to the extent permitted by the club's bylaws or house rules;
- have only those privileges derived from the host for the duration of the guest's visit.
- The club and its employees may not enter into an agreement or arrangement with a member to indiscriminately host members of the general public into the club as guests.
- An individual is allowed as a guest without a host:
  - in an equity club, if the individual is member of another equity club that has reciprocal guest privileges with the equity club licensee, or
  - in a fraternal club, if the individual is a member of the same fraternal organization as the fraternal club licensee.

### **Sale and Service of Alcoholic Beverages:**

#### **(1) Liquor Sales**

- (a) The primary liquor in a mixed drink may be dispensed from any size bottle, but only in quantities **not to exceed** 1.5 ounces through a department approved calibrated metered dispensing system or device. The club must post a list of types and brands of liquor dispensed through the dispensing system.
- (b) Liquor used as a secondary flavoring need not be dispensed through the dispensing system. Liquor stored and used as flavorings must be clearly labeled "flavoring".
- (c) The total amount of spirituous liquor in a beverage (including both the primary liquor and any secondary flavorings) may not exceed 2.5 ounces of spirituous liquor.
- (d) Each patron may have no more than a total of 2.5 ounces of spirituous liquor (including flavorings) at a time before the patron.

#### **(2) Wine Sales**

- (a) Wine may be sold and served by the bottle or container in sizes not exceeding 1.5 liters to tables of four or more. For tables of less than four, the size can not be larger than 750 ml.
- (b) Wine may be served by the glass or individual portion in quantities not exceeding 5 ounces. An individual portion (i.e. "flights") may be served to a patron in more than one glass as long as the total amount of wine in the individual portion does not exceed 5 ounces. An individual portion of wine is considered one alcoholic beverage.
- (c) Wine may be poured by the glass from any size bottle or container and need not be dispensed through a dispensing device.
- (d) Unfinished wine may be removed from a club by a patron if the bottle is re-corked or recapped.

**(3) Heavy Beer Sales:** Heavy beer may be served in original containers not exceeding one liter.

**(4) Flavored Malt Beverage Sales:** Flavored malt beverages may be served in original containers not exceeding one liter.

**(5) Beer Sales:** Light beer may be served in any size container not exceeding 2 liters and on draft. Beer may be sold to an individual patron only in a container that does not exceed one liter. A pitcher (larger than one liter and up to two liters) may only be sold to parties of two or more. Beer may be sold to go in sealed containers.

### **Limitation on Total Number of Drinks**

- Each club patron may have no more than two alcoholic beverages of any kind at a time before the patron subject to the following limitations:

If two spirituous drinks are in front of a patron, one may not be the same primary liquor dispensed as a shot-on-the-side (previously referred to as a "side car"). Also, the two drinks can not contain a total of more than 2.5 ounces of liquor at a time before the patron.

### **Price List**

- A club must have readily available for its patrons a printed alcoholic beverage price list or menu containing current prices of all alcoholic beverages.

### **Discounting Practices Prohibited**

- <sup>New</sup> Alcoholic beverages may not be sold at a discount at any time.
- Discounting practices are prohibited that encourage over-consumption of alcohol (i.e. "happy hours", "two for ones", combination pricing, "all you can drink for a set price", free alcohol, or selling at less than cost).
- A club licensee or employee may not purchase an alcoholic beverage for a patron.

### **"Brown Bagging"**

- Patrons may not bring in or store spirituous liquor, heavy beer, or beer (3.2% alcohol by weight) on the premises, however at the licensee's discretion a patron may bring in bottled wine for consumption on the premises.
- Wine brought in must be immediately delivered to a server or an employee of the club.
- A wine service may then be performed, and patrons may serve themselves or others at the table.

### **Food Availability**

- Clubs must offer a variety of food prepared and served in connection with dining accommodations.
- Food must be available at all times when alcohol is sold, served, or consumed.

### **Advertising**

- Signs advertising alcoholic beverages may be displayed inside and outside the club.
- Alcohol advertising by the club must comply with the guidelines in Rule R81-1-17 which may be viewed at <http://www.rules.utah.gov/publicat/code/r081/r081-01.htm#T16>.
- Public advertising by a Fraternal or Equity club must identify the club as being "a club for members".

### **Sales and Consumption Hours**

- Alcoholic beverages may be sold on any day from 10:00 a.m. until 1:00 a.m.
- A patron may not remove an open container primarily used for drinking purposes and containing an alcoholic beverage, from the club premises.
- Clubs must remain open an extra hour after alcohol sales and service have ended to allow a patron to finish consuming:
  - a single drink containing spirituous liquor;
  - a single serving of wine not exceeding five ounces;
  - a single serving of heavy beer;
  - a single serving of beer not exceeding 26 ounces; or
  - a single serving of a flavored malt beverage.
- Clubs do not have to remain open after all patrons have vacated the premises, or during an emergency.
- *Hours of Consumption.* Consumption of alcohol in clubs is prohibited between the hours of 2 a.m. and 10 a.m.
- The liquor storage area must remain locked at times when liquor sales are not permitted.

### **Employees**

- Any employee handling alcoholic beverages must be twenty one years of age or older.
- Servers of alcohol must wear a unique identification badge showing the employee's first name, initials, or a number assigned by the employer.
- Employees, while on duty, may not consume alcoholic beverages or be intoxicated.

### **Alcohol Training and Education Seminar Required**

- Managers, supervisors, and employees who serve alcohol must take and pass an alcohol server training seminar every three years and must complete the training within 30 days of commencing employment.

### **Employee Fines**

- The commission is authorized to assess an administrative fine against an officer, employee, or agent of a licensee for a violation of the alcoholic beverage laws.

### **Electronic Age Verification by Dining & Social Club Licensees (ID Scanners)**

- ID scanners are not required for equity clubs and fraternal clubs.
- The ID scanner requirement applies to all dining and social clubs whether or not the dining or social club chooses to restrict access by way of a membership or an access restriction that is imposed by the club.
- Social Clubs and Dining Clubs must electronically verify age before anyone who appears to be 35 years of age or younger may gain admittance to a social club, or obtain an alcoholic beverage in a dining club.
- Social Clubs and Dining Clubs must be able to read, print, or download the data in the ID scanners. Club owners/managers should have the knowledge and capability to produce the data upon request of a peace officer or authorized representative of the DABC.
- The DABC does not provide a list of approved scanners. ID scanners (electronic age verification devices) are available from multiple manufacturers and vendors. An ID scanner selected by a social or dining club licensee must meet the requirements of rule R81-5-18 which may be viewed at <http://www.rules.utah.gov/publicat/code/r081/r081-05.htm#T16> and is summarized below.
- An electronic age verification device:
  - a) must contain the technology to read a magnetic stripe and a two dimensional ("2d") stack symbology (bar code), or an alternate technology capable of electronically verifying the proof of age; and
  - b) shall be capable of reading a valid state issued driver's license, a valid state issued identification card, a valid military identification card, or a valid passport;
  - c) shall have a screen that displays no more than a person's name, age, ID number, birth date, gender, ID status & expiration date; and
  - d) shall have the capability of electronically storing the name, age, ID number, birth date, gender, ID status & expiration date for seven days (168 hours) including the time and date the proof of age was scanned.
- If the proof of age cannot be scanned electronically, an alternative method of verifying an individual's proof of age shall include a record or log showing the type, number, and expiration date of the ID; the date the ID was presented, the individual's name and date of birth.
- Any data collected either electronically or otherwise, may only be used for the purpose of verifying an individual's proof of age and may not be retained by the licensee in a data base for mailing, advertising, or promotional activity, to acquire personal information to make inappropriate personal contact with the individual, and shall be retained for a period of seven days from the date on which it was acquired, after which it must be deleted. The data collected may be acquired by law enforcement, or other investigative agencies.

### **Minors in Equity, Fraternal, and Dining Clubs**

- Minors *may not* be on the premises of a lounge or bar area of any club.
- Minors *may not* be on the premises of a dining club unless accompanied by an individual who is 21 years of age or older.
- Minors *may not* be on the premises of any club that provides sexually oriented adult entertainment.
- Minors *may* be employed by an equity, fraternal, or dining club, but may not work in any lounge or bar area, or sell, serve or handle alcoholic beverages.
- Minors who are least 16 years of age *may* work at a cash register in an equity or dining club to ring up the sale of alcoholic beverages.

### **Minors in Social Clubs**

- Minors *may not* be employed on the premises of a social club.
- Minors *may not* be admitted into, use, or be on the premises of a social club.
- A narrow exception exists for minors to be allowed in certain areas of social clubs that were granted a "dance or concert hall permit" before May 12, 2009.
- Local governments may be more restrictive of a minor's admittance, use of, or presence on the premises of any private club.

### **Bad Checks**

- The DABC may immediately suspend the club license if it receives a bad check as payment for liquor, for licensing or bond fees, fines and costs for violations, etc.

### **Warning Sign**

- New
- Each club licensee shall display, in a prominent place, a sign no smaller than eight and one half inches high by eleven inches wide stating: "*WARNING - Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child. Call the Utah Department of Health at 1-800-822-2229 with questions or for more information. Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.*" The two warning messages shall be in the same font size but different font styles that are no smaller than 36 point bold. The font size for the health department contact information shall be no smaller than 20 point bold.

### **Prohibited Conduct**

- Lewd acts, attire, and sexually oriented conduct of employees and entertainers that are considered contrary to public welfare and morals are prohibited on the premises. See Utah Code Section 32B-1-501 through 506 which may be viewed at: <http://www.le.utah.gov/UtahCode/section.jsp?code=32B-1>
- Gambling – Licensees may not engage in or permit any form of gambling on its premises.
- Illegal drugs or drug paraphernalia - A retail licensee may not knowingly allow a person on the licensed premises to sell, distribute, possess, or use a controlled substance; or use, deliver, or possess with the intent to deliver drug paraphernalia. See Utah Code Section 32B-5-301(5) which may be viewed at: [http://le.utah.gov/~code/TITLE32B/htm/32B05\\_030100.htm](http://le.utah.gov/~code/TITLE32B/htm/32B05_030100.htm)



# City Council Work Session

## COUNCIL STAFF REVIEW

### **PROPOSED AMENDMENT TO ALLOW ACCESSORY DWELLING UNITS IN ALL RESIDENTIAL ZONES**

**PURPOSE OF WORK SESSION:** Review the proposed amendment

**PLANNING COMMISSION RECOMMENDATION:** Approval of the ordinance (6-0)

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#### ***Executive Summary***

In 2008, an amendment was approved that would allow accessory dwelling units, or ADUs, in certain parts of the City through a zoning overlay process. Areas were identified in various community plans that the City felt were best suited to accommodate ADUs. As of 2015, there are only three areas in the City with the ADU overlay approved. Recently, the City Council requested that the Planning Commission review and provide a recommendation on a proposal to allow ADUs in all residential areas of the City. The Planning Commission has provided a recommendation of approval for ADUs in all residential zones with the exception of specific areas within the Mt. Ogden Community Plan area. The proposal would remove the need to have an overlay zone and would allow a homeowner to apply for a license to have an ADU in any residential zone.

