

**Thursday June 22, 2017**  
**PERRY CITY COUNCIL MEETING AMENDED AGENDA**  
(Revising action item order and adding action items 4D, 4H, 4I, 4J)

The Perry City Council will hold a meeting on the Thursday identified above, starting at approximately 7:00 PM in the City Council Room at 3005 South 1200 West in Perry. Agenda items may vary depending on length of discussion, cancellation of scheduled items, or agenda alteration. Numbers and/or times are estimates of when agenda items will be discussed. Action on public hearings will always be later in the same meeting or at a subsequent meeting. Every agenda item shall be a discussion and/or action item, unless otherwise indicated.

**Approx. 7:00 PM**

**1. Call to Order and Opening Ceremonies**

- A. Invocation – Toby Wright
- B. Pledge of Allegiance – James Taylor
- C. Review and Adopt the Agenda

**2. Approx. 7:05 PM Procedural Issues**

- A. Conflicts of Interest Declaration(s), If Any
- B. Pass out Warrants to Council Members (and Possible Discussion)
- C. Business License(s):
  - Underground Solutions LLC

**3. Approx. 7:10 PM – Public Hearing and/or Public Comments (No Vote Needed)**

**Rules:** (1) Please Speak Only Once (Maximum of 3 Minutes) per Agenda Item; (2) Please Speak in a Courteous and Professional Manner; (3) Do Not Speak to Specific Member(s) of the City Council, Staff, or Public (Please Speak to the Mayor or to the Council as a Group); (4) Please Present Possible Solutions for All Problems Identified; (5) No Decision May Be Made During this Meeting if the Item Is Not Specifically on the Agenda (with Action on Public Hearings, if any, later in the Meeting); and (6) Comments must be made in person or in writing (with your name being stated for the record).

- A. Public Comment

**4. Approx. 7:15 PM – Action Items (Roll Call Vote)**

- A. Approval of Warrants
- B. Ordinance 17-A Code Enforcement
- C. Ordinance 17-E Gravel Pits
- D. Ordinance 17-F Adopting the Revised Transportation & Traffic Circulation Element Plan
- E. Resolution 17-19 Approving a Certified Tax Rate for Tax Year 2017
- F. Resolution 17-20 Adopting Firework Restrictions
- G. Resolution 17-21 Authorizing the Execution of a Cooperative Agreement with the Division of Natural Resources Wildlife Management
- H. Resolution 17-22 Authorizing the Mayor to Sign an Animal Control Service Agreement with Brigham City
- I. Resolution 17-23 Authorizing the Mayor to Sign a Letter of Commitment to Participate in the Bear River Region Multi-Jurisdictional Hazard Mitigation Planning Process
- J. Resolution 17-24 Authorizing the Mayor to Sign a Lease Agreement with Utah State Division of Forestry, Fire, and State Lands for Lands North and West of the Three Mile Creek Shooting Sports Complex
- K. Approval to open a Request for Proposal (RFP) process for Right-of-Way Acquisition Services

**5. Approx. 8:05 PM – Discussion Items**

- A. Fourth of July

**6. Approx. 8:15 PM – Minutes & Council/Mayor Reports (Including Council Assignments)**

No Council Action May be Taken if an Item is not specifically on the Agenda

- A. Approval of Consent Items

- June 8, 2017 City Council Meeting Minutes
  - B.** Mayor's Report
  - C.** Council Reports
  - D.** Staff Comments
  - E.** Items for Next City Newsletter
- 7. Approx. 8:30 PM – Executive Session (if needed)**
- A.** Discussion of the purchase, exchange, lease, or sale of real property, when public discussion would disclose the value of the property or prevent the authority from completing the transaction of the best possible terms.
  - B.** Strategy session to discuss the character, professional competence, or physical or mental health of an individual.
  - C.** Strategy session to discuss collective bargaining.
  - D.** Strategy session regarding pending, or reasonably imminent litigation.
  - E.** Strategy session to discuss the deployment of security personnel, devices, or systems.
  - F.** Discussion of investigative proceedings regarding allegations of criminal misconduct.
- 8. Approx. 9:00 PM – Adjournment**

**Certificate of Posting**

The undersigned duly appointed official hereby certifies that a copy of the foregoing agenda was sent to each member of the City Council and was posted in three locations: the Perry City Offices, Centennial Park, Perry City Park; and was faxed/emailed to the Ogden Standard-Examiner, Box Elder News Journal; and posted on the State Public Meeting Notice Website on this 21<sup>st</sup> day of June, 2017. Any individual requiring auxiliary services should contact the City Offices at least 3 days in advance (435-723-6461).

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Shanna S. Johnson, Chief Deputy Recorder

## Report Criteria:

Detail report.  
Paid and unpaid invoices included.

| Vendor                        | Vendor Name            | Invoice Number | Description                     | Invoice Date | Net<br>Invoice Amount | Amount Paid | Date Paid  | Voided |
|-------------------------------|------------------------|----------------|---------------------------------|--------------|-----------------------|-------------|------------|--------|
| <b>Brigham City Corp.</b>     |                        |                |                                 |              |                       |             |            |        |
| 6106                          | Brigham City Corp.     | 6/07/2017      | walmart sales tax               | 06/01/2017   | 18,383.79             | 18,383.79   | 06/07/2017 |        |
| 6106                          | Brigham City Corp.     | 6/07/2017      | interlocal storm water          | 06/01/2017   | 117.60                | 117.60      | 06/07/2017 |        |
| Total Brigham City Corp.:     |                        |                |                                 |              | 18,501.39             | 18,501.39   |            |        |
| <b>Davis &amp; Bott CPA's</b> |                        |                |                                 |              |                       |             |            |        |
| 10538                         | Davis & Bott CPA's     | 58336          | accounting services             | 04/30/2017   | 3,195.00              | 3,195.00    | 06/13/2017 |        |
| Total Davis & Bott CPA's:     |                        |                |                                 |              | 3,195.00              | 3,195.00    |            |        |
| <b>Hoffman Utah, INC</b>      |                        |                |                                 |              |                       |             |            |        |
| 11622                         | Hoffman Utah, INC      | SL702166       | maintance                       | 03/21/2017   | 17,773.61             | 17,773.61   | 06/07/2017 |        |
| Total Hoffman Utah, INC:      |                        |                |                                 |              | 17,773.61             | 17,773.61   |            |        |
| <b>Johnson Electric Motor</b> |                        |                |                                 |              |                       |             |            |        |
| 2332                          | Johnson Electric Motor | S52944         | Sewer Pump/Walmart Lift Station | 05/31/2017   | 5,183.34              | 5,183.34    | 06/07/2017 |        |
| Total Johnson Electric Motor: |                        |                |                                 |              | 5,183.34              | 5,183.34    |            |        |
| <b>Polydyne Inc.</b>          |                        |                |                                 |              |                       |             |            |        |
| 11400                         | Polydyne Inc.          | 1138883        | clarifloc                       | 05/15/2017   | 2,124.00              | 2,124.00    | 06/07/2017 |        |
| Total Polydyne Inc.:          |                        |                |                                 |              | 2,124.00              | 2,124.00    |            |        |
| <b>Rocky Mountain Power</b>   |                        |                |                                 |              |                       |             |            |        |
| 2501                          | Rocky Mountain Power   | 6/07/2017      | WWTP                            | 05/12/2017   | 5,734.38              | 5,734.38    | 06/07/2017 |        |
| Total Rocky Mountain Power:   |                        |                |                                 |              | 5,734.38              | 5,734.38    |            |        |
| <b>William M. Morris P.C.</b> |                        |                |                                 |              |                       |             |            |        |
| 10434                         | William M. Morris P.C. | 6/20/2017      | Prosecution Services            | 05/31/2017   | 2,465.00              | 2,465.00    | 06/20/2017 |        |
| Total William M. Morris P.C.: |                        |                |                                 |              | 2,465.00              | 2,465.00    |            |        |
| Grand Totals:                 |                        |                |                                 |              | 54,976.72             | 54,976.72   |            |        |

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| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net<br>Invoice Amount | Amount Paid | Date Paid | Voided |
|--------|-------------|----------------|-------------|--------------|-----------------------|-------------|-----------|--------|
|--------|-------------|----------------|-------------|--------------|-----------------------|-------------|-----------|--------|

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Dated: \_\_\_\_\_

Mayor: \_\_\_\_\_

City Council: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

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

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Report Criteria:

Detail report.

Paid and unpaid invoices included.