#### ***Background***

Accessory dwelling units, or ADUs, are housing units that are subordinate to a main dwelling unit and which are either attached to the main dwelling or on the same property. They are intended to be limited in scope and impact and are designed to blend into the main home and property. Under Ogden City's ordinance, ADUs may only be permitted if the home is a single-family unit and is owner occupied. No additional parking is permitted and all entrances must be incorporated into the overall design of the home. In addition, the occupancy is limited to two adults, either related or unrelated, and their minor children. This differs from a duplex use where the units are equal and occupancy standards are governed by the family definition for each unit. With a duplex use, one unit is not subordinate to another and there is no owner-occupancy requirement.

Accessory dwelling units are generally intended to serve as infill housing and to provide options for younger families, couples, single, or older persons who wish not to or who cannot afford to live in a single-family



# City Council Work Session

## COUNCIL STAFF REVIEW

home. The stricter standards for ADUs are intended to limit the impact on the nature and character of the single-family residential neighborhood while still providing this housing option.

Accessory dwelling units were first reviewed in 2000 within the larger discussion and action of downzoning large portions of the City. Although there was discussion, no proposal was formalized or considered. In 2007, ADUs were discussed again and at that time a proposal was developed and brought forward. The Planning Commission reviewed a proposal to allow ADUs in all residential zones throughout the City through the approval of an overlay zone. The proposal would allow a property owner to apply for a license to have an ADU if that owner's property was included within an ADU overlay zone. The discussion about ADUs in 2007 was associated with the development and adoption of the Mt. Ogden Community Plan. In that plan, the proposal was to allow ADUs only in residential areas directly to the north of Weber State University. The proposed ADU ordinance disallowed ADUs in the Mt. Ogden plan area if they were not located within the predesignated area.

The Planning Commission's 2007 recommendation to the Council on ADUs was to allow them in all residential areas if the ADU overlay zone was approved for that area. The overlay zone had a minimum area of 10 acres, or one city block, and would be approved through the rezoning process. Once the overlay zone was in place, a property owner within that overlay zone area could apply for a license to operate the ADU. However, as the Council reviewed the proposal, it was determined that a more limited approach should be taken with ADUs. In 2008, the Council approved an amended proposal that would allow ADUs in an overlay zone but limited the eligible overlay zone areas to those which had been included in a given area's community plan.

Since the adoption of the ADU ordinance in 2008, there have been three overlay zones approved; one in the Mt. Ogden Community Plan area, one in the Southeast Ogden Community Plan area, and one in the East Central Community Plan area. The community plans adopted prior to the adoption of the ADU ordinance did not include any language regarding ADUs as the overlay zone was not yet an option. Of the community plans approved after the ADU ordinance was in place only the East Central Community Plan included specific language for the allowance of ADUs. Planning Staff has indicated that within the three existing overlay zones, only one resident has applied for a license to have an ADU. This, of



# City Council Work Session

## COUNCIL STAFF REVIEW

course, does not mean that others do not exist, but rather only one person has taken the required steps to have an ADU.

Recently, the Council has shown interest in having the Planning Commission provide a recommendation for allowing ADUs in all residential zones. No specific standards were directed for the allowance of ADUs city-wide. As a result of the Council's interest, the Planning Department developed a proposal and the Planning Commission forwarded a recommendation to the Council for allowing ADUs in residential zones throughout the City.

**Current Proposal** The current proposal differs from the proposal forwarded to the Council in 2007. The current proposal maintains all of the design and application requirements but eliminates the need for an overlay zone. This is a departure from the previous proposal and the existing ordinance. The proposed ordinance would allow any owner-occupant in a single-family home in any residential zone to apply for an ADU. The proposal maintains the standards for the number of units per parcel, occupancy, dwelling size, appearance, outside entrances, parking, and compliance with building codes.

The proposal would allow ADUs as a permitted use, with the proper license and approval, in all single-family and multi-family residential zones in the City with the exception of those areas within the Mt. Ogden Community Plan area that have been designated as not permitting ADUs.

### **Planning Commission**

The proposal was reviewed by the Planning Commission at the April 1, 2015 meeting. The Commission provided a recommendation of approval to the Council with a 6-0 vote and with the finding that the ordinance meets the general plan goals of increasing homeownership, providing for a variety of housing styles, and that it strengthens neighborhoods.

**Public Comment** No public comment was received at the meeting.

### **Issues for the Council**

Accessory dwelling units were discussed at length when the initial proposal was introduced in 2007. The proposal at that time was to allow ADUs in all residential areas of the City only after an ADU overlay was



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approved. One of the issues for the Council is to determine if the removal of the overlay zone is appropriate.

### *Benefits and Concerns*

When ADUs were discussed in 2007 and 2008, many of the benefits of ADUs were identified in the various discussions and reports. These included reducing the number of absentee landlords, increasing homeownership and the ability for people to stay in their homes, meeting the needs of smaller or growing families as well as being able to accommodate older residents or single individuals, and using the ADU ordinance to stabilize neighborhoods through investment opportunities. Another potential benefit identified was that since ADUs were happening already, the allowance and regulation of ADUs would help to address some of the problems associated with illegal dwelling units. In addition, the proposed ordinance required that the character of the home and the neighborhood be maintained while still allowing a slight increase in density and this unique type of housing.

While many of the benefits of ADUs were discussed, there were concerns expressed as well. These concerns included additional traffic, an increase in the number of children in the local schools, and enforcement issues. While some of these concerns may not pose a substantial threat to neighborhood character, enforcement issues were a concern to the Council. As with several other topics, the Council chose to take a more conservative, trial-based approach to ADUs from that which the Planning Commission had recommended. The requirement that the overlay zone may only be applied to areas that were previously identified in a community plan, and the overlay zone itself, allowed the City to regulate ADUs more closely to help address these concerns.

### *Zoning and Community Planning*

As the Council reviews the proposal with regard to the removal of the overlay zone, there are several issues that should be kept in mind. First, the approval of an overlay zone follows the same process as a rezone. This means that there is community notification that a change is happening and that a new use may be permitted where that use was not permitted previously. If ADUs are permitted without such notification, residents may not know that ADUs are allowed or that a change to the zoning regulations has occurred.



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The second issue to keep in mind is that many of the City's community plans were done prior to the adoption of the ADU ordinance in 2008. The Mt. Ogden Community Plan was completed in 2007 and that plan helped to re-initiate the overall discussion about ADUs. Since the adoption of the ADU ordinance, the East Central, CBD, Mt. Lewis, Jefferson, and West Ogden Community Plans have been completed or updated. Of those plans that have been completed after the ADU ordinance was adopted, only the East Central plan provides areas where the ADU overlay may be located. As the Mt. Ogden Community Plan shows, there may be a significant population of the City that is not in favor of ADUs. This was made clear in the community comments during the Mt. Ogden planning process. As a result of these comments, only a small area of the community may have ADUs. It is unclear whether residents of other parts of the City feel as strongly as residents in the Mt. Ogden plan area do about ADUs.

### *Consideration*

While residents of the Mt. Ogden plan area expressed concerns over ADUs, many of the concerns centered on student housing and the proximity to the university, or they centered on enforcement concerns. Other areas of the City obviously do not have the same kind of student housing issues that the Mt. Ogden area has, and concerns over enforcement are generally ubiquitous when discussing any zoning or housing issue. The approach that the Council took in 2008 to limit the scope of ADUs was based on a desire to see how well ADUs integrated into the community. The Planning Staff have indicated that only one permitted ADU exists in the City now. There are certainly more than that one in existence, but the question of true impact must be considered.

Many residents may not know that ADUs are illegal or may choose not to acquire the necessary approvals. This would be the case with an expanded ordinance as well. Because of this, there may be virtually no change in the current level of enforcement. Making the approval process easier by eliminating the overlay zone requirement may also serve to encourage more residents to seek the proper approvals thereby helping ease enforcement needs. Requirements that the home must be owner-occupied and that the home not substantially change in appearance or character helps to mitigate potential impacts as well.

The consideration when looking at the removal of the overlay zone requirement is that some neighborhood notification and involvement may be lost, but the requirements set forth for ADUs are intended to mitigate



**OGDEN CITY COUNCIL TRANSMITTAL**

**DATE:** April 2, 2015  
**TO:** Ogden City Council  
**THRU:** Mark Johnson, CAO  
**FROM:** Tom Christopoulos, CED Director

**RECEIVED**

**APR 21 2015**

**OGDEN CITY  
COUNCIL OFFICE**

**RE:** Elimination of Chapter 15-32 for ADU's, Amendment of all residential zones to allow ADU's except in certain areas of the Mount Ogden Community, Amendment of Chapter 15-13-28 to create standards for ADU's.

**STAFF CONTACT:** Greg Montgomery, Planning Manager

**REQUESTED TIMELINE:** May 19, 2015

**RECOMMENDATION:** Approval

**DOCUMENTS:** Ordinance, Planning Staff report

**DISCUSSION:**

The Planning Staff explained that in 2008 ADU's were permitted in certain parts of the City. The reason was for a single-family owner to have a subordinate living space on the same lot or in the same buildings so the owner makes sure the property is maintained. Staff explained the benefits of ADU's with some of those being the ability for a young family to be able to purchase a home while an older individual feels security with someone nearby. Discussion occurred that rentals have increased in Ogden and ADU's would be a means to encourage home ownership plus the residential housing demand.

Staff explained the Council has requested this be considered City wide. As part of this review it was noted that the only community that specifically didn't want ADU's was in certain portions of the Mount Ogden Community Plan. Staff noted that the proposed ordinance would leave this area out but may be included at a later date if the community plan is amended.

Staff then discussed current ADU standards such as the appearance shall remain as a single-family, 2 legal off street parking spaces and the current standards and process staying the same. These standards help ADU's integrate into the area. The proposal is to locate the standards in Chapter 13 All Zones and eliminate Chapter 32 since it would no longer be an overlay zone. Discussion occurred if vacation rentals should be part of an ADU. The Commission felt that they should not be allowed due to potential parking conflicts and the short term basis associated with vacation rentals in a neighborhood.

**PLANNING COMMISSION ACTION**

The Planning Commission reviewed this item on April 1, 2015. A motion was made based on the proposed ADU ordinance meets the general plan goals and increasing homeownership, providing for a variety of housing styles and strengthens neighborhoods.