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|  |  |
|--|--|
| FOR OFFICE USE ONLY                    |  |
| Zone _____                             | Use: P* P C N  |
| Issued _____                           | Approved _____   |
| Business License No. _____             |  |
| License Fee _____                      | Date Rec'd _____   |
| Receipt # _____                        |  |
| <input type="checkbox"/> Check # _____ | <input type="checkbox"/> Cash <input type="checkbox"/> Other _____ |

**BUSINESS LICENSE APPLICATION**

**Check all that Apply:**

Original application     Renewal Application

Change of:     Address     Ownership     Business name

**Business Information – Please type or print clearly:**

Applicant's Name CHRIS GEMAR

Business Name UNDERGROUND SOLUTIONS LLC

Business Address 2985 So HWY 89 Perry City, UT 84302

What type of building is this?     Home     Commercial     Other

Will you have visiting clientele at this address?     Yes     No

Mailing Address 2985 So HWY 89 City Perry State UT Zip 84302

Bus. Phone (435) 723-5703 Business Start Date 1/27/2012

Email Address: us.gemar@gmail.com (required) Sales Tax # N/A

Website Address: N/A

Is the Applicant the Property Owner?     Yes     No

If No, Property Owner's Name BT GALLEGOS CONSTRUCTION Phone (435) 723-5703

Describe Business: UNDERGROUND DIRECTIONAL DRILLING

**Check all that Apply:**

- |  |   |  |
|--|---|--|
| 1. <input type="checkbox"/> Professional Services \$34                                     | 8. <input type="checkbox"/> Food /Fruit Sales \$125     | 15. <input type="checkbox"/> Truck Stop \$2,608          |
| 2. <input type="checkbox"/> Home Business \$30   | 9. <input type="checkbox"/> Large Scale Constr. \$2,359 | 16. <input type="checkbox"/> Restaurant \$125            |
| 3. <input type="checkbox"/> Wholesale/Retail Bus. \$30                                     | 10. <input type="checkbox"/> Live Performance \$125     | 17. <input type="checkbox"/> Temporary \$34              |
| 4. <input type="checkbox"/> Big Box \$5,000  | 11. <input type="checkbox"/> Movie Theater \$125        | 18. <input type="checkbox"/> Amusement Machines \$30     |
| 5. <input checked="" type="checkbox"/> Construction \$125                                  | 12. <input type="checkbox"/> Public Lodging \$34        | 19. <input type="checkbox"/> Vending Machines \$5        |
| 6. <input type="checkbox"/> Automotive \$34  | 13. <input type="checkbox"/> Rental \$41 (+\$10/unit)   | 20. <input type="checkbox"/> Class A Beer \$225          |
| 7. <input type="checkbox"/> Gas Station/Conv. Store \$125                                  | 14. <input type="checkbox"/> Storage Units \$125        | 21. <input type="checkbox"/> Public Exhibitions \$30/day |
| 22. <input type="checkbox"/> Solicitors \$38 per person (ID required for all participants) |   |  |

All Licenses expire December 31<sup>st</sup>. No pro ration for a partial year.

**Perry City Contact:**

Robin Matthews, Utility, Permit, & Licensing Clerk

435-723-6461 ext.103

[robin.matthews@perrycity.org](mailto:robin.matthews@perrycity.org)

**PERRY CITY**

**ORDINANCE 17-A**

**ORDINANCE AMENDING THE CODE OF ORDINANCES OF PERRY  
CITY WITH THE ADOPTION OF CHAPTER 8.06 REGARDING  
ADMINISTRATIVE CODE ENFORCEMENT PROGRAM**

**WHEREAS**, the Perry City is authorized by Utah State Statute to enact planning and zoning ordinances which provide for and protect the health, safety and welfare of its citizens; and

**WHEREAS**, members of the Perry City Planning Commission participated in task force to consider the implementations of a administrative code enforcement program; and

**WHEREAS**, this task force and study was the result of concerns raised in the community that a greater effort needed to be made by the citizens and the city regarding the appearance,

**WHEREAS**, the Municipal Council of Perry City held a public hearing on February 9, 2017 to receive public input and said proposed administrative code enforcement program change; and

**WHEREAS**, no adverse comments were received during said public hearing regarding the proposed changes:

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of Perry City that Chapter 8.06 attached as Exhibit "A" of the Code of Ordinances be adopted to be known as the Administrative Code Enforcement Program of Perry City.

**EFFECTIVE DATE**

This ordinance shall become effective upon signing and its first publication.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

**PERRY CITY COUNCIL**

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

**Voting:**

|            |     |     |     |     |
|------------|-----|-----|-----|-----|
| Montgomery | Yea | ___ | Nay | ___ |
| Lewis      | Yea | ___ | Nay | ___ |
| Taylor     | Yea | ___ | Nay | ___ |
| Tueller    | Yea | ___ | Nay | ___ |
| Wright     | Yea | ___ | Nay | ___ |

**ATTEST:**

\_\_\_\_\_  
Susan Obray, Recorder

**DEPOSITED** in the Recorder's office this \_\_\_\_ day of \_\_\_\_\_, 2017.

**RECORDED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

## **EXHIBIT A**



# Title █ ADMINISTRATIVE CODE ENFORCEMENT PROGRAM

## Chapter \_01

### \_.01.010 Short title.

This ~~title-Title~~ shall be known as the “administrative code enforcement” or “ACE” program. This ~~title-Title~~ shall also be known as Title █ of the Perry Municipal Code. It may be cited and pleaded under either designation.

### \_.01.020 Purpose and Introduction.

The City Council finds that the enforcement of the Perry Municipal Code and applicable state codes is an important public activity. Code enforcement is vital to the protection of the public’s health, safety, welfare, and quality of life. The City Council recognizes that code enforcement is effective only when done fairly and consistently. The City Council further finds that an enforcement system that allows a combination of ~~judicial—and—administrative~~ and judicial remedies is effective in correcting ~~Violations.—a~~ Violation, as hereinafter defined.

The City may enforce a Violation as allowed by law, including, but not limited to, enforcement via two primary methods: (1) administrative actions, and (2) judicial actions in the form of civil or criminal procedures.

Administrative code enforcement attempts to resolve a Violation without the use of litigation in a judicial court system. Administrative code enforcement is generally a “first-resort” enforcement tool, mostly an informal process and typically faster and less costly than judicial remedies. Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance.

Civil and criminal judicial remedies for code enforcement are characterized by, for example, a judge, attorneys, an official courtroom and other formal procedures related thereto.

A civil judicial case involves the determination of whether a party was injured/harmed and how much the party should be compensated for the same. General consequences of a civil case are monetary punishments in the form of fines and/or an order to do or cease to do something.

A criminal judicial case involves a government entity or other entity endowed with law enforcement powers arresting and trying someone in a court of law for a crime that was committed.

Typical consequences of a criminal case are jail time, monetary punishments in the form of fines and a misdemeanor or felony charge being placed on the guilty party's permanent record.

#### ..01.030 Scope.

The provisions of this ~~title~~Title may be applied to all ~~violations~~Violations that occur within Perry City limits and such territory outside Perry City limits over which the City has jurisdiction or control by virtue of any constitutional provision or law. This ~~title~~Title establishes an additional remedy – administrative code enforcement – that may be used by the City to achieve compliance with applicable codes. No remedy provided herein is intended to be exclusive and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing at law.

While the City's population remains relatively small and its administrative staffing resources are limited, it anticipates that most, if not all, of this administrative code enforcement program will be reactive in operation – responding to inquiries, complaints, etc. submitted to the City by citizens and others. As the City's population grows and its administrative staffing levels expand, it projects that the operation of this administrative code enforcement program may become more proactive in nature – Enforcement Officials (as hereinafter defined) or others patrolling the City actively identifying Violations and pursuing their correction. The preceding sentences in this paragraph shall not limit the City's operation of this administrative code enforcement program; it, at its sole discretion, may carry out this administrative code enforcement program reactively, proactively or in any and all other manners pursuant to this Title at any and all times. For example, the City's operation of this administrative code enforcement program primarily in a reactive manner shall not limit or prohibit the City from proactive administrative code enforcement efforts and vice versa.

#### ..01.040 Existing law continued.

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

#### ..01.050 Criminal prosecution right.

The City shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for a ~~violation~~Violation. The enactment of this ~~title~~ Title shall not be construed to limit the City's right to prosecute ~~violations~~Violations as a criminal offense. The City may use any of the remedies available under the law in both civil and criminal prosecution.

Although most Violations may be enforced through this Title, the following circumstances are examples of when the City may choose to pursue criminal prosecution. This list provides potentially common situations for criminal prosecution; however, the list is not comprehensive and does not limit in any way the City's right to prosecute a Violation as a criminal offense.

- a. The Responsible Person, as hereinafter defined, has one prior Violation within the last year.
- b. The Violation caused bodily injury, substantial bodily injury, or serious bodily injury to an individual, all of which shall have the same definition as in Utah Code.
- c. The Responsible Person, in a single criminal episode, violated one or more provisions of the Utah Criminal Code as well as one or more provisions of the Perry Municipal Code, and all violations are being charged as a single criminal episode as defined in Utah Code.
- d. The Responsible Person is being charged with any violation of Title 8 of the Perry Municipal Code.
- e. The Violation caused substantial property damage or a significant health or safety risk to the public.
- f. The failure of a Responsible Person to comply with the terms, conditions, requirements, deadlines, etc. of an ~~Administrative Citation~~Administrative Notice (as hereinafter defined), Administrative Enforcement Order (as hereinafter defined) or any other order or notice issued pursuant to this Title.

#### \_.01.060 Effect of headings.

Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this ~~title~~Title.

#### \_.01.070 Severability.

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

~~(Ord.~~

~~8.27/2002A (part), 2002)~~

\_.01.080 Civil liability.

By establishing performance standards or by establishing obligations to act, it is the intent of the City Council that Perry City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall be construed as creating a ministerial duty for purpose of tort liability. ~~(Ord. 8.27/2002A (part), 2002)~~

\_.01.090 General rules of interpretation.

For purposes of this ~~title~~ Title:

- a. “Shall” is mandatory; “may” is permissive.
- b. Unless otherwise specified, the terms “hereof,” “herein,” and similar terms refer to this ~~title~~ Title as a whole.
- c. Words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words indicating a singular number mean and include the plural number and vice versa.

\_.01.100 Definitions applicable to ~~title~~ Title generally.

In the construction of this ~~title~~ Title, the following words and phrases shall be as defined as set forth in this section unless a different meaning is specifically defined elsewhere in this ~~title~~ Title and specifically stated to apply:

~~“Administrative Citation~~ Administrative Notice” means a citation issued to a Responsible Person that gives reasonable Notice of a Violation and the civil ~~fee~~ penalty for such Violation.

“Administrative Enforcement Order” means an order issued by a Hearing Officer. The order may include an order to abate the Violation, pay civil ~~fees~~ penalty and administrative costs; or any other action as authorized or required by this ~~title~~ Title and applicable state codes.

“Administrative Enforcement Hearing” means a hearing held pursuant to the procedures established by this ~~title~~ Title and at the request of a Responsible Person charged with a Violation.