PLANNING COMMISSIONERS VOTE	<u>Yes</u>	<u>No</u>
Blaisdell.....	X	
Holman.....	X	
Orton.....	X	
Patterson.....	X	
Schade .....	X	
Wright.....	X	

**CONCERNS OF CITIZENS:**

None

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

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY AMENDING CHAPTER 13 OF TITLE 15 TO ADOPT A NEW SECTION 39 REGARDING STANDARDS FOR ACCESSORY DWELLING UNITS; AMENDING SECTIONS 15-15-2, 15-16-2, 15-17-2, 15-18-2, 15-19-2, 15-35-2 AND 15-36-2 TO ALLOW ACCESSORY DWELLING UNITS AS PERMITTED USES IN VARIOUS ZONES; RESERVING CHAPTER 32 OF TITLE 15; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

SECTION 1. Chapter amended. Chapter 13 of Title 15 of the Ogden Municipal Code is hereby amended by adopting a new Section 38 to read and provide as follows:

**15-13-39 [STANDARDS FOR ACCESSORY DWELLING UNITS:]**

In all residential zones, unless a more restrictive standard has been adopted within this Title, accessory dwelling units shall meet the following requirements:

- A. [Purpose:] It is the purpose of this section to establish regulations controlling the use and construction of accessory dwelling units; to encourage individuals to become and remain homeowners by allowing limited opportunities for rental income; to allow the provision of security or services to owner occupants of the dwelling; to provide options for structures designed as single-family dwellings to meet the needs of owner occupants at a variety of stages in their life cycle; and to protecting the stability of neighborhoods.
- B. [Number Of Accessory Units Per Parcel:] An accessory dwelling unit (ADU) shall be allowed only on parcels containing a single-family dwelling. No more than one accessory dwelling unit shall be allowed for a lot or parcel which also contains the single-family dwelling. ADUs shall not be allowed on lots or units which are part of a PRUD, apartment building, group dwelling or a condominium project.
- C. [Occupancy:] The property owner, which includes titleholders, must occupy either the primary or accessory dwelling as their permanent and principal residence in order to qualify for an ADU.
  - 1. As long as the owner occupies the main dwelling or the ADU then the other unit is allowed to be rented under this ADU provision.
  - 2. The owner is permitted to have a separate seasonal residence but during the time away from the permanent residence they are not allowed to rent out their vacant permanent residence unit. For the purposes of this subsection "seasonal residence" shall mean living in another location up to four (4) months in one calendar year.
  - 3. The property owner shall conform to the definition of "family" as described in chapter 2 of this title.
  - 4. The non-owner occupied unit is limited to no more than two (2) related or unrelated adults, with or without minor children of the two (2) adults.
  - 5. Neither the single-family dwelling nor the ADU may be used or licensed as a residential vacation rental.

- D. **[Size:]** The ADU shall not occupy more than forty percent (40%) of the building's total habitable square footage or for detached units shall not be less than three hundred (300) square feet or more than eight hundred (800) square feet. Detached units shall not occupy more than twenty five percent (25%) of the rear yard area of the lot.
- E. **[Appearance:]** The appearance of the dwelling shall remain that of a single-family residence and not be altered with the exception of required egress windows from bedrooms or entry doors. Any new detached building to accommodate an accessory dwelling unit shall be designed to follow the architectural design, style, and character of the main building. The exterior surfaces shall have the same visual appearance of the exterior material and color of the main building. The height of the building shall not exceed one story if the main building is one story nor be taller than twenty five feet (25') to the peak of the roof if the main building is taller than one story.
- F. **[Outside Entrances:]** The entrances to the ADU and main dwelling shall use existing entrances to the dwelling if possible. If a separate entrance is required to be installed to one of the units, it shall be by means of a door located in the side or rear of the building.



- G. **[Parking:]** A single-family dwelling with an accessory dwelling shall have in existence the required two (2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling. No additional off street parking in the front or side yard for the ADU is to be provided such as a side yard parking slab or widened driveway. Tandem parking (1 vehicle behind another) in the driveway that leads to legal parking for the main unit shall be the means of providing parking provided the tandem parking does not extend over the property line and the public sidewalk.
- H. **[Compliance with Building Codes:]** The ADU unit shall comply with all applicable building, health and fire codes with special attention for existing buildings given to providing the required emergency access from bedrooms.
- I. **[Application Procedure:]**
1. Any homeowner who resides in a single-family dwelling and whose property is in a residential zone and desires an accessory dwelling shall obtain an accessory dwelling permit. The accessory dwelling permit shall be in addition to any building permits that may be necessary to create the accessory dwelling unit. The applicant shall submit as part of the application for an accessory dwelling permit:

- a. A site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, any proposed building and its dimensions from buildings and property lines, and the location of parking stalls.
  - b. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses.
  - c. Written verification that the applicant is the owner of the property and has permanent residency in the existing single-family dwelling where the request is being made. The verification also requires the applicant to acknowledge that they are the owner-occupant and will remain an owner-occupant in order for an accessory dwelling unit to be permitted.
2. After review by the building services and fire divisions, the planning division shall approve or deny the application based on compliance with these regulations and payment of the same business license fee, including any disproportionate fee, as an owner occupied duplex under title 5, chapter 1, article B of this code. The required fee may be reduced by any discounts available to an owner occupied duplex.
  3. Noncompliance with the standards of this section shall be just cause for the denial of an application or revocation of an accessory dwelling permit if the original conditions are not maintained that allowed the accessory dwelling unit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to title 5, chapter 1, article C of this code, as such provisions may be applicable. If the permit is revoked the accessory dwelling unit shall be removed within thirty (30) days of the final determination.
  4. The approval of a permit for an accessory dwelling is valid for one year from the date of the approval and must be renewed annually. Change of property ownership voids the accessory dwelling permit. A new permit must be applied for according to these requirements if the new owner desires an ADU.

**SECTION 2.** Section amended. Section 15-15-2 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-15-2: [PERMITTED USES:]**

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements), except within the Mount Ogden Community Planning Area where accessory dwelling units are not allowed between Harrison Boulevard and Polk Avenue from 26<sup>th</sup> Street to the north side of 35<sup>th</sup> Street and between Polk Avenue and the eastern city limits from 26<sup>th</sup> Street to the north boundary line of lots on 36<sup>th</sup> Street.

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Daycare centers, provided the facility is located on the same site as an educational institution.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

**SECTION 3.** Section amended. Section 15-16-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-16-2: [PERMITTED USES:]**

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Daycare centers, provided the facility is located on the same site as an educational institution.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards as contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

**SECTION 4. Section amended.** Section 15-17-2 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

**15-17-2: [PERMITTED USES:]**

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

**SECTION 5.** Section amended. Section 15-18-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-18-2: [PERMITTED USES:]**

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Adult daycare.

Agriculture.

Bed and breakfast inn, subject to the following standards:

- A. Two (2) parking spaces shall be provided for the host family, plus one space for each guestroom;

- B. Proprietor or owner must occupy the property;
- C. Meals may only be served to overnight guests; and
- D. Signs are limited to nameplate signs not exceeding two (2) square feet in residential zones. In addition, a freestanding identification sign not to exceed four (4) square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Daycare center.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in

accordance with the standards contained in section 15-13-19 of this title.

Protective housing facility lodging up to fifteen (15) individuals, excluding support staff.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

**SECTION 6.** Section amended. Section 15-19-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-19-2: [PERMITTED USES:]**

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-38 of this title for ADU requirements).

Adult daycare.

Agriculture.

Bed and breakfast inn, subject to the following standards:

- A. Two (2) parking spaces shall be provided for the host family, plus one space for each guestroom;
- B. Proprietor or owner must occupy the property;
- C. Meals may only be served to overnight guests;

- D. Signs are limited to nameplate signs not exceeding two (2) square feet in residential zones. In addition, a freestanding identification sign not to exceed four (4) square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Daycare center.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with forty nine (49) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with forty nine (49) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Private park, playground, recreation area, but not including privately owned commercial amusement businesses.

Protective housing facility lodging up to fifteen (15) individuals, excluding support staff.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Retirement home.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

**SECTION 7.** Chapter reserved. Chapter 32 of Title 15 of the Ogden Municipal Code is hereby amended to reserve said Chapter:

### **Chapter 32**

### **RESERVED**

### **[ACCESSORY DWELLING UNIT OVERLAY ZONE ADU**

#### **15-32-1: PURPOSE AND INTENT:**

#### **15-32-2: SCOPE AND APPLICATIONS:**

#### **15-32-3: STANDARDS AND CRITERIA:**

#### **15-32-4: APPLICATION PROCEDURE:**

#### **15-32-1: PURPOSE AND INTENT:**

~~The purpose of the accessory dwelling unit overlay zone (ADU overlay zone) is to encourage individuals to become and remain homeowners by allowing limited opportunities for rental income, allowing the provision of security or services to owner occupants of the dwelling, and providing options for structures designed as single-family dwellings to meet the needs of owner occupants at a variety of stages in their life cycle while protecting the stability of neighborhoods.~~

#### **15-32-2: SCOPE AND APPLICATIONS:**

- A. ~~The ADU overlay zone applies to those properties defined by the overlay district on the zoning map of Ogden City. The overlay zone may be considered upon petition only for those areas designated in a duly adopted community plan as suitable potential areas for accessory dwelling units. Upon approval of a petition, the ADU overlay zone may be applied in combination with the single-family dwelling requirements in any of the following residential zones: R-1, R-2, R-2EC, R-3, R-3EC, R-4 or R-5.~~
- B. ~~The provisions of the ADU overlay zone shall supplement the provisions of the zone applicable to single-family dwellings. If a conflict arises between the provisions of the ADU overlay zone and the provisions of any zone dealing with single-family dwellings with which it is combined, the provisions of the ADU overlay zone shall be deemed controlling.~~

**15-32-3: STANDARDS AND CRITERIA:**

All accessory dwelling units must conform to the following standards:

- A. ~~Number Of Accessory Units Per Parcel: An accessory dwelling unit (ADU) shall be allowed only on parcels containing a single-family dwelling. No more than one accessory dwelling unit shall be allowed for a lot or parcel which also contains the single-family dwelling. ADUs shall not be allowed on lots or units which are part of a PRUD, apartment building, group dwelling or a condominium project.~~
- B. ~~Occupancy: The property owner which includes titleholders must occupy either the primary or accessory dwelling as their permanent and principal residence in order to qualify for an ADU. As long as the owner occupies the main dwelling or the ADU then the other unit is allowed to be rented under this ADU provision. The owner is permitted to have a separate seasonal residence but during the time away from the permanent residence they are not allowed to rent out their vacant permanent residence unit. For the purposes of this subsection "seasonal residence" shall mean living in another location up to four (4) months in one calendar year. The property owner shall conform to the definition of "family" as described in chapter 2 of this title. The nonowner occupied unit is limited to no more than two (2) related or unrelated adults, with or without minor children of the two (2) adults.~~
- C. ~~Size: The ADU shall not occupy more than forty percent (40%) of the building's total habitable square footage or for detached units shall not be less than three hundred (300) square feet or more than eight hundred (800) square feet. Detached units shall not occupy more than twenty five percent (25%) of the rear yard area of the lot.~~
- D. ~~Appearance: The appearance of the dwelling shall remain that of a single-family residence and not be altered with the exception of required egress windows from bedrooms or entry doors. Any new detached building to accommodate an accessory dwelling unit shall be designed to follow the architectural design, style, and character of the main building. The exterior surfaces shall have the same visual appearance of the exterior material and color of the main building. The height of the building shall not exceed one story if the main building is one story nor be taller than twenty five feet (25') to the peak of the roof if the main building is taller than one story.~~
- E. ~~Outside Entrances: The entrances to the ADU and main dwelling shall use existing entrances to the dwelling if possible. If a separate entrance is required to be installed to one of the units, it shall be by means of a door located in the side or rear of the building.~~



F. ~~Parking: A single-family dwelling with an accessory dwelling shall have in existence the required two (2) off-street parking spaces that meet the legal location and requirements for off-street parking for a single-family dwelling. No additional off-street parking in the front or side yard for the ADU is to be provided such as a side yard parking slab or widened driveway. Tandem parking (1 vehicle behind another) in the driveway that leads to legal parking for the main unit shall be the means of providing parking provided the tandem parking does not extend over the property line and the public sidewalk.~~

G. ~~Compliance With Building Codes: The ADU unit shall comply with all applicable building, health and fire codes with special attention for existing buildings given to providing the required emergency access from bedrooms.~~

#### **15-32-4: [APPLICATION PROCEDURE:]**

A. ~~Any homeowner who resides in a single-family dwelling and whose property is in the ADU overlay zone and desires an accessory dwelling shall obtain an accessory dwelling permit. The accessory dwelling permit shall be in addition to any building permits that may be necessary to create the accessory dwelling unit. The applicant shall submit as part of the application for an accessory dwelling permit:~~

- ~~1. A site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, any proposed building and its dimensions from buildings and property lines, and the location of parking stalls.~~
- ~~2. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses.~~
- ~~3. Written verification that the applicant is the owner of the property and has permanent residency in the existing single-family dwelling where the request is being made. The verification also requires the applicant to acknowledge that they are the owner-occupant and will remain an owner-occupant in order for an accessory dwelling unit to be permitted.~~

B. ~~After review by the building services and fire divisions, the planning division shall approve or deny the application based on compliance with these regulations and payment of the same business license fee, including any disproportionate fee, as an owner-occupied duplex under title 5, chapter 1, article B of this code. The required fee may be reduced by any discounts available to an owner-occupied duplex.~~

- ~~C. Noncompliance with the standards of this section shall be just cause for the denial of an application or revocation of an accessory dwelling permit if the original conditions are not maintained that allowed the accessory dwelling unit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to title 5, chapter 1, article C of this code, as such provisions may be applicable. If the permit is revoked the accessory dwelling unit shall be removed within thirty (30) days of the final determination.~~
- ~~D. The approval of a permit for an accessory dwelling is valid for one year from the date of the approval and must be renewed annually. Change of property ownership voids the accessory dwelling permit. A new permit must be applied for according to these requirements if the new owner desires an ADU.]~~

**SECTION 8.** Section amended. Section 15-35-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-35-2: [PERMITTED USES:]**

Accessory buildings and use customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Educational institution.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public parks, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

**SECTION 9.** Section amended. Section 15-36-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**15-36-2: [PERMITTED USES:]**

Accessory buildings and use customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Educational institution.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Retirement home.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

**SECTION 10.** Effective date. This ordinance shall be effective immediately upon posting after final passage.

**PASSED, ADOPTED AND ORDERED POSTED** by the Council of Ogden City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
CHAIR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

TRANSMITTED TO THE MAYOR ON: \_\_\_\_\_

MAYOR'S ACTION:  Approved  Vetoed

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY RECORDER

POSTING DATE: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM: MHS 4/20/15  
Legal Date

- \* The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.

**APRIL 1, 2015**  
**OGDEN CITY PLANNING COMMISSION**

**AGENDA ITEM** \_\_\_\_\_

**SUBJECT:** Public Hearing for elimination of Chapter 15-32 for ADU's, Amendment of all Residential Zones to allow ADU's for single-family dwellings except in certain areas of the Mount Ogden Community, Amendment of Chapter 15-13-38 to create Standards for ADU's.

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**REQUESTED ACTION:** Approval for elimination of Chapter 15-32 for ADU's, Amendment of all Residential Zones to allow ADU's for single-family dwellings except in certain areas of the Mount Ogden Community, Amendment of Chapter 15-13-38 to create Standards for ADU's.

**FINDINGS FOR ACTION**

The Commission will need to determine whether or not the proposed ADU ordinance meets the general plan goals of increasing homeownership, providing for a variety of housing styles, and strengthens neighborhoods.

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**CONTACTS**

Petitioner: Ogden City Planning

Staff report: Rick V. Grover

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**PAST ACTIONS**

**August 1, 2012-** Amendment regarding the definition of an ADU to clarify it is not an independent dwelling unit.

**August 31, 2008-** Approval of ADU standards and requirements for Chapter 32.

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**APPLICABLE ORDINANCES**

15-2-2 DEFINITIONS:

**ACCESSORY DWELLING UNIT:** A functionally separate living space developed subordinate to a single-family dwelling on the same lot or in the same building as the single-family dwelling; but which is not an independent residence or dwelling unit.

15-32: ACCESSORY DWELLING UNIT OVERLAY ZONE (ADU)

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**A. DESCRIPTION OF PROJECT**

An Accessory Dwelling Unit (ADU) is a single family owner occupied home where a portion of the building can have an additional dwelling unit or a free standing accessory building (see pictures on following page) on the same lot as the main home that houses no more than two adults with or without minor children. Traditionally these have been named granny flat or mother-in-law apartment. ADU's create a subordinate living space to a single-family unit.



*Accessory ADU*



*Front Primary Structure / Rear ADU Structure accessed from alleyway*

In 2008 the City approved regulations for ADU's to be allowed in certain overlay zones. The purpose of ADUs was to encourage home ownership, both encouraging people to buy and live in Ogden but also keep homeowners in Ogden. The ADU provides a separate additional living space, including separate kitchen, sleeping, and bathroom facilities. ADUs under current regulations are also subordinate in size, location, and appearance to the primary unit.

In 2000 when the City did a massive down zoning of areas that were zoned R-2 there was consideration of exploring different ways of meeting the need for housing in Ogden City.

One of the ways was to consider ADU's however, this item got tabled for several years. Then in 2007 ADU's was revisited and in 2008 the Commission approved overlay zones near Weber State University to provide additional student housing. At that time consideration of ADU's was discussed in all residential zones City wide but the Commission and Council decided to see how ADU's would integrate into the neighborhoods where the overlay zones were established. Seven years later the Council suggested that ADU's be considered City wide. Staff is recommending the Commission review ADU's city wide except for certain areas in the Mount Ogden Community Plan where the community plan prohibited consideration of ADU's.

**B. SUMMARY OF ISSUES**

1. Should ADUs be allowed City wide but excluded in certain areas of the Mount Ogden Community Plan?
2. Do the benefits of ADUs add to Ogden City neighborhoods?
3. Do the current ADU regulations integrate them into the neighborhoods?
4. How do ADU's fit in with vacation rentals?

**C. STAFF ANALYSIS OF PROPOSAL**

The housing cycle for families fluctuate with the home first being owned by a young couple as they begin their family. The impact is low to begin with. As children come into the family and they grow older there may be more cars in the driveway. The house is either enlarged or unfinished rooms in the basement are finished off. As the children leave the family wants to stay in the home but it is too large. The impact has been reduced in terms of cars parked in the area. The family makes a decision to either move to a smaller place and this house start the cycle again or the extra space is rented out while the couple still lives in the home. This cycle happens all over the neighborhood and generally there is little change in the character of the area.

Today there are many changes in what had been the traditional family, but for most home ownership is still a desired result. Staff mapped out the City showing single family lots versus owner occupied and rental/not owner occupied it was interesting to see how many single-family rentals there are in the city as shown in an attached map (*Data from Weber County Assessor*). Between 1990 and 2010 the census count shows a steady increase in rentals versus owner occupied as shown in the table below. The ADU option is one way to address this issue as it requires owner occupancy to take advantage of it.

<b>Census Counts</b>	<b>1990</b>	<b>2000</b>	<b>2010</b>
<i>Owner Occupied</i>	14256	16752	17093
<i>Renter Occupied</i>	9383	10632	12538

Some of the benefits of ADU's for a community is that ADU's encourage efficient use of existing housing stock and infrastructure, by using surplus space in single-family homes. This surplus space is a result of lower fertility rates, a reduction in family size preference, a growing elderly population, and smaller average households.

ADU's tend to integrate affordable housing into a community. While this may not be a need for Ogden City. Some communities have adopted provisions that limit concentrations of ADU's by controlling the number of conversions that may occur within a particular area. ADU's add affordability both from the perspective of potential tenants, for whom rents are usually cheaper than for market units, and from the perspective of homeowners, who can use the rental income from an ADU to ease the burden of home mortgage and maintenance expenses.

By allowing ADU's, communities can encourage better upkeep of the existing housing stock since homeowners can apply a portion of the income from their rental unit to maintaining their property. Homeowners can also exchange rent reductions for maintenance done by tenants. The ability to exchange reduced rents for services will also benefit many other groups of homeowners, including young families, the elderly, single parents, and handicapped persons. For example, a mother with young children may rent an ADU to a student and make an arrangement for reduced rent in exchange for regular babysitting. An elderly widow can still keep up her yard because of the young couple in the basement is taking care of the yard for a reduced rent or they can provide a feeling of security that there is someone to call if help is needed. Disabled people often face limited opportunities for housing that can meet their special needs.

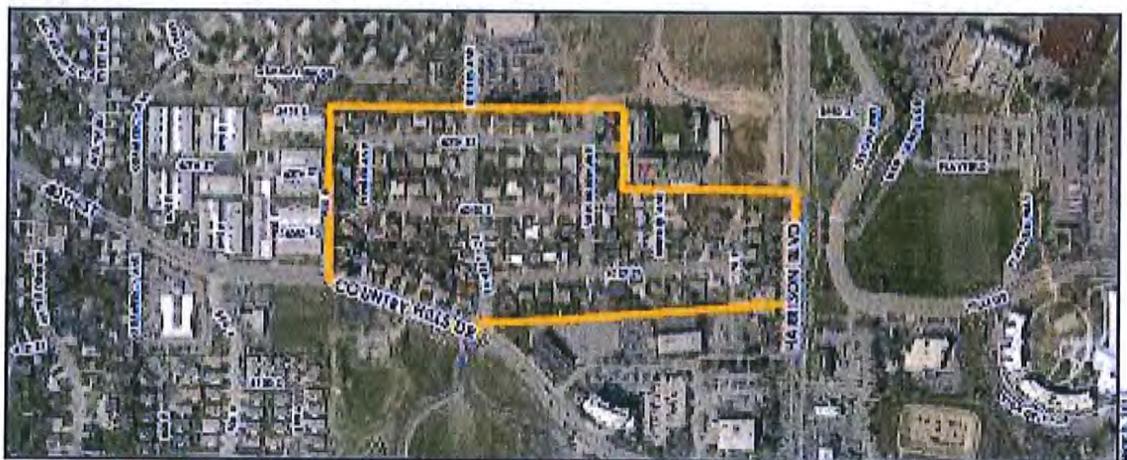
ADU's also help to enhance neighborhood stability since they can provide homeowners with the extra income they may need to remain in their homes for longer periods. ADU's can provide many homeowners with needed additional income to meet high mortgage and maintenance costs. The additional income may be particularly helpful for elderly homeowners who are living on fixed incomes. ADU's may allow some of these elderly homeowners to stay in their homes with the extra income from an ADU to help offset their rising living expenses.

Many baby-boomers are now facing the prospect of having to arrange for the care and housing of their aging parents or other close relatives. By allowing ADU's the community can give these families the options of providing for either live-in care in their parents' house or having their parents move in with the adult child if the parent still wants a separate unit but in close proximity to their child.

ADU's also offer housing opportunities in more desirable single-family neighborhoods for some who might not otherwise be able to afford to live there. For many single individuals, single parents, or others with modest incomes, the only other housing option available may be apartment complexes. Living in an ADU would give these households the opportunity to enjoy the amenities typically found in many single-family neighborhoods, including more privacy, a quieter environment, and less traffic congestion.

At the present time there are three overlay zones found in the City. In all these areas there is one ADU that has been permitted as shown in the map on the following page.

# Accessory Dwelling Units



 Accessory Dwelling Unit Overlay  Existing Accessory Dwelling Units

The current ordinance allows overlay districts to be considered with a petition if the community plan identifies areas potential for ADUs. They are allowed to be located in the R-1, R-2, R-2EC, R-3, R-3EC, R-4 and R-5 Zones. The only community plan area that specifically indicates that ADUs should not be considered is in the Mount Ogden Community Plan primarily north of 35<sup>th</sup> Street and south of 26<sup>th</sup> Street east of Harrison Boulevard as shown in attachment.

In determining the location of ADUs as shown on the previous page it started out in the 36<sup>th</sup> Street area east of Harrison and west of Harrison on 4050 S. near Weber State University. In 2014 an ADU area was created in the East Central between 24<sup>th</sup> and 22<sup>nd</sup> Street. Since that time only one ADU has been created @ 1598 36<sup>th</sup> Street. We have found that just because an area is zoned for ADUs doesn't mean they will be used for that use. This also reinforces national trends that indicate because an area is zoned for ADUs not all individuals desire to have an ADU and their site may not allow for it. Allowing ADUs City wide will provide options for residences who may desire to have an ADU but because of the current approval process have chosen not to. The General Plan is clear about the intent to look at ADU's as a housing option. 7.D.8 states, "Identify opportunities for inclusion of 4,700 new dwelling units in Ogden to accommodate continued population growth. There is limited vacant land available to accommodate for this population growth. Strategies to accommodate for this could include in-fill development, allowing density increase in certain areas, providing opportunities to create alternative dwelling choices, such as live/work units or ADU's. The East Central Community Plan also indicated in 14.B.12 about providing ADU's in certain multi and single-family zones.

Although Ogden City's housing goals clearly support ADU's, some homeowners may view them as a potential threat to the stability of single-family neighborhoods. These homeowners may believe that ADU's should not be allowed, or at least, closely controlled to void any negative impacts. Presently there are many illegal accessory dwellings in the community but people tend not to report them because the homeowner is also a neighbor and they have adjusted to it. The real concern for most neighborhoods is when both units become rentals. In many ways an adoption of an ADU ordinance in 2000 could have reduced the number of homes that have the top and bottom rented out because at the time, some of the homes had the homeowners renting out their basements. With the legal conforming certificates this allowed those homes now to have rentals in both units rather than the homeowner protection the ADU provision provides.

The proposed ordinance would be to consider ADUs as a permitted use in all residential zones excluding portions of the Mount Ogden Community Plan because this is the only plan that doesn't desire them in certain areas.

The current ADU language found in Chapter 32 deals with creating overlay zones for ADU's and then sets standards of size, appearance, design and parking which creates the ability for ADUs to integrate into neighborhoods. This language would be eliminated from Chapter 32 since an overlay zone would no longer be required. The standards for

ADU's would be moved to Chapter 13 Regulations for all Zones with the chart below showing some of those standards.

<b>ADU Regulations</b>
ADUs allowed in all residential zones except in certain areas of the Mount Ogden Community.
<i>1 Accessory Unit per parcel</i>
Owner Occupied (can't rent out their unit if away from it)
<i>Vacation rental not allowed</i>
Limited to 2 related or unrelated adults, with minor children
<i>Size: Not occupy more than 40% of building</i>
Appearance shall remain as a single-family
<i>One front entrance and one side or rear</i>
Parking: 2 legal off street parking spaces
<i>Comply with building codes</i>
Permit valid for 1 year & renewed annually

The only additional language added would clearly state that vacation rentals are not permitted as part of an ADU. The combination of an ADU and vacation rental could pose a change of neighborhood character. The character would be altered with an ADU being a permanent residence with two separate living spaces and a vacation rental being used on a short term basis. Vacation rentals are primarily employed for family and group gatherings which could impact the ability for one lot to service both uses. The intent of an ADU and vacation rental is that the appearance of the unit will remain a single family home and with both uses on one lot a parking problem could occur. This could lead to an enforcement issue and it would also be difficult for code enforcement to know if the site is an ADU or a vacation rental.

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**D. ALTERNATIVE ACTIONS**

- Deny the proposed ordinance.
- Approve with additional conditions.

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**E. STAFF RECOMMENDATION**

Approval.

Attachment

1. Proposed Ordinance
2. Map Single Family Lots
3. Public Notice

LAND USE

**6. Allow Accessory Dwelling Units**

Another form of increased density is Accessory Dwelling Units (ADUs). Weber State University students create a demand for small apartments with close proximity to the campus. The strong demand for this housing has prompted some property owners to rent out both the primary and accessory units without proper zoning approval. Consequently, some single-family areas are morphing into multi-unit rental areas. One strategy to deal with this issue is to make accessory dwelling units possible but to create rules regarding their use such as owner occupancy and off-street parking requirements. Enforcement of regulation regarding accessory dwelling units is essential to making this form of housing complementary to the surrounding neighborhoods.

Accessory dwelling units can also benefit the community, especially in light of the fact that the Mt. Ogden Neighborhood has seen an increase in rental housing. Accessory dwelling units encourage efficient use of existing housing stock, provide homeowners with additional income, allow aging homeowners to remain in their homes longer, and require home ownership.

**Vision Objectives**

1. Consider an accessory dwelling unit overlay in a limited area close to Weber State University that would allow accessory dwelling units. Requirements for such an overlay would include the following:
  - a. Owner occupied;
  - b. Off-street parking requirements;
  - c. Size requirements to ensure accessory apartment remains subordinate to the primary residence;
  - d. Design and appearance standards.