“City” means the City of Perry, Utah, including the Mayor, City Administrator, and all other employees of the City.

“City Council” means the City Council of Perry City.

“Day” refers to calendar days.

“Director” means an individual(s) as designated by the Mayor’s Office. ~~the community and economic development department director of the City or his/her designee.~~

“Enforcement Official” means any person authorized by the City to determine and enforce a Violations of the Perry Municipal Code or applicable state codes including, but not limited to the Director, zoning officials, police officers, building inspection officials, code enforcement officers, fire marshal, fire officers and animal control officers.

~~“Hearing Examiner”~~“Hearing Officer” means a natural person appointed by the Mayor or his/her designee to preside over Administrative Enforcement Hearings.

“Imminent Life Safety Hazard” means any condition that creates a serious and immediate danger or damage to life, property, health, or public safety.

“Mayor” means the mayor of Perry City.

“Notice of Compliance” means a document or form issued and approved by the Director that indicates that a ~~property complies with the requirement set forth in a Notice of Violation~~Violation has been corrected.

“Notice of Emergency Abatement” means a ~~written~~Written notice that informs a Responsible ~~person~~Person of emergency abatement actions taken by the City and the costs of those actions, and orders payment for those costs.

“Notice of Itemized Bill for Costs” means a ~~written~~Written notice, itemizing the City’s costs and ordering payment of those costs.

“Notice of Violation” means a ~~written~~Written notice that informs a Responsible ~~person~~Person of a Violation and orders certain remedial steps to correct said Violations.

“Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity, including public bodies, that is recognized by law as the subject of rights or duties.

“Personal Service” means the method of service for any notice or document that is performed by ~~telephone call, video conference call, in-person meeting or any other form of in-person or person-to-person communication, including those promulgated by Utah Rules of Civil Procedure Rule 4.~~

“Property Owner” means the record owner of real property as shown on the records of the Box Elder County assessor/recorder.

“Responsible Person” means the Person(s) determined by the City who is responsible for causing or maintaining a Violation. The term Responsible person shall include, but is not limited to, a property owner, agent, tenant, lessee, occupant, architect, builder, contractor, or other Person who individually or together with another Person is responsible for a Violation.

“Title” means this title of the Perry Municipal Code, the “administrative code enforcement” program, or the “ACE” program.

“Violation” means any condition caused, maintained, or permitted to exist in violation of any provision, statute or requirement of the Perry Municipal Code or applicable state codes.

“Warning Notice” means a Written notice that, on a courtesy basis, informs a Responsible Person of a Violation, requests that the Violation be corrected within a certain timeframe, and warns that further enforcement action may be taken if the Violation is not corrected as and when specified in the Warning Notice.

“Written” or “Writing” includes handwritten, typewritten, photocopied, computer printed, or facsimile.

\_.01.110 Acts include causing, aiding, and abetting.

Whenever any act or omission is made unlawful in this ~~title~~Title, it shall include causing, permitting, aiding, or abetting such act or omission. ~~(Ord. 8.27/2002A (part), 2002)~~

\_.01.120 Notice and service ~~of notice~~ requirements.

- a. Notices required to be given under this ~~title~~Title shall be in the English language.
  - b. Whenever ~~a notice~~service is required to be given under this ~~title~~Title, service shall be made by any of the methods listed below, unless different provisions are otherwise specifically stated to apply. Personal Service the notice should first be tried to be served in person with Violation noted in writing before serving notice in the other three noted methods indicated below, unless different provisions are otherwise specifically stated to apply:
    - i. Personal ~~service~~Service
    - ii. Regular or Certified mail, postage prepaid, to the last known address of a Responsible ~~person~~Person
- ~~3. Certified Mail~~
- iii. Posting the notice conspicuously on or in front of the property. If the property is not inhabited, then the notice must also be mailed. The form of the posted notice shall be approved by the Director.

- iv. Published in a newspaper of general circulation if and only if: the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence; service is impracticable under the circumstances; or there exists good cause to believe that the Person to be served is avoiding service.
- c. ~~Failure of a responsible person~~Responsible Person ~~to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.~~
- d. Service by regular mail in the manner set forth above shall be deemed served on the seventh ~~day~~Day after the date of mailing when mailed in the continental United States. Service by regular mail to all other addresses shall be deemed served on the tenth ~~day~~Day after the date of mailing.
- e. If service complies with the requirements of this section, it shall be deemed a valid service even if a party claims to have not received the service and it shall not affect the validity of any proceedings taken under this Title.
- e.f. The failure of a ~~person~~Person, other than a ~~responsible~~Responsible personPerson, to be served ~~notice~~ in accordance with this section shall not affect the validity of any proceedings ~~taken~~ hereunder.
- f.g. Whenever a document is recorded with the county recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

E. — Specify retention policy of notices.

\_.01.130 General enforcement authority.

Whenever an Enforcement Official finds that a ~~violation~~Violation has occurred or continues to exist, he/she may undertake any of the procedures herein. ~~The Director or any designated Enforcement Official~~s shall have the authority to gain compliance with the provisions of the Perry Municipal Code and applicable state codes subject to the provisions of this ~~title~~Title. Such authority shall include the power to issue Notices of Violation and ~~Administrative Citation~~Administrative Notices, inspect public and private property, abate ~~nuisances on~~ public and private property, and to use any remedy available under this ~~title~~Title or law, including, but not limited to, judicial and administrative remedies.

\_.01.140 Adoption of policy and procedures.

~~The Mayor shall establish policies and procedures for the holding of Administrative Enforcement Hearings, the appointment of~~ ~~Hearing examiner~~Hearing Officers, and the use of the

~~administrative procedures herein by Enforcement officials. The Mayor is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Administrative Code Enforcement program.~~

.01.150 Authority to inspect.

Enforcement Officials are hereby authorized, in accordance with applicable law and with cause, to enter upon any property or premises to ascertain whether the provisions of the Perry Municipal Code or applicable state codes are being obeyed and to make any reasonable, lawful examination or survey necessary in the performance of enforcement duties, including, but not limited to, to determine determining compliance with the Perry Municipal Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause.

If a ~~property~~ Property owner Owner or ~~responsible~~ Responsible person Person refuses to allow an Enforcement Official to enter property, the ~~Enforcement Official~~ City shall obtain a search warrant before entering the property.

.01.160 False information or refusal prohibited.

It shall be unlawful for any ~~person~~ Person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with an Enforcement ~~officer~~ Official when in the performance of ~~his~~ official duties under the provisions of this ~~title~~ Title. A violation of this section ~~shall be~~ is a Class B misdemeanor.

.01.170 Failure to obey a subpoena.

It shall be unlawful for any ~~person~~ Person to willfully refuse or fail to obey a subpoena issued for an Administrative Enforcement Hearing. ~~A Violation of this section shall be a Class B misdemeanor. Failure to obey a subpoena may constitutes~~ contempt and may be prosecuted as a class B misdemeanor.

.01.180 Power to arrest.

The Director or any designated Enforcement Official is authorized to arrest, without a warrant, any Person whenever there is reasonable cause to believe that the Person has committed a Violation in the Enforcement Official's presence. The Director or Enforcement Official can arrest a person only by issuing a misdemeanor citation or ~~Administrative Citation~~ Administrative Notice ~~Administrative Notice~~.

.01.190 Records retention.



Unless otherwise stipulated by a City-wide records retention policy, the City will keep all records it creates or receives regarding proceedings under this Title as follows:

- a. Written communications and interoffice records for three (3) ~~two (2)~~ years and
- a.b. All other records for a minimum of three (3) years.

## Chapter .02 - Administrative Code Enforcement ~~HEARING~~ Procedures

### ~~.02.010 Administrative Citation~~ Administrative Notice

#### 7.05.010 Purpose.

The City Council finds that an appropriate method of enforcement for violations is by ~~Administrative Citation~~ Administrative Notice. The procedures established in this chapter shall be an alternative and in addition to those procedures set forth in Chapter 7.03 of this title. (Ord. 8.27/2002A (part), 2002)

#### ~~.02.010.1 7.05.010~~ Purpose and Authority.

The City Council finds that there is a need for a method of enforcement for Violations that are minor in nature and not initially or generally desirable to be abated by the City (if such abatement action is or becomes necessary). The City Council further finds that an appropriate alternative method of enforcement for Violations of this nature is by ~~Administrative Citation~~ Administrative Notice. Violations not of this nature may generally be enforced by procedures associated with a Notice of Violation, which are described in Section ~~7.02.020~~ .02.020 herein. The procedures established in this subsection shall be an alternative and in addition to other administrative enforcement, including, but not limited to, a Notice of Violation; criminal; civil; or any other legal remedy established by law that may be pursued to address Violations. The utilization of an ~~Administrative Citation~~ Administrative Notice is at the sole discretion of the City.

An Enforcement Official may issue an ~~Administrative Citation~~ Administrative Notice to a Responsible Person for a Violation. A civil penalty shall be assessed by means of an ~~Administrative Citation~~ Administrative Notice issued by the Enforcement Official, and shall be payable directly to the City Treasurer's Office. Penalties assessed by means of an ~~Administrative Citation~~ Administrative Notice shall be collected in accordance with the procedures specified in the remedies section of this Title.

#### 7.05.020 ~~Administrative Citation~~ Administrative Notices.

- A. Upon discovering a violation that does not require a Notice of Violation, an Enforcement Official shall serve a Warning Notice of such violation, containing the information required in the ~~Administrative Citation~~ Administrative Notice, on the Responsible Person providing ten days to correct the violation(s).