*Examples of neighborhood friendly accessory dwelling units*

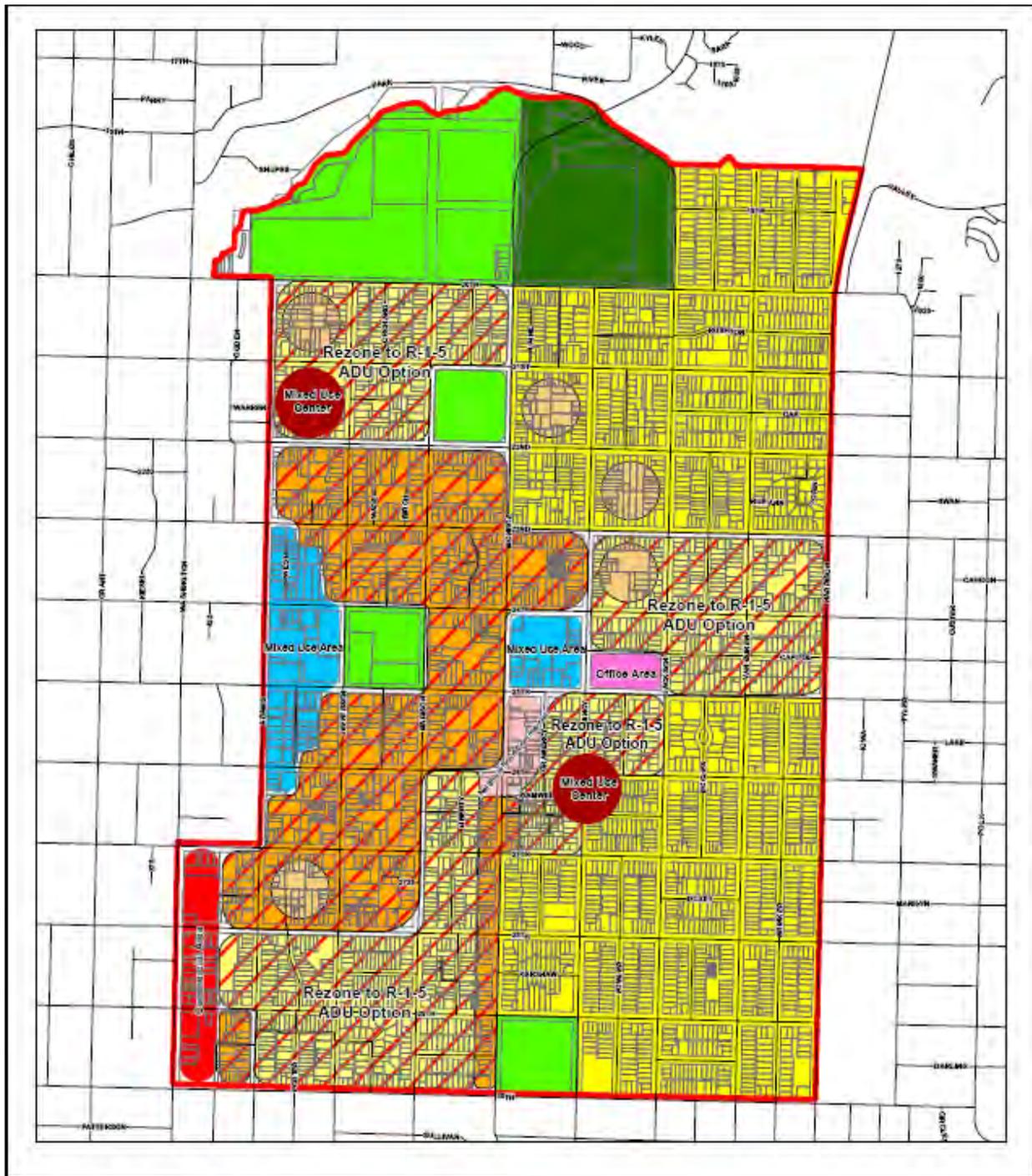
## LAND USE

### **12. Provide for Accessory Dwelling Units (ADU's) in certain areas of the neighborhood.**

Accessory Dwelling Units (ADU's) are a zoning terminology for what had traditionally been called a granny flat but was an illegal land use. Home owner occupancy is important to maintain a stable neighborhood. ADU's become a way a home owner can stay in their home through the various phases of their life and rent out a portion of the home when times dictate a need or desire to do this. This type of housing arrangement allows for persons who may otherwise leave the home as their family grows up, to stay in the house and have companionship, rental income or help around the house. The areas zoned R-2EC and R-3EC would be the most appropriate places to initiate this use as those areas currently allow duplexes. Concerns were expressed that changes to the existing regulations would need to be made with other design standards.

### **Vision Objectives**

- 12.A Consider an ADU overlay in the areas currently zoned R-3EC and the areas to be rezoned to R-1-5 from R-2EC and modify the requirements to consider including:
1. Adequate lot size and off street parking.
  2. Good landlord certification and current business license.
  3. Deed restricted and code compliant.



**East Central Community**  
Community Vision - Land Use

-  Accessory Dwelling Unit Option
-  Infill Project Potential
-  East Central Boundary





# City Council Work Session COUNCIL STAFF REVIEW

## 2016 RAMP PROJECTS

### PURPOSE OF

**WORK SESSION:** To Review and Discuss the Proposed 2016 RAMP Projects

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#### *Executive*

##### *Summary*

The City Council will review and discuss the Administration's proposed RAMP project funding requests for 2016.

#### **Background**

##### **FY2016 Legislative Intent**

The Council adopted the following Legislative Intent with the FY2016 Budget:

***RAMP Tax Projects.** All proposed Ogden City Projects to be submitted by application for RAMP funding are prioritized via resolution by the City Council in December of each year prior to submission to Weber County in January. Early Council involvement in the City's process is important and provides the opportunity for input on potential RAMP projects. The Council will provide input to the Administration each year in August and prior to submission of the applications as appropriate.*

##### **RAMP Categories**

There are five different application categories:

1. **RAMP Application for Municipalities and Unincorporated Areas (Population Based allocation).** (Available to cities and unincorporated areas within Weber County. )
2. **RAMP Application for Major Projects (Over \$200,000).** (Available to State, Federal, City and County entities and non-profit organizations operating on public lands.)
3. **RAMP Application for Recreation and Parks Projects.** (Available to State, Federal, City and County entities and non-profit organizations operating recreation and/or park programs.)



# City Council Work Session COUNCIL STAFF REVIEW

4. **RAMP Application for Arts and Museums Projects.** (For non-profit organizations).
5. **RAMP Application (EZ) for small grants (Under \$2,000).** (For Weber County, Cities within the County, or non-profit organizations in the areas of Recreation, Arts, Museums and Parks).

### RAMP Application/Award Timeline (Approximate)

January 15 <sup>th</sup>	Weber County deadline for RAMP applications.
January 21 <sup>st</sup>	Applications Sent to RAMP Tax Advisory Board
February	RAMP Tax Advisory Board meets to review applications and determine recommendations
March 1 <sup>st</sup>	Advisory Board presents recommendations to WACOG
By March 31 <sup>st</sup>	Final determination made by County Commission
April 1 <sup>st</sup>	Contracts sent to Awardees

### **Capital Improvement Projects**

Beginning with FY2013-17, the Administration has included the proposed RAMP projects as part of the Capital Improvement Plan. However, it is possible that not all proposed RAMP projects will be Capital Improvement Projects as defined by City ordinance.

### **August 18, 2015**

The Council discussed potential RAMP projects in a work session. The Council expressed their appreciation for the Administration’s efforts to provide additional information relating to RAMP applications prior to submission of the annual applications.

Council members suggested the following potential projects (in no particular order):

- Lorin Farr Park – High Adventure Park
- Special Needs Park, Sensory Park, “Geriatric” Park
- Upgraded Lights at Monroe Park
- Liberty Park Upgrades
- Splash Pad at Jaycee Park (or Other)
- Outdoor 50 Meter Pool
- Lester Park Upgrades



# City Council Work Session

## COUNCIL STAFF REVIEW

- Adult Playgrounds
- Dog Park – East Side
- Disc Golf

### ***Proposal***

The proposed FY2017-2021 Capital Improvement Plan includes the following RAMP projects recommended for funding in FY2017.

- RM022 Liberty Park Improvements (\$285,000)
- RM028 Trail Head Entry Points (\$199,000)
- RM029 Upgrade Lights at 4<sup>th</sup> Street Ball Park – Phase 2 (\$130,000)
- RM033 Serge Simmons/Weber River Restoration (\$20,083,000)
- RM034 Lindquist Field Enhancements (\$120,000)

Copies of the project briefs are attached. The Administration will be available to answer any questions the Council has regarding these or other projects.

### ***Next Steps***

Each Council member will rank the proposed projects. These will be compiled by Council staff. The Council will then consider a Resolution adopting the Council's priorities for the projects.

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**Council Staff Contact: Janene Eller-Smith, (801)629-8165**



## Ogden City Capital Improvement Plan Project Information Brief

<b>Project Name:</b> Liberty Park Improvements	<b>Project Number:</b> RM022
<b>Type of Project:</b> Park Development and Enhancement	<b>Date Prepared:</b> 9 / 3 / 2015
<b>Location:</b> 2100 Madison Ave	<b>Planning Area:</b> East Central
<b>Map Location:</b> C - 6 - I & II	<b>Prepared by:</b> PH

**Project Priority:** Urgent

**Description and Justifications:**

A new elementary school is planned to be built by Ogden School District on the half block west of Liberty Park, facing 2100 Madison Avenue. This project will create a park with the additions of a basketball court, playground equipment, restroom, pavilion, and a sportsfield. Corresponds with PK138.

**How this project relates to adopted plans or policies:**

This project is tied to the open space master plan. Ogden School District has announced the intention to replace the existing Dee School at 550 22nd Street. The East Central community plan promotes revitalization of the residential character of the community. Facilitating a new school at this location will help create a community resource, and enhance the programming and use of Liberty Park. The EC plan also includes the following provisions for parks: build on parks as an amenity of open space and civic functions.

**Consequences of deferring this project to later years:**

Not having the park usable when the school comes online. The partnership between Ogden City and Ogden School District in placing the new school in the heart of the Dee School area is important to the success of the school, the student and community access, and the overall community improvement that may be derived by this location. Without this project occurring in this timeframe, Ogden School District will likely build the school on district property, and the above advantages will be diminished.

**Current Status of project:**

Awaiting funding.

<b>Project Schedule and Budget</b>	<b>Duration (Months)</b>	<b>Budget</b>
Planning and Design		0
Land Acquisition		0
Site Improvements		285,000
Equipment/Furniture		0
1 % for Art		0
<b>Total Expenditures</b>		<b>285,000</b>
Fund: Other (RAMP Grant)		285,000
Fund: None ()		0
Fund: None ()		0
Fund: None ()		0
<b>Total Resources</b>		<b>285,000</b>
<b>Other Resource that were explored:</b>		
General Funds	Enterprise Funds	Special Improvement District
Revenue Bond	Other Dept Financing	Federal or State Grant Funds
Other		
<b>Annual Operating Budget Impact</b> (annual average for the first three years after construction)		<b>Concerns or issues related to the operation and maintenance of this project:</b>
Debt Service	0	
Personnel	0	
Operations/Maintenance	0	
<b>Total</b>	0	
<b>Sources of Operating Funds:</b> 0		



# Ogden City Capital Improvement Plan Project Information Brief

<b>Project Name:</b> Trail Head Entry Points	<b>Project Number:</b> RM028
<b>Type of Project:</b> Construction	<b>Date Prepared:</b> 9 / 16 / 2015
<b>Location:</b> City Wide	<b>Planning Area:</b> None
<b>Map Location:</b> City Wide	<b>Prepared by:</b> Perry Huffaker

**Project Priority:** Necessary

**Description and Justifications:**  
 Arguably one of Ogden’s greatest assets is the expansive and diverse trail system. These trails vary from paved to dirt, road bike to mountain bike, flat and smooth to twisting and challenging. Now that the very detailed signage along the trail system is complete, the next challenge would be to install identifying trail head entry points. The current trail head entry point signs are either vague, improperly signed, or dilapidated to the point that they need to be enhanced. This project will make it easier for the trail user to know exactly where the trail head begins and the name of the trail head, which would allow for those who are not familiar with our trails to recognize that location coming back. These entry points are envisioned to capture some of Ogden’s railway past. The concept is to design signs that will have roughsawn timbers, metal connecting points, and laser jetted metal signs designating each trail head. Phase I will incorporate the “major” trail heads. These include: 29th Street, Mouth of the Canyon, 36th Street, Nature Center North, and 22nd Street. This project will also include adding new cameras to the trailheads, as several trailheads do not currently have cameras and others need to be upgraded. This will help to increase the safety of our citizens as they utilize the trail systems throughout Ogden City.

**How this project relates to adopted plans or policies:**  
 This project is in line with the city's open space plan.

**Consequences of deferring this project to later years:**  
 Now that the signage along the trail system is completed and the trails are adequately marked, it is the city's responsibility to identify how to get to the trails. Without this next piece, the usership enhancement will be diminished.