- B. ~~If the violation continues on the eleventh day after the Warning Notice, an Enforcement Official shall serve an Administrative Citation~~Administrative Notice on the Responsible Person.
- C. ~~The Administrative Citation~~Administrative Notice shall be served in the manner prescribed in Section 7.01.120.
- D. ~~The Enforcement Official shall attempt to obtain the signature of the Responsible Person on the Administrative Citation~~Administrative Notice. If the Responsible Person refuses or fails to sign the ~~Administrative Citation~~Administrative Notice, such failure or refusal shall not affect the validity of the Administrative Citation and subsequent proceedings. (Ord. 8.27/2002A (part), 2002)  
.02.010.2 7.05.020 Procedures for ~~Administrative Citation~~Administrative Notices.

Upon discovering a Violation that the City may deem to be minor in nature and not initially or generally desirable to be abated by the City, the City may issue an Administrative CitationAdministrative Notice to the Responsible Person.

- a. ~~An Enforcement Official shall attempt to serve an Administrative Citation~~Administrative Notice ~~on the Responsible Person via Personal Service. When Personal Service by telephone call or any other not in person Personal Service method is successful, the an Enforcement Official should document the service of the Administrative Notice also concurrently mail (via the mailing methods listed in this Title) the Administrative Citation to the Responsible Person for documentation and record keeping purposes. If Personal Service is unsuccessful, then an Enforcement Official shall immediately serve the Administrative Citation~~Administrative Notice on the Responsible Person via any of the other methods provided for in this Title.
- b. ~~The Enforcement Official shall attempt to obtain the signature of the Responsible Person on the Administrative Citation~~Administrative Notice. If the Responsible Person refuses or fails to sign the ~~Administrative Citation~~Administrative Notice, such failure or refusal shall not affect the validity of the ~~Administrative Citation~~Administrative Notice and subsequent proceedings.
  - i. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Administrative CitationAdministrative Notice.
- c. ~~More than one Administrative Citation~~Administrative Notice may be issued against the same Responsible Person if the additional ~~Administrative Citation~~Administrative Notice encompasses different dates or different Violations.

.02.010.3 7.05.030 Contents of ~~Administrative Citation~~Administrative Notice.

Each ~~Administrative Citation~~ Administrative Notice shall contain the following information:

- a. The date, location, and explanation of all ~~violations~~ Violations;
- b. Code sections violated;
- c. The amount of the civil ~~fee-penalty~~ imposed for each ~~violation~~ Violation;
- d. An explanation of how the civil ~~fee-penalty~~ shall be paid, the time period in which the civil ~~fee-penalty~~ shall be paid, and the consequences of failure to pay the civil ~~fee-penalty~~;
- e. Identify the right to and the procedures for requesting an Administrative Enforcement Hearing; ~~and~~
- ~~e.f. A demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violation as directed by the City; and~~
- ~~f.g. The signature of the Enforcement Official and, if possible, the signature of the Responsible Person. (Ord. 8.27/2002A (part), 2002)~~

~~.02.010.4 7.05.040~~ Civil ~~fees-penalties~~ assessed.

- a. Civil ~~fees-penalties~~ shall be due and payable immediately upon service of an ~~Administrative Citation~~ Administrative Notice.
- b. The civil ~~fee-penalty~~ for each ~~violation~~ Violation listed on the ~~Administrative Citation~~ Administrative Notice shall be as identified in ~~Chapter 7.03~~ the City's fee schedule.
- c. Civil ~~fees-penalties~~ shall be double (i) if ~~they are paid after sixty (60) Days of the date of the Administrative Citation~~ Administrative Notice or (ii) if the Violation remains ~~uncorrected after sixty (60) days~~ Days of the date of the ~~Administrative Citation~~ Administrative Notice.
- d. Civil ~~fees-penalties~~ shall be triple (i) if ~~they are paid after sixty (60) Days of the date of the Administrative Citation~~ Administrative Notice or (ii) if the Violation remains ~~uncorrected after sixty (60) Days of the date of the Administrative Citation~~ Administrative Notice.
- e. Payment of any civil ~~fee-penalty~~ shall not excuse a failure to correct a ~~violation~~ Violation or any ~~reoccurrence~~ recurrence of the ~~violation~~ Violation, nor shall it bar further enforcement action by the City.

- f. Civil ~~fees—penalties~~ shall be paid to the Perry City Treasurer.—(Ord. 8.27/2002A (part), 2002)

~~.02.010.5 7.05.050~~ Inspections and Compliance.

It shall be the duty of the Responsible Person to request an inspection to be performed by the City when a Violation cited by ~~Administrative Citation~~Administrative Notice has been corrected. If no inspection is requested, then it shall be deemed prima facie evidence that the Violation remains uncorrected. If more than one inspection is necessary, an inspection fee shall be assessed for each subsequent inspection.

A Violation is recognized as corrected and resolved only upon the issuance by the City of a Notice of Compliance.

~~.02.020~~ Notice of Violation

~~.02.020.1 —03.010~~ Authority.

Any Violation may be abated by the City pursuant to the procedures set forth in this chapter. However, the method of enforcement described in this chapter is typically for, but not limited to, Violations that are major in nature, found to exist on real property and generally desirable to be abated by the City (if such abatement action is or becomes necessary). Violations less in nature than this may generally be enforced by procedures associated with an ~~Administrative Citation~~Administrative Notice, which are described in Section ~~7.05.050~~.02.010 herein. The procedures established in this chapter shall be an alternative and in addition to other administrative enforcement, including, but not limited to, an ~~Administrative Citation~~Administrative Notice; criminal; civil; or any other legal remedy established by law that may be pursued to address Violations. The utilization of a Notice of Violation is at the sole discretion of the City.

~~.02.020.2 —03.020~~ Procedures for Notices of Violation.

- A. Whenever an Enforcement Official determines that a Violation has occurred or continues to exist, a Notice of Violation may be issued to the Responsible Person. When possible an attempt for a personal contact from the City shall be made to notify the Responsible Person of a Violation of a City code or ordinance. The Notice of Violation shall include the following information:Whenever an Enforcement Official determines that a Violation that is major in nature and generally desirable to be abated by the City (if such abatement action is or becomes necessary) has occurred or continues to exist, the City may issue a Notice of Violation to the Responsible Person.

- a. An Enforcement Official may serve a Warning Notice of such Violation on the Responsible Person. The Warning Notice should contain the information required in a Notice of Violation and provide ten (10) Days to correct the Violation.
- i. An Enforcement Official shall attempt to serve a Notice of Violation on the Responsible Person via Personal Service. When Personal Service ~~by telephone call or any other not in person Personal Service method~~ is successful, an Enforcement Official should document the service of such notice. ~~also concurrently mail (via methods listed in this Title) the Notice of Violation to the Responsible Person for record keeping purposes.~~
- ~~i.ii.~~ If Personal Service is unsuccessful, then an Enforcement Official shall serve the Notice of Violation on the Responsible Person via any of the other methods provided for in this Title. ~~When possible, an attempt for a personal contact from the City shall be made to notify the Responsible Person of a Violation.~~
- b. If the Violation continues on the eleventh Day after the Warning Notice, then an Enforcement Official shall serve a Notice of Violation on the Responsible Person. The Notice of Violation shall include the following information:
- i. Name of the Responsible Person.
  - ii. Street address or other generally accepted description of the location of Violation.
  - iii. Date Violation observed.
  - iv. Citation of all specific code sections applicable to the Violation and a description of the Violation.
  - v. All remedial action required to permanently correct any Violation, which may include corrections, repairs, demolition, removal, or other appropriate action.
  - vi. Specific date to correct the Violation.
  - vii. Explanation of the consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice of Violation, which may include, but is not limited to: civil feespenalties; revocation of permits; recordation of the Notice of Violation; withholding of municipal permits; abatement of the Violation; costs; administrative fees; criminal or civil prosecution; and any other legal remedies.
  - viii. Statement that civil fees-penalties will begin to accrue immediately on expiration of the date to correct the Violation.

- ix. The amount of the civil ~~fee~~penalty for each Violation and a statement that the civil ~~fee~~penalty shall accrue daily until the Violation is corrected.
- x. Statement that only one Notice of Violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the Notice of Violation. The Responsible Person may request an Administrative Enforcement Hearing on the renewed violations by following the same procedure as provided for the original notice.
- xi. Demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violations as directed by the City.
- xii. Procedures to request an Administrative Enforcement Hearing, and consequences for failure to request such hearing.
- xiii. Statement that when the Violation is brought into compliance, the Responsible Person must request an inspection to be performed by the City; and notice of reinspection fees, if re-inspection is required.

~~B. The Notice of Violation shall be served by one of the methods of service listed in Section 7.01.120.~~

c. More than one Notice of Violation may be issued against the same Responsible Person if the additional Notice of Violation encompasses different dates or different Violations.

d. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Violation.

~~-.03.030 Requesting hearings.~~

~~A Responsible Person has the right to an Administrative Enforcement Hearing as identified in and pursuant to the provisions of Chapter 7.02.~~

~~.02.020.3 -.03.040 Failure to correct.~~Inspections and compliance.

It shall be the duty of the Responsible Person to request an inspection to be performed by the City when a Violation has been corrected. If no inspection is requested, then it shall be deemed prima facie evidence that the Violation remains uncorrected. If more than one inspection is necessary, an inspection fee ~~of \$100~~in the amount indicated in the City's fee schedule shall be assessed for each subsequent inspection.

~~.02.020.4 -.03.050 Inspections.~~Failure to correct

~~It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in a Notice of Violation. A Violation of this section shall be a Class B Misdemeanor. ??Look into new state law regarding code enforcement and how to word this section.~~ It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in a Notice of Violation. Failure by a Responsible Person to bring a Violation into compliance as and when specified in the Notice of Violation may result in, but limited to, any of the following:

- a. The assessment of civil penalties owed to the City against the Responsible Person for each and every subsequent Day of ~~V~~iolation without additional notice to the Responsible Person required.
- b. Civil or criminal prosecution actions by the City against the Responsible Person.

### .02.030 Emergency Abatement

#### .02.030.1 Authority

- a. Whenever the Director determines that an Imminent Life Safety Hazard exists or any safety ~~hazard~~ hazard that exists in accordance with the International Building Code, International Residential Code, the International Fire Code, and/or the Utah Health Code that requires immediate correction or elimination, the Director may exercise any or all of the following powers without prior notice to the Responsible Person:
  - i. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs and any other necessary remedial actions are completed;
  - ii. Post the premises as unsafe, substandard, or dangerous;
  - iii. Board, fence, or secure the building or site;
  - iv. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
  - v. Make any minimal emergency repairs as necessary to eliminate any Imminent ~~life~~ Life Safety Hazard; or
  - vi. Take any other action appropriate to eliminate the Imminent Life Safety Hazard.
- b. The Director may, based on probable cause, enter or otherwise gain necessary access to property without a search warrant or court order to accomplish the above-listed ~~powers~~ acts to abate the Imminent Life Safety Hazard.
- c. The Responsible Person shall be liable for all costs associated with the abatement of the Imminent Life Safety Hazard. Costs may be recovered pursuant to this Title.

~~.02.030.2~~ ~~-.04.020~~ Procedures.

- a. The Director shall pursue only the minimum level of correction or abatement necessary to eliminate the immediacy of a hazard. Costs incurred by the City during the Imminent Life Safety Hazard abatement process shall be assessed and recovered against the Responsible Person, including property (real, personal, intangible or otherwise) that is associated with the subject Imminent Life Safety Hazard.
- b. The Director may also pursue any other administrative or judicial remedy to abate any remaining Violations (i.e. those that are deemed to not be Imminent Life Safety Hazards).
- c. ~~After an abatement of an Imminent Life Safety Hazard, the City shall, within ten Days, serve a Notice of Itemized Bill for Costs to the Responsible Person for the abatement action taken. Such notice shall include a description of the Imminent Life Safety Hazard.~~ Within ten (10) Days of completion of an abatement of an Imminent Life Safety Hazard, the City shall serve the Property Owner or Responsible Person with a Notice of Emergency Abatement.
  - i. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Emergency Abatement.

~~D. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Itemized Bill for Costs as identified in and pursuant to the provisions of Chapter 7.02.~~

~~.02.040~~ Administrative Code Enforcement Hearing

~~.02.040.1~~ ~~-.02.040~~ Administrative Enforcement Hearings Purpose.

It is the purpose and intent of the City Council that any ~~responsible~~ Responsible person ~~Person~~ shall be afforded due process of law during the code enforcement process. Due process of law shall require adequate notice, an opportunity to request and to fully participate in any hearing, and an adequate explanation of the reasons justifying any resulting action. The following procedures are intended to establish a forum to determine if the cited Violation is valid, and if so to resolve and correct Violations fairly, in a timely manner, and efficiently while providing due process. ~~.02.040.2~~ ~~-.02.020~~ Request for Administrative Enforcement Hearing.

- a. A ~~responsible~~ Responsible person ~~Person~~ served with one of the following documents or notices shall have the right to request an Administrative Enforcement Hearing. Such request shall be filed within ten (10) ~~calendar~~ Days from the date of service of one of the following:
  - i. Notice of Violation;
  - ii. Notice of Itemized Bill for costs;



- iii. ~~Administrative Citation~~Administrative Notice; or
  - iv. Notice of Emergency Abatement.
- b. Said request, including all information concerning the responsible person's right to an Administrative Enforcement Hearing, shall be provided in English.
  - c. The request for an Administrative Enforcement Hearing shall be made in writing to the Director.
  - d. As soon as practicable after the City's receipt of the written notice of the request for an Administrative Enforcement Hearing, a ~~Hearing Examiner~~Hearing Officer shall schedule a date, time, and place for the Administrative Enforcement Hearing.
  - e. Failure to request an Administrative Enforcement Hearing within ten (10) ~~calendar~~Days from the date of service of any of the notices in subsection (A) of this section shall constitute a waiver of the right to an Administrative Enforcement Hearing. The right to appeal said failure may be waived by the City upon showing proof of a verifiable extenuating circumstance.
  - f. If a Responsible Person fails to request an Administrative Enforcement Hearing after being issued a Notice of Violation as provided herein, the corrective action detailed on the Notice of Violation shall be considered the Administrative Enforcement Order pursuant to ~~Section 7.02.080 of the Perry Municipal Code~~this Title.
  - g. As an alternative to subsection (f) of this section, if a Responsible Person fails to request an Administrative Enforcement Hearing as provided herein, such failure shall be considered a waiver by the Responsible Person of their right to said hearing and a default shall enter against the Responsible Person and the City may seek to have an Administrative Enforcement Order issued by the ~~Hearing Examiner~~Hearing Officer without further notice to the Responsible Person.
  - h. If the Responsible Person fails to request a hearing before the expiration of the ten ~~(10)~~Day deadline, the case may be set for a default hearing.

~~.02.040.3 --02.030~~Notification of Administrative Enforcement Hearing.

Written notice of the date, time and place of the Administrative Enforcement Hearing shall be served to the responsible person as soon as practicable prior to its date. ~~The Hearing shall be conducted during regular City business hours. The Notice of the Hearing shall be served not less than 72 hours prior to the Hearing.~~

~~B. The notice shall be served by any one of the methods of service set form in Section 7.01.120.~~

.02.040.4 ~~-.02.040~~ Appointment and qualifications of ~~Hearing Examiner~~Hearing Officer.

- a. The Mayor or his/her designee shall appoint a ~~Hearing Examiner~~Hearing Officer to preside at Administrative Enforcement Hearings.
- b. A ~~Hearing Examiner~~Hearing Officer:
  - i. Shall have no personal, financial, or other conflict of interest in the matter for which the hearing is being held.
  - ii. May not be a City employee.

.02.040.5 ~~-.02.050~~ Powers of ~~Hearing Examiner~~Hearing Officer.

- b. A ~~Hearing Examiner~~Hearing Officer shall have authority to conduct an Administrative Enforcement Hearing for a Violation.
- c. A ~~Hearing Examiner~~Hearing Officer may, for good cause shown by one of the parties or the ~~Hearing Examiner~~Hearing Officer independently determines that due process has not been adequately afforded to such party, continue an Administrative Enforcement Hearing. The Hearing ExaminerHearing Officer must enter on the record the good cause on which a continuance is granted.
- d. At the Written request of any party to an Administrative Enforcement Hearing, a ~~Hearing Examiner~~Hearing Officer may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful or necessary by the ~~Hearing Examiner~~Hearing Officer to decide issues at the Administrative Enforcement Hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena.
- e. ~~The A Hearing Examiner~~Hearing Officer has ~~continuing~~ jurisdiction over the subject matter of an Administrative Enforcement Hearing for the purposes of granting a continuance, ordering compliance by issuing an Administrative Enforcement Order, ensuring compliance of that order, which includes authorizing the City to enter and abate a ~~violation~~Violation, modifying an Administrative Enforcement Order, or, where extraordinary circumstances exist, granting a new Administrative Enforcement Hearing.
- ~~f.~~A ~~Hearing Examiner~~Hearing Officer may require a Responsible Person to post a cash performance bond to ensure compliance with an Administrative Enforcement Order, ~~but only if agreed to by the Enforcement Official handling the matter for the City.~~
- ~~g.f.~~ A ~~Hearing Examiner~~Hearing Officer shall not make determinations as to the existence of nonconforming rights. If a Responsible Person claims a nonconforming right as a defense, the ~~Hearing Examiner~~Hearing Officer shall continue the Administrative

Enforcement Hearing and shall refer the matter to the Perry City Board of Adjustment for a determination as to the existence of the nonconforming right. The Board of Adjustment's decision shall be binding. The Responsible Person shall bear the costs of the appeal petitions to the Board of Adjustment.

.02.040.6 ~~–02.060~~ Procedures at Administrative Enforcement Hearing.

- a. Administrative Enforcement Hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be requested. Any such request shall be Written. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the Administrative Enforcement Hearing shall follow duly adopted policies and procedures.
- b. The City ~~shall bears~~ the burden of proof to establish the existence of a Violation.
- c. Such proof shall be established by a preponderance of the evidence.
- d. Each party shall have the opportunity to call and cross-examine witnesses and present evidence in support of his or her case. A Written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance.
- e. All Administrative Enforcement Hearings ~~shall beare~~ open to the public and shall be recorded by the City on a City-owned voice-recording device. At the discretion of the ~~Hearing Examiner~~ Hearing Officer, Administrative Enforcement Hearings may be held at the location of the Violation.
- f. The Responsible Person shall have the right to be represented at their own expense by an attorney. If an attorney will be representing a Responsible Person at a hearing, notice of the attorney's name, address, and telephone number shall be given to the City a least two Days prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the Responsible Person.
- g. The burden to prove any raised defenses shall be upon the party raising any such defense.

~~h.g.h.~~ No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

.02.040.7 ~~–02.070~~ Failure to attend Administrative Enforcement Hearing.

A Responsible Person who fails to appear at an Administrative Enforcement Hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, and such failure will result in a default judgment for the City, provided that proper notice of the hearing has been given as provided ~~in Section 7.01.120.~~

.02.040.8 ~~-.02.080~~-Administrative Enforcement Order.