**Current Status of project:**  
 Awaiting funding.

<b>Project Schedule and Budget</b>	<b>Duration (Months)</b>	<b>Budget</b>
Planning and Design		0
Land Acquisition		0
Site Improvements		199,000
Equipment/Furniture		0
1 % for Art		0
<b>Total Expenditures</b>		<b>199,000</b>
Fund: Other (RAMP Grant)		199,000
Fund: None ()		0
Fund: None ()		0
Fund: None ()		0
<b>Total Resources</b>		<b>199,000</b>
<b>Other Resource that were explored:</b>		
General Funds	Enterprise Funds	Special Improvement District
Revenue Bond	Other Dept Financing	Federal or State Grant Funds
Other		
<b>Annual Operating Budget Impact</b> (annual average for the first three years after construction)		<b>Concerns or issues related to the operation and maintenance of this project:</b>
Debt Service	0	
Personnel	0	
Operations/Maintenance	0	
<b>Total</b>	0	
<b>Sources of Operating Funds:</b> 0		



## Ogden City Capital Improvement Plan Project Information Brief

<b>Project Name:</b> Upgrade Lights at 4th Street Ball Park: Phase 2	<b>Project Number:</b> RM029
<b>Type of Project:</b> Upgrade Lights at 4th Street Ball Park	<b>Date Prepared:</b> 9 / 16 / 2015
<b>Location:</b> 502 Wall Avenue, 4th Street Ball Park	<b>Planning Area:</b> Lynn
<b>Map Location:</b> D-3	<b>Prepared by:</b> Edd Bridge

**Project Priority:** Necessary

**Description and Justifications:**

The lights at 4th Street Ball Park are in need of an upgrade. The lights are constantly burning out and lack sufficient coverage in areas, making them hazardous for players and spectators. The project would replace midfield and outfield lighting. Light replacement will also increase player participation in leagues and attract more tournaments to 4th Street Ball Park. In addition, new lighting technology would greatly decrease light spillage and increase energy efficiency.

Phase 1 of Renovate Lights at 4th Street Ball Park replaced all infield lights.

**How this project relates to adopted plans or policies:**

Replacement lighting will help maintain city facilities, infrastructure and properties within surrounding neighborhoods as well as provide a safe playing environment. It would also allow homes neighboring the park to enjoy living next to 4th Street Ball Park without light pollution interfering with their evenings.

**Consequences of deferring this project to later years:**

Lighting at 4th Street Ball Park will soon become a safety hazard, resulting in greater cost to the city if lighting is not improved. Current poor lighting conditions impair evening field usage, consequently discouraging players, leagues and tournaments from utilizing the city's park.

**Current Status of project:**

Requested funding FY 2017.

<b>Project Schedule and Budget</b>	<b>Duration (Months)</b>	<b>Budget</b>
Planning and Design		0
Land Acquisition		0
Site Improvements		130,000
Equipment/Furniture		0
1 % for Art		0
<b>Total Expenditures</b>		<b>130,000</b>
Fund: Other (RAMP Grant)		130,000
Fund: None ()		0
Fund: None ()		0
Fund: None ()		0
<b>Total Resources</b>		<b>130,000</b>
<b>Other Resource that were explored:</b>		
General Funds	Enterprise Funds	Special Improvement District
Revenue Bond	Other Dept Financing	Federal or State Grant Funds
Other		
<b>Annual Operating Budget Impact</b> (annual average for the first three years after construction)		<b>Concerns or issues related to the operation and maintenance of this project:</b>
Debt Service	0	
Personnel	0	
Operations/Maintenance	0	
<b>Total</b>	0	
<b>Sources of Operating Funds:</b> 0		



# Ogden City Capital Improvement Plan Project Information Brief

<b>Project Name:</b> Serge Simmons/Weber River Restoration	<b>Project Number:</b> RM033
<b>Type of Project:</b> New Construction	<b>Date Prepared:</b> 9 / 16 / 2015
<b>Location:</b> Serge Simmons/Weber River Corridor	<b>Planning Area:</b> West Ogden
<b>Map Location:</b> 7 - D - IV	<b>Prepared by:</b> Perry Huffaker

**Project Priority:** Necessary

**Description and Justifications:**  
 The City is applying for an NRDC HUD Grant that will be submitted during the month of October 2015. We were qualified to apply due to unmet disaster recovery from the flooding of 2011. Based on our submission from the 1st phase of funding, we qualified for the 2nd phase of funding. This grant is going to be a game-changer for Ogden City. It will allow for the Weber River Corridor to be constructed and restored in a similar fashion to what was done on the Ogden River in 2010. The most heavily impacted area of the 2011 flooding was Serge Simmons ball fields, the dog park, and the kayak park.

**How this project relates to adopted plans or policies:**  
 This project aligns with the West Ogden Community Plan.

**Consequences of deferring this project to later years:**  
 By deferring the match amount, we risk losing a multi-million dollar grant.

**Current Status of project:**  
 Awaiting grant award and funding.

<b>Project Schedule and Budget</b>	<b>Duration (Months)</b>	<b>Budget</b>
Planning and Design		1,000,000
Land Acquisition		0
Site Improvements		19,083,000
Equipment/Furniture		0
1 % for Art		0
<b>Total Expenditures</b>		<b>20,083,000</b>
Fund: Other (RAMP Grant)		83,000
Fund: Federal (NDRC HUD Grant)		20,000,000
Fund: None ()		0
Fund: None ()		0
<b>Total Resources</b>		<b>20,083,000</b>
<b>Other Resource that were explored:</b>		
General Funds	Enterprise Funds	Special Improvement District
Revenue Bond	Other Dept Financing	Federal or State Grant Funds
Other		
<b>Annual Operating Budget Impact</b> (annual average for the first three years after construction)		<b>Concerns or issues related to the operation and maintenance of this project:</b>
Debt Service	0	
Personnel	0	
Operations/Maintenance	0	
<b>Total</b>	0	
<b>Sources of Operating Funds:</b> 0		



# Ogden City Capital Improvement Plan Project Information Brief

<b>Project Name:</b> Lindquist Field Enhancements	<b>Project Number:</b> RM034
<b>Type of Project:</b> Improvements	<b>Date Prepared:</b> 10 / 7 / 2015
<b>Location:</b> Lindquist Field, 2330 Lincoln Ave	<b>Planning Area:</b> CBD
<b>Map Location:</b> 6-D-III	<b>Prepared by:</b> Edd Bridge

**Project Priority:** Necessary

**Description and Justifications:**  
 Lindquist Field is in need of some enhancements to keep the field up to MLB standards. As the only major league field in Weber County, it is important to maintain the facility so residents county-wide can enjoy watching a professional baseball game and youth can experience playing on a major league field. 80% of baseball games are played on the dirt. There are currently rocks coming up in the dirt that could cause potential risks to players. In addition to the poor dirt condition, there is improper drainage on the field which could lead to increased game cancellations. This project is going to excavate and remove the current dirt on the infield and warning track. We will replace it with 4" of infield dirt and conditioner. This project also includes replacing the outfield grass.

**How this project relates to adopted plans or policies:**  
 The Ogden Raptors are the only professional baseball team that Ogden has, and is very important to the community. Ogden City utilizes Lindquist Field for youth all-star and high school showcase games. We also run our youth competitive baseball league on this field.

**Consequences of deferring this project to later years:**  
 Failure to maintain professional baseball standards could forfeit use of the facility by Major League Baseball, removing their endorsement and approval of the facility. The facility was built in 1997 and after 20 years, it is need of some improvements to maintain the safety of the players. The field has a significant amount of poa grass and needs to be replaced.

**Current Status of project:**  
 Awaiting Funding.

<b>Project Schedule and Budget</b>	<b>Duration (Months)</b>	<b>Budget</b>
Planning and Design		0
Land Acquisition		0
Site Improvements		120,000
Equipment/Furniture		0
1 % for Art		0
<b>Total Expenditures</b>		<b>120,000</b>
Fund: Other (RAMP Grant)		120,000
Fund: None ()		0
Fund: None ()		0
Fund: None ()		0
<b>Total Resources</b>		<b>120,000</b>
<b>Other Resource that were explored:</b>		
General Funds	Enterprise Funds	Special Improvement District
Revenue Bond	Other Dept Financing	Federal or State Grant Funds
Other		
<b>Annual Operating Budget Impact</b> (annual average for the first three years after construction)		<b>Concerns or issues related to the operation and maintenance of this project:</b>
Debt Service	0	
Personnel	0	
Operations/Maintenance	0	
<b>Total</b>	0	
<b>Sources of Operating Funds:</b> 0		

# OPEN MEETINGS & GRAMA

Formal meetings are where most of the City's business is conducted. Therefore, it is prudent to establish a means by which these meetings can be as productive as possible, while adhering to the requirements of being transparent, open meetings. This section attempts to outline the rudiments of the typical meetings, but is by no means comprehensive.

The Government Records Management Act (GRAMA) defines what information is accessible to the public and what information can be restricted. The details are provided below.

## *Utah Open & Public Meetings Law*

The Ogden City Council believes in an open government process, with active participation of the public. The principles of this "openness" are based on the Council's definition of how they will do their business and upon the parameters established by the State Open & Public Meetings Law.

This State Law requires all meetings to be open to the public whenever a majority of the Council (four members or more) meets together to conduct City business (it excludes social occasions, chance meetings, etc.). Open to the public doesn't necessarily mean each item requires public input, but allows anyone to observe what takes place in a public meeting.

The Law does allow Closed Executive Sessions when the item is placed on an agenda and the Council votes, on the record, to close the meeting.

The Council has consistently been vigilant regarding Closed Executive Sessions to assure they meet the Utah Open & Public Meetings Law criteria. It is always important to adequately consider when it is and is not appropriate to close a meeting.

The "strategy" in reference to litigation, property purchase, and collective bargaining in Closed Executive Sessions means an approach is discussed, but no decisions are made, nor any "straw votes" taken. Strategy indicates a direction or guidance in the process, and any kind of caveats the negotiators should be aware of before they start their negotiations.

## *Areas where Closed Executive Sessions are deemed appropriate under State Law:*

- Discussion of the character, professional competence, or physical or mental health of an individual
- A strategy session with respect to collective bargaining, litigation, or purchase of real property
- Discussion regarding deployment of security personnel or devices
- Investigative proceedings regarding allegations of criminal misconduct

Key to the success of this tool is making as much of the information part of the public record as possible, either before or after the Closed Executive Session, and only adjourn to the closed session to discuss the City's direction or approach.

***Intent of the Utah Open & Public Meetings Law***

The intent of the Utah Open and Public Meetings Act is to conduct government business in the open, which includes all deliberations and actions, unless related to specific exceptions provided by State Law. The major provisions of this statute are summarized below (the full text appears at the end of this section).