- a. A Responsible Person and the City may enter into a stipulated agreement, which shall be signed by both parties, at any time. Such agreement shall be entered as an Administrative Enforcement Order (Question on this). Entry of such agreement shall constitute a waiver of the right to the Administrative Enforcement Hearing and the right to appeal.
- b. After all evidence and testimony are presented, the ~~Hearing Examiner~~Hearing Officer shall issue a Written Administrative Enforcement Order within ten Days that affirms, modifies or rejects the notice or citation. The Hearing ExaminerHearing Officer may increase or decrease the total amount of civil penalties and costs that are due pursuant to the City's fee schedule and the procedures in this Title. Such fees shall continue to accrue until the Responsible Person complies with the Hearing ExaminerHearing Officer's decision and corrects the Violation.
- c. A ~~Hearing Examiner~~Hearing Officer may issue an Administrative Enforcement Order that requires a Responsible Person to cease and desist from violating the Perry Municipal Code or applicable state codes and to take any necessary corrective action.
- d. A ~~Hearing Examiner~~Hearing Officer may order the City to enter the property and abate all Violations, including the removal of animals and any and all other personal property that are in Violation of applicable code requirements.
- e. A ~~Hearing Examiner~~Hearing Officer may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Perry Municipal Code.
- f. As part of an Administrative Enforcement Order, a ~~Hearing Examiner~~Hearing Officer may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil fees-penalties on the Responsible Person's ability to take necessary corrective actions by the specified deadlines.
- g. ~~A Hearing ExaminerHearing Officer may issue an Administrative Enforcement Order imposing civil fees in accordance with Section 7.03.110. Such fees shall continue to accrue until the Responsible Person complies with the Hearing ExaminerHearing Officer's decision and corrects the violation.~~
- h.g. A ~~Hearing Examiner~~Hearing Officer may schedule subsequent ~~review~~hearings as may be necessary or as requested by the City to ensure compliance with an Administrative Enforcement Order.

~~i.h.~~ A ~~Hearing Examiner~~Hearing Officer may order a Responsible Person to post a cash performance bond to ensure compliance with an Administrative Enforcement Order, but only if agreed to by the Enforcement Official handling the matter for the City.

~~j.i.~~ An Administrative Enforcement Order shall become final on the date of signing by the ~~Hearing Examiner~~Hearing Officer.

~~k.j.~~ A copy of the Administrative Enforcement Order shall be served on all parties pursuant to ~~in Section 7.01.120~~the method of service provided in this Title. When required by this ~~title~~Title, the Director shall record the Administrative Enforcement Order with the Box Elder County Recorder's office.

~~l.k.~~ After a ~~Hearing Examiner~~Hearing Officer has issued an Administrative Enforcement Order, the Director shall monitor the matter for compliance with the Administrative Enforcement Order.

~~.02.040.9~~ ~~–02.090~~ Failure to comply with Administrative Enforcement Order.

It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in an Administrative Enforcement Order. A violation of this section shall be a Class B misdemeanor. The City may use all appropriate legal means to recover the civil penalties and administrative costs incurred to obtain compliance.

~~.02.040.10~~ ~~–02.100~~ Appeal.

- a. Any Responsible Person or the City adversely affected by an Administrative Enforcement Order made in the exercise of the provisions of this ~~title~~Title may, at his or her own expense, file a petition for review in the District Court of Box Elder County, Utah ("the Court"). No person may challenge in the Court a Hearing Examiner's decision until that person has exhausted his or her administrative remedies.
- b. The petition shall be barred unless it is filed within thirty (30) Days after the Administrative Enforcement Order is final.
- c. In the petition, the appellant may only allege that the Administrative Enforcement Order was arbitrary, or capricious, or illegal.
- d. Within one hundred-twenty (120) Days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings that is the subject of appeal, including transcripts of hearings when necessary. A transcript of a ~~tape~~ the recording shall be deemed a true and correct transcript for purposes of this subsection. The City shall not submit copies of files or transcripts to the Court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to

properly arrange for copies of the record, or to pay the full costs for the record, within one hundred-eighty (180) Days after the petition for review was filed shall be grounds for dismissal of the petition.

i. If a transcript of a hearing cannot be prepared because a tape recording is incomplete or unintelligible, the Court may, in its discretion, remand the matter to the ~~Hearing Examiner~~Hearing Officer for a supplemental proceeding to complete the record. The Court may limit the scope of the supplemental proceeding to issues that, in the Court's opinion, need to be clarified.

e. Court review shall be limited to the record of the proceeding. The Court may not accept or consider any evidence outside such record unless that evidence was offered to the ~~Hearing Examiner~~Hearing Officer and the Court determines that it was improperly excluded by the ~~Hearing Examiner~~Hearing Officer.

d.f. The Court shall:

- i. Presume that the Administrative Enforcement Order is valid;
- ii. Review the record to determine whether the Administrative Enforcement Order was arbitrary, capricious, or illegal; and
- iii. Affirm the Administrative Enforcement Order if it is supported by substantial evidence.

~~e. If appealed the record of the proceedings related to the Administrative Enforcement Order that is the subject of appeal ("the Record"), including recording, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court within thirty days of the notice of appeal. If the proceeding was digitally tape recorded, a transcript of such recording shall be deemed a true and correct transcript for purposes of this subsection.~~

~~f. If there is a record, Court review shall be limited to the record of the proceeding. The Court may not accept or consider any evidence outside such record unless that evidence was offered to the ~~Hearing Examiner~~Hearing Officer and the Court determines that it was improperly excluded by the ~~Hearing Examiner~~Hearing Officer. The Court may call witnesses and take evidence if there is no record.~~

~~g. The filing of a petition for review to the Court does not stay execution of an Administrative Enforcement Order. Before filing a petition for review, a Responsible Person may request the ~~Hearing Examiner~~Hearing Officer for a stay of the Administrative Enforcement Order. Upon receipt of a request to stay, the ~~Hearing Examiner~~Hearing Officer may order the Administrative Enforcement Order to be stayed pending Court~~

review if the ~~Hearing Examiner~~Hearing Officer finds such stay to be in the best interest of the City.

## CHAPTER .03 – Administrative and Judicial Remedies

### .03.010 Recordation of Notices of Violation; Notices of Compliance

#### .03.010.1 Purpose.

The City Council finds that there is a need for alternative methods of enforcement for Violations that are found to exist on real property. The City Council further finds that an appropriate method of enforcement for these types of Violations is the issuance and recordation of Notices of Violation.

The procedures established in this Part shall be in addition to criminal, civil, or any other remedy established by law that may be pursued to address a Violation.

#### .03.010.2 Authority.

Whenever the Director determines that a Violation has not been brought into compliance as required, pursuant to this Title, by a Notice of Violation or an Administrative Enforcement Order, the Director has the authority to record the Notice of Violation or Administrative Enforcement Order with the Recorder's Office of Box Elder County.

#### .03.010.3 Procedures for Recordation

For Violations of Titles ~~15, 16, and 17~~ of the Perry Municipal Code and any other applicable code, when a Notice of Violation has been served on a Responsible Person, and the Violation remains uncorrected after the date to correct set forth in the Notice of Violation, and a request for an Administrative Enforcement Hearing has not been timely requested, the Director shall record the Notice of Violation with the Box Elder County recorder's office.

- a. Once the City has issued a Notice of Violation to a Responsible Person, and the Violation continues and remains uncorrected after the deadline established in the Notice of Violation, and no request for an Administrative Enforcement Hearing has been filed, the City may record a Notice of Violation with the Recorder's Office of Box Elder County.
- b. If an Administrative Enforcement Hearing is held, and an Administrative Enforcement Order is issued in the City's favor, the City may record the Administrative Enforcement Order with the Recorder's Office of Box Elder County.

- c. The recordation shall include the name of the Property Owner, the parcel number(s), the legal description of the parcel(s) and a copy of the Notice of Violation or Administrative Enforcement Order.
- d. The recordation does not encumber the subject property, but merely places future interested parties on notice of any continuing Violation found upon the subject property.

.03.010.4 Notice of Recordation

A notice of the recordation shall be served on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title.

.03.010.5 Failure to Request

The failure of any Person to file a request for an Administrative Enforcement Hearing when served with a Notice of Violation shall not affect the validity of the recorded Notice of Violation.

~~.03.010.6 .03.090~~ Notice of ~~compliance~~ Compliance.

- a. When a Violation is purported to be corrected, a Responsible Person shall request an inspection from the Director.
- b. When the Director receives such request, the Director shall inspect the property within five Days as soon as practicable to determine whether the Violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.
- c. ~~Within ten Days of an inspection in which the Director finds correction of a Violation, the Director shall serve a Notice of Compliance to the Responsible Person and property owner in the manner provided in Section 7.01.120 if the Director determines that:~~The Director shall serve a Notice of Compliance to the Responsible Person or Property Owner in the manner provided in **this Title** within ten (10) business days of an inspection in which the Director finds correction of a Violation and determines that:
  - i. All Violations listed in the Notice of Violation or Administrative Enforcement Order have been corrected;
  - ii. All necessary permits have been issued and finalized;
  - iii. All assessed civil ~~fees-penalties~~ have been paid; and
  - iv. All assessed costs and administrative fees ~~and costs~~ have been paid.



- d. The ~~Director~~ City shall record the Notice of Compliance with the Box Elder County ~~recorder's~~ Recorder's office ~~Office~~, if the related Notice of Violation was recorded. Recordation of the Notice of Compliance shall have the ~~effect~~ effect of canceling the recorded Notice of Violation.
- e. If after inspection, the Director determines that the property fails to meet the requirements for a Notice of Compliance, the Director shall, upon Written request from the Responsible Person or the Property Owner, provide a Written explanation setting forth the reasons for failure to qualify for a Notice of Compliance. The Written explanation shall be served by any of the methods of service listed in this Title.
- f. No delay or omission on the part of the City to exercise any right or power accruing upon any Violation shall impair any such right or power ~~of or~~ shall be construed to be a waiver of any such Violation or acquiescence therein and such right and power may be exercised as often as may be deemed expedient. The City's issuing of a Notice of Compliance in any instance shall not constitute continuing consent to subsequent instances and in all cases a Notice of Compliance may be granted or withheld at the sole discretion of the City. No prior Notice of Compliance shall affect any subsequent Violation or shall impair any of the City's rights or remedies on said subsequent Violation. Every substantive right and every remedy conferred upon the City may be enforced and exercised as often as may be deemed expedient.

.03.010.7 ~~.03.090~~ Prohibition against issuance of municipal permits.

The City ~~shall~~ may withhold or suspend business licenses, ~~;~~ permits for kennels, ~~;~~ or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on ~~the a~~ property on which a Violation exists, or any permits pertaining to the use and development of the real property or the structure where a Violation is located. The City ~~shall~~ may withhold such permits until the Director has issued a Notice of Compliance ~~has been issued by the Director~~. The City ~~shall~~ may not withhold permits necessary to obtain a Notice of Compliance or to correct serious health and safety Violations.

.03.020 ~~.09.110~~ Civil Fees; Administrative Civil Penalties.

- A. ~~If a Responsible Person fails to correct a Violation by the correction date listed in a Notice of Violation or in an Administrative Enforcement Order, civil fees shall accrue and be owed to the City and paid to the Perry City Treasurer in the amount of one hundred dollars (\$100.00) per day per Violation.~~
- B. ~~Payment of any civil fee shall not excuse any failure to correct a Violation or the recurrence of a Violation, nor shall it bar further enforcement action by the City.~~
- C. ~~Write something to address when City can reduce fees.~~

.03.020.1 Authority.

- a. Any Person may be subject to the assessment of civil penalties for each Violation.
- b. Each and every Day a Violation exists is a separate Violation subject to the assessment of civil penalties.
- c. Civil penalties cannot be assessed when a criminal case has been filed for the same date and Violation, because fines will be assessed with the criminal case.
- d. Civil penalties for Violations shall be assessed pursuant to the City's fee schedule.
- e. Interest shall be assessed per City policy on all outstanding civil penalties balances until the case has been paid in full.

#### .03.020.2 Procedures for Assessing Civil Penalties.

- a. If a Responsible Person fails to bring a Violation into compliance within ten Days of service of a Notice of Violation, civil penalties shall be owed to the City for each and every subsequent Day of violation.
- b. Civil penalties are assessed and owing immediately for an ~~Citation~~ Administrative Notice.

#### .03.020.3 Determination of Civil Penalties

- a. For a Notice of Violation, civil penalties shall be assessed per Violation per Day pursuant to the City fee schedule.
- b. Civil penalties shall continue to accrue until the Violation(s) has/have been brought into compliance.

#### .03.020.4 Modification of Civil Penalties

- a. The City or ~~Hearing Examiner~~ Hearing Officer may waive or modify civil penalties on a finding of good cause and conditioned on, but not limited to, correction of Violation(s).
  - i. In the event that the Responsible Person fails to correct the Violation(s) or to pay reduced civil penalties, then the civil penalty reduction may be rescinded and the Responsible Person shall then owe the original amount of civil penalties assessed as if the reduction had not been given and have the continued requirement to correct the Violation(s).

- b. Nonconforming or conditional use: Civil penalties may be waived or modified by the City or ~~Hearing Examiner~~Hearing Officer if there is a finding of good cause based on the Responsible Person's ~~Written~~ claim of nonconforming use or conditional use and:
  - i. The City's need to verify the claim; or
  - ii. The Responsible Person's filing of an application for ~~nonconforming or conditional~~ use before expiration of the date to correct.

.03.020.5 Failure to Pay Penalties

The failure of any Person to pay civil penalties assessed within the specified time may result in the Director's pursuing any legal remedy to collect the civil penalties as provided by law.

.03.030 Administrative Abatement

.03.030.1 ~~.03-060~~ Authority to abate.

Enforcement Officials are hereby authorized; to enter upon any property or premises to abate or cause to be abated a Violation. The Director shall assess all costs for abatement to the Responsible Person and may use any remedy available under the law to collect such costs. If additional abatements are necessary within two (2) years, treble costs may be assessed against the Responsible Person(s) for the actual abatement.~~(Ord. 8.27/2002A (part), 2002)~~

.03.030.2 ~~.03-070~~ Procedures for abatement.

- a. Violations may be abated by City personnel or by a private party acting under the direction of the City.
- b. City personnel or a private party may enter upon private property in a reasonable manner to abate a Violation as specified in the Notice of Violation or Administrative Enforcement Order.
- c. If a Responsible Person abates the Violation before the City abates the Violation pursuant to a Notice of Violation or Administrative Enforcement Order, the Director shall nevertheless assess all costs ~~actually~~ incurred by the City against the Responsible Person.
- d. When abatement is completed, the Director shall prepare a Notice of Itemized Bill for ~~eosts~~Costs.
- e. The Director shall serve the Notice of Itemized Bill for Costs by registered mail to the last known address of the Responsible Person. The Notice of Itemized Bill for Costs shall demand full payment within twenty (20) Days to the Perry City Treasurer.

- f. The Responsible Person shall have a right to an Administrative Enforcement Hearing to contest the Notice of Itemized Bill for Costs. Such hearing shall be pursuant to an in conformity with ~~Chapter 7.02~~ **this Title**.

.03.040 Costs and Fees

~~.03.040.1~~ ~~06.010~~ Purpose and Introduction.

There are three primary categories of costs and fees associated with this Title, as follows:

- a. Costs: These are direct costs the City incurs in carrying out the abatement of Violations, inspection and re-inspection fees, filing fees, attorney fees, ~~Hearing Examiner~~ Hearing Officer fees, title search, and any additional actual costs incurred by the City for each individual case.
- i. The City Council finds that costs incurred by Enforcement Officials and the City to correct Violations should be recovered from the Responsible Person.
- ii. The City Council further finds that the assessment of costs is an appropriate method to recover ~~expenses incurred for actual~~ costs.
- iii. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial ~~or~~ civil fees, penalties or fines for Violations.
- b. Administrative fees: These are expenses incurred in the administration of this Administrative Code Enforcement program, such as, but not limited to, investigation of Violations, preparation for hearings, hearings and the collection process.
- c. Administrative civil penalties: These are penalties or fines assessed for a Violation, separate from costs and administrative fees associated with the same.

~~.03.040.2~~ ~~06.020~~ Assessment of costs Authority.

- a. Whenever ~~actual costs are incurred by~~ the City incurs costs to enforce the ~~Perry Municipal~~ City Code and applicable state codes, the City may assess such costs ~~shall be assessed~~ against the Responsible Person, including property (real, personal, intangible, or otherwise) that is associated with a Violation.
- b. The Director shall serve the Responsible Person with a Notice of Itemized Bill for Costs. If more than one inspection is necessary with respect to a Violation, then an inspection fee may be assessed for each subsequent inspection.

- c. ~~The Responsible Person has a right to an Administrative Enforcement Hearing with respect to a Notice of Itemized Bill for costs as identified in and pursuant to the provisions of Chapter 7.02.~~
  - i. Notification of re-inspection fees shall be provided in the Notice of Violation served to the Responsible Person.
  - ii. Re-inspection fees assessed or collected pursuant to this subsection should not be included in any other costs assessed, but should be itemized separately.
  - iii. The failure of any Responsible Person to receive notice of the re-inspection fees shall not affect the validity of any other fees imposed under this subsection.

~~.03.040.3~~ ~~06.030~~ Failure to timely pay costs.

The failure of any ~~person~~ Person to pay assessed costs by the deadline specified in a Notice of Itemized Bill for Costs shall result in a daily late fee calculated on a simple basis (noncompounding) at the rate of one and one-half percent per month on the unpaid balances.  
~~(Ord.~~  
~~8.27/2002A (part), 2002)~~

.03.040.4 Administrative Fees

The Director or ~~Hearing Examiner~~Hearing Officer is authorized to assess administrative fees for costs incurred in the administration of this Administrative Code Enforcement program, such as investigation of Violations, preparation for hearings, hearings and the collection process. The fees assessed shall be the amount set in the City fee schedule.

.03.040.5 Injunctions

As a civil judicial remedy available to the City in addition to any other remedy provided under the City Code or state codes, including administrative remedies or criminal prosecution, any provision of the City Code may be enforced by injunction issued by a court of appropriate jurisdiction upon a suit brought by the City.

~~.03.040.6~~ ~~7.~~ Performance Bonds

- a. As part of any notice, order, or action, the City or a ~~Hearing Examiner~~Hearing Officer has the authority to require a Responsible Person to post a performance bond to ensure compliance with the City Code, applicable state codes, or any judicial action.
- b. If a Responsible Person fails to comply with the notice, order or action, then the bond will be forfeited to the City. The bond is to be used for abatement costs and will not be used to offset any other outstanding costs and fees associated with the Violation.

.03.040.7 Recovery of Administrative Code Enforcement Penalties and Costs

This subsection (a) identifies various methods the City may use to recover administrative code enforcement penalties and costs; and (b) details the City's allocation of these collected penalties and costs.

.03.040.7.1 Code Enforcement Tax Liens

.03.040.7.1.1 Purpose.

The City Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs and administrative fees assessed by this Administrative Code Enforcement program or judicial orders. The City Council further finds that collection of civil penalties, costs, and fees assessed for Violations is important in deterring future Violations and maintaining the integrity of the City's code enforcement system. The procedures established in this subsection shall be used to complement existing administrative or judicial remedies that may be pursued to address Violations.

.03.040.7.1.2 Procedures for Tax Code Enforcement Tax Lien without a Judgment

- a. The Director shall provide a copy of a Notice of Itemized Bill for Costs to the City Treasurer.
- b. Upon receipt of the Notice of Itemized Bill for Costs, the City Treasurer shall (i) record a code enforcement tax lien as to the Notice of Itemized Bill for Costs against the property upon which a Violation exists with the Box Elder County Recorder and (ii) if applicable, file the code enforcement tax lien with the Box Elder County Treasurer.
- c. The City shall serve a notice of the code enforcement tax lien recordation on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title.
  - i. The failure of any Person with a financial interest in the property to receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the amounts associated with the code enforcement tax lien.

.03.040.7.1.3 Procedures for Tax Code Enforcement Tax Lien with a Judgment

Once a judgment has been obtained from the appropriate court assessing costs against the Responsible Person, the Director may record a code enforcement tax lien against any real property owned by the Responsible Person.

.03.040.7.1.4 Cancellation of Code Enforcement Tax Lien

Once payment in full is received for the outstanding civil penalties, administrative costs and administrative fees, including, but not limited to, through foreclosure of the code enforcement tax lien as permitted by law, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall record a Notice of Compliance. The Notice of Compliance shall include the same information as provided for in the original code enforcement tax lien and shall cancel the code enforcement tax lien.

#### .03.040.7.2 Writ of Execution

After obtaining a judgment, the City may collect the associated obligation by use of all appropriate legal means. This may include the execution on personal property owned by the Responsible Person by filing a writ with the applicable court.

#### .03.040.7.3 Writ of Garnishment

After obtaining a judgment, the City may collect the associated obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

#### ~~.03.040.7.4 Allocation of Funds Collected under Administrative Code Enforcement Program~~

##### ~~.03.040.7.4.1 Abatement Superfund~~

~~There is hereby established a revolving fund to be known as the "Abatement Superfund" to account for costs of administrative and judicial abatements. The fund shall be reimbursed by collection of outstanding amounts from a Property Owner or property as specified in this Title and by the courts. The City should establish accounting procedures to ensure proper account identification, credit and collection. This fund may be operated and used in conjunction with procedures ordered or authorized under the abatement provisions of this Title.~~

##### ~~.03.040.7.4.2 Repayment to Abatement Superfund~~

~~All monies recovered from the sale or transfer of property or by payment for abatement costs shall be paid to the City Treasurer, who shall credit the appropriate amount to the Abatement Superfund.~~

##### ~~.03.040.7.4.3 Code Enforcement Administrative Fees and Costs Fund~~

~~Collected administrative fees and administrative costs, except for actual abatement costs, shall be deposited in the Code Enforcement Administrative Fees and Costs Fund, as established by the City for the enhancement of the City's code enforcement efforts and to reimburse City departments for investigative costs and costs associated with the hearing processes described in this Title. Fees and costs deposited in this fund shall be appropriated and allocated in a manner~~

~~determined by the City. The City should establish accounting procedures to ensure proper account identification, credit and collection.~~

~~.03.040.7.4.4~~ ~~-.06.040~~ Allocation of Civil Penalties

Collected civil penalties shall be deposited in the General Fund of the City. Civil penalties deposited in this fund may be allocated pursuant to the City's budget process and as authorized by applicable law. The City should establish accounting procedures to ensure proper account identification, credit and collection.



Draft May 17, 2017  
Draft May 23, 2017  
June 1, 2017

### **15.31.020 Gravel Pits**

- 15.31.020.1 Reclamation Objectives
- 15.31.020.2 Conditional Use Excavation Permit Applicable To Both New And Existing Excavation Facilities
- ~~15.31.020.3 Location Of New Excavation Sites Or Operations~~
- 15.31.020.34 Application Requirements For New Excavation Facilities
- 15.31.020.45 Application Requirements For Existing Excavation Facilities, Expansion, Amendment, And/Or Renewal:
- 15.31.020.56 Planning Commission Review Procedures Of Applications
- 15.31.020.67 Filing Fee For Application For Application For Conditional Use Excavation Permit
- ~~15.31.020.8 Failure to Comply with Conditional Use Excavation Permit~~
- 15.31.020.79 Special Regulations Applying To New And Existing Excavation Facilities
- ~~15.31.020.10 Timeline For Implementation For Existing Excavation Facilities~~
- 15.31.020.811 Provision Of Surety Required On New And Existing Excavation Facilities
- 15.31.020.912 Filing Of An Annual Progress Report For New And Existing Excavation Facilities
- 15.31.020.1013 Transfer To Successor Owner/Operator Of The Excavation Operation
- ~~15.31.030.14 Time Frame within Compliance is Required by Existing Excavation~~
- 15.31.020.1115 Public Emergency And Governmental Exceptions To Regular Requirements

### **15.31.020.1 Reclamation Objectives**

The following regarding reclamation:

1. The Objective of Excavation Reclamation is to:
  - a. Return the land, on an approved phase basis, concurrently with the phased operation to a predetermined condition defined by the approved reclamation plan.
  - b. Minimize or prevent present and future onsite or offsite environmental degradations to the ecologic and hydrologic aspects caused by mining operations, and to meet pertinent state, local and federal regulations regarding air and water quality standards and health and safety criteria.
  - c. ~~Minimize and/or~~ prevent future hazards to public safety and welfare.

2. Regarding phased excavation and reclamation:
  - a. The reclamation or rehabilitation of a material excavation site shall be carried out on an approved phase basis (each phase shall be defined by legal description) with the excavation of the resource. The purpose of phased excavation and reclamation is:
    - i. To create a useable land resource and to eliminate waste heaps;
    - ii. To prevent shallow, stagnant, small bodies of water, small unusable remnants of land, and erosion of, barren slopes, all of which are historically associated with open pit operations.
  - b. Excavation shall be planned so as to progressively develop the proposed and approved final land forms by grading and by stockpiling overburden materials in areas designated for future land forms or in excavations where the material will be spread over the gravel pit floor. Such areas are to be seeded and planted in accordance with the approved phasing plan after grading is completed and within appropriate planting seasons, but in any case the grading and planting plan shall contain a description of the approved phased rehabilitation process throughout the anticipated life of the excavations.
3. Final Reclamation: Final reclamation shall begin upon notification by Perry City on the approved phase basis for any site where operations authorized under a Conditional Use Excavation Permit have been inactive for a period of at least one year, or otherwise terminated. Parked and/or salvaged equipment must all be removed. The final reclamation shall conform to the plan approved (including improved modifications) in the Conditional Use Excavation Permit. All reclamation plans shall conform to the minimum standards and requirements listed below, provided however, that the Planning Commission may require more stringent standards where special hazards exist in order to protect health, safety or general welfare to the public, and to prevent injury to property or improvements.
4. Grading: All slopes, overburden stockpiles, and abandoned soil piles shall be graded to a final 3:1 slope or flatter, and smoothed and ~~or~~ contoured so as to control erosion and prevent the creation of potentially dangerous areas in accordance with the direction of the City Engineer. An application for a final slope greater than 3:1 may be filed with ~~by~~ the City. A current (less than one year old) geotechnical report shall be filed with the application. The report must address the long-term safety of the proposal.
5. Water-filled Areas: All excavations which create standing water or ponds shall be refilled with inert materials. This requirement shall not apply, however, to any water-filled excavations scheduled to become an integral part of the final reclamation plan as water filled ponds, etc. The rehabilitation of these areas shall be done in such a manner that the groundwater is not polluted as determined through consultation with the responsible agencies. ~~County Health Department~~. Fill material shall be porous to allow

for water dispersion, unless otherwise specified in the reclamation plan.

6. Landscaping: Unless inconsistent with the final proposed use of the reclaimed land, excavated areas and all other disturbed areas shall be replanted and maintained as approved by Perry City with trees, shrubs, grasses or other vegetative ground cover, preferably native to the area, in order to minimize erosion and to restore the land to its natural appearance. ~~or as previously approved by the Planning Commission.~~ Native plants should not include those species that are the host plants for plant diseases. ~~such as choke-cherry which is a host for viruses affecting the fruit trees.~~ Plant species ~~which shall be approved by city staff. named in the reclamation plan to be approved by the staff in accordance with approved species of trees by the Planning Commission.~~
7. Removal of Buildings and Equipment: As soon as excavation and/or manufacturing has been terminated, as determined by Perry City, all buildings and equipment (including electrical conduits) used in the administration of the operations, shall be removed unless deemed necessary to the approved final use of the reclaimed site.
8. Reclamation Verification. At the conclusion of each phase of excavation operation and reclamation of the excavation site, the owner/operator shall furnish the City Engineer a letter stating all requirements of the excavation ~~and~~ reclamation standards have been met for the phase and that no further excavation or operation will be performed within that phased area. The City Engineer shall present to the ~~staff~~ ~~Planning Commission~~ a statement verifying the phased permit area has been reclaimed with the requirements of the Conditional Use Excavation Permit reclamation plans previously approved. This statement shall also be based on Perry City's receipt of a signed statement from the owner/operator that all requirements of this ordinance for this phase are fulfilled and completed and that no further excavation shall occur within this phase. The ~~staff~~ ~~Planning Commission~~ shall then certify that all requirements concerning that completed phase have been met.
9. All reclamation requirements must be completed within ~~365~~180 days.

### **15.31.020.2 Conditional Use Excavation Permit Applicable To Both New And Existing Excavation Facilities**

Regarding ~~C~~onditional ~~U~~se ~~E~~xcavation ~~P~~ermits:

1. Neither commercial excavation nor extraction of materials shall be permitted on any property within Perry City Corporate limits unless authorized by a Conditional Use Excavation Permit issued to the owner and/or operator of the property. ~~By Perry City Planning Commission in accordance with the application procedures hereinafter set forth.~~ In addition to delineating the area to which it is applicable, the Conditional Use Excavation Permit shall also make explicit reference to the uses authorized and shall include ~~where~~ applicable specific requirements for a pre-excavation inventory/analysis, an operation plan, plus a final reclamation plan which includes plans for phasing of excavation and for phasing