<b>Meetings</b>	The convening of a public body, with a quorum present for the purpose of discussing or acting upon a matter over which the public body has jurisdiction or advisory power. Does not apply to chance meetings or social meetings.
<b>Public Notice</b>	<ol style="list-style-type: none"> <li>1. Annual notice of date, time, and place of regular meetings scheduled in advance over a year.</li> <li>2. At least twenty-four (24) hours of public notice of all meetings: agenda, date, time and place</li> <li>3. Notice must be posted at the principal office of the group meeting or where the meeting will be held (i.e., in the City Recorder's Office and near Council Chambers). The media must also receive notification.</li> </ol>
<b>Minutes</b>	<p>Must be written and preserved as a public record.</p> <p>Shall include:</p> <ul style="list-style-type: none"> <li>• Date, time and place of meeting</li> <li>• Names of members present and absent</li> <li>• The substance of all matters proposed, discussed, or decided, and a record, by individual member of votes taken</li> <li>• Names of citizens who appeared and the substance of testimony</li> <li>• Any other information as requested by Council members</li> </ul>
<b>Enforcement</b>	<p>Final actions may be voided</p> <p>Suit to compel compliance: contempt, attorneys' fees, costs</p>

# GRAMA ACT

## *Summary of Classifications*

The Government Records Access and Management Act's Legislative intent recognizes two constitutional rights: the public's right of access to information concerning the conduct of the public's business, and the right of privacy in relation to personal data gathered by governmental entities. The Legislature also recognizes a public policy interest in allowing a government to restrict access to certain records for the public good.



The intent of GRAMA is to (1) promote the public's right of easy and reasonable access to unrestricted public records; (2) specify those conditions under which the public interest in allowing restrictions on access to records may outweigh the public's interest in access; (3) prevent abuse of confidentiality by governmental entities by permitting confidential treatment of records; (4) provide guidelines for both disclosure and restrictions on access to government records, which are based on the equitable weighing of the pertinent interests and which are consistent with nationwide standards of information practices; (5) favor public access when countervailing interests are of equal weight; and (6) establish fair and reasonable records management practices.

In doing these things, GRAMA categorizes information found in government records into four areas: public, private, controlled, and protected. Records for which another statute or federal regulation controls access are considered exempt or limited from disclosure through this law.

## *Public Records*

Public records are those which are open to everyone. They include laws; final opinions made in a judicial proceeding; final interpretations of statutes or rules; minutes from open meetings; records maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of State Lands and Forestry, the Division of Oil, Gas and Mining, and the Division of Water Rights; records of the Department of Commerce that evidence incorporations, mergers, name



changes, and uniform commercial code filings; compensation paid to a contractor or private provider; summary data; and the following information about public employees: names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, relevant education, previous employment, and similar job qualifications of the governmental entity's former and present employees and officers except for undercover law enforcement personnel and investigative personnel.

Other records are usually considered public, but may be classified in another category if appropriate under GRAMA. Those records include administrative staff manuals; policy statements; records documenting a contractor's compliance with the terms of a contract with a governmental entity; contracts entered into by a governmental entity; any account, voucher, or contract that deals with the receipt or expenditure of funds; records documenting incentives to expand or relocate a business in Utah; chronological logs and initial contact reports; correspondence; empirical data; drafts which are circulated or relied upon by the governmental entity in carrying out action or policy; original data in a computer program; arrest warrants; search warrants; information relating to formal charges or disciplinary actions against a past or present governmental entity employee; records which evidence mineral production on government lands; final audit reports; occupational and professional licenses; business licenses; and notices of violation used to initiate discipline or sanctions against persons regulated by a governmental entity.

### October 2015

	Official Meeting	Agendas	Packets	Results	Audio	Video
10/27	City Council Work Session					
10/27	City Council Regular Session					
10/27	City Council Study Session					
10/20	City Council Work Session					

### *Private Records*

Private records include information about individuals, and may only be accessed by those individuals and others specified in 63-2-202. They include records about unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels; records about medical history, diagnosis, condition, treatment, evaluation, or similar medical data; records of publicly funded libraries which identify a patron; records of a Senate or House ethics committee; and the following regarding public employees: home address, home telephone number, social security number, insurance coverage, marital status, and payroll deductions.

Some records are usually considered private, but may be classified in another way under GRAMA. These include records of governmental entities which contain performance evaluations and personal status information such as race, religion, or disabilities; records describing an individual's finances; and records containing data on individuals the disclosure of which constitutes an unwarranted invasion of personal privacy.



### ***Controlled Records***

Controlled records may only be released to certain individuals such as social workers and health care providers and may not be disclosed to the individual to whom they pertain. These records must include medical, psychiatric, or psychological data about an individual and the governmental entity reasonably believes that releasing the information to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or releasing the information would constitute a violation of normal professional practice and medical ethics.

### ***Protected Records***

Protected records generally include non-personal data that may only be released to the person who submitted the information. These records include trade secrets; commercial information or nonindividual financial information; test questions and answers; records that would identify the estimated value of real property under consideration for public acquisition; records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes; records which would jeopardize the life or safety of an individual; records which would jeopardize the security of a correctional facility; audit procedures; records prepared in anticipation of litigation; attorney's work product; personal files of a legislator; investigations of loss occurrences; the location of historic, prehistoric, paleontological, or biological resources; higher education tenure evaluations and unpublished research notes; donations to an institution of higher education; and minutes of closed meetings.

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# UTAH OPEN & PUBLIC MEETINGS ACT

## § 52-4-101. Title

This chapter is known as the "Open and Public Meetings Act."

## § 52-4-102. Declaration of public policy

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
  - (a) take their actions openly; and
  - (b) conduct their deliberations openly.

## § 52-4-103. Definitions

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(3) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(4) (a) "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.

- (b) "Meeting" does not mean:
- (i) a chance meeting;
  - (ii) a social meeting; or



(iii) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:

(A) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or

(B) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.

(5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(7) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- (ii) consists of two or more persons;
- (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- (iv) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" does not include a:

- (i) political party, political group, or political caucus; or
- (ii) conference committee, rules committee, or sifting committee of the Legislature.

(8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(9) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.



§ 52-4-104. Training

The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

§ 52-4-201. Meetings open to the public -- Exceptions

(1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.

(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

§ 52-4-202. Public notice of meetings -- Emergency meetings

(1) A public body shall give not less than 24 hours public notice of each meeting including the meeting:

- (a) agenda;
- (b) date;
- (c) time; and
- (d) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) Public notice shall be satisfied by:

(i) posting written notice:

(A) at the principal office of the public body, or if no principal office exists, at the building where the meeting is to be held; and

(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section 63F-1-701; and



(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities -- Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$ 1 million.

(c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(4) A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency

meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

#### § 52-4-203. Minutes of open meetings -- Public records -- Recording of meetings

(1) Except as provided under Subsection (8), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

(a) the date, time, and place of the meeting;



- (b) the names of members present and absent;
  - (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
  - (d) a record, by individual member, of each vote taken by the public body;
  - (e) the name of each person who is not a member of the public body, and upon recognition by the presiding member of the public body, provided testimony or comments to the public body;
  - (f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and
  - (g) any other information that any member requests be entered in the minutes or recording.
- (3) A recording of an open meeting shall:
- (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
  - (b) be properly labeled or identified with the date, time, and place of the meeting.
- (4) (a) The minutes and recordings of an open meeting are public records and shall be available within a reasonable time after the meeting.
- (b) An open meeting record kept only by a recording must be converted to written minutes within a reasonable time upon request.
- (5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- (6) Minutes or recordings of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (7) Written minutes and recordings of open meetings are public records under Title 63G, Chapter 2, Government Records Access and Management Act, but written minutes shall be the official record of action taken at the meeting.
- (8) Either written minutes or a recording shall be kept of:
- (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; and
  - (b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities -- Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$ 50,000 or less.

§ 52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded

- (1) A closed meeting may be held:
  - (a) if a quorum is present; and
  - (b) if two-thirds of the members of the public body present at an open meeting for which notice is given under Section 52-4-202 vote to approve closing the meeting.
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
- (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
- (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
  - (a) the reason or reasons for holding the closed meeting;

- (b) the location where the closed meeting will be held; and
  - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
- (5) Nothing in this chapter shall be construed to require any meeting to be closed to the public.

§ 52-4-205. Purposes of closed meetings

(1) A closed meeting described under Section 52-4-204 may only be held for:

- (a) discussion of the character, professional competence, or physical or mental health of an individual;
- (b) strategy sessions to discuss collective bargaining;
- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property if public discussion of the transaction would:
  - (i) disclose the appraisal or estimated value of the property under consideration; or
  - (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property if:
  - (i) public discussion of the transaction would:
    - (A) disclose the appraisal or estimated value of the property under consideration; or
    - (B) prevent the public body from completing the transaction on the best possible terms;
  - (ii) the public body previously gave public notice that the property would be offered for sale; and
  - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct; and
- (h) discussion by a county legislative body of commercial information as defined in Section 59-1-404.

(2) A public body may not interview a person applying to fill an elected position in a closed meeting.

§ 52-4-206. Record of closed meetings

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

- (a) shall make a recording of the closed portion of the meeting; and
- (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

*Areas where Closed Executive Sessions are deemed appropriate under State Law:*

- Discussion of the character, professional competence, or physical or mental health of an individual
- A strategy session with respect to collective bargaining, litigation, or purchase of real property
- Discussion regarding deployment of security personnel or devices
- Investigative proceedings regarding allegations of criminal misconduct

- (3) The recording and any minutes of a closed meeting shall include:
- (a) the date, time, and place of the meeting;
  - (b) the names of members present and absent; and
  - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a) or Subsection 52-4-205(1)(f):
- (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a) or Subsection 52-4-205(1)(f); and
  - (b) the provisions of Subsection (1) of this section do not apply.

§ 52-4-207. Electronic meetings -- Authorization -- Requirements

- (1) A public body may convene and conduct an electronic meeting in accordance with this section.
- (2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
- (b) The resolution, rule, or ordinance may:
- (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
  - (ii) require a quorum of the public body to:
    - (A) be present at a single anchor location for the meeting; and
    - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
  - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
  - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
  - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
- (a) give public notice of the meeting:
    - (i) in accordance with Section 52-4-202; and
    - (ii) post written notice at the anchor location;
  - (b) in addition to giving public notice required by Subsection (3)(a), provide:
    - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and
    - (ii) a description of how the members will be connected to the electronic meeting;

(c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

#### § 52-4-208. Chance or social meetings

(1) This chapter does not apply to any chance meeting or a social meeting.

(2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

#### § 52-4-301. Disruption of meetings

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

#### § 52-4-302. Suit to void final action -- Limitation -- Exceptions

(1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, or 52-4-207 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

(i) the posting is made for a meeting that is held before April 1, 2009; or

(ii) (A) the public body otherwise complies with the provisions of Section 52-4-202; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

#### § 52-4-303. Enforcement of chapter -- Suit to compel compliance

(1) The attorney general and county attorneys of the state shall enforce this chapter.

(2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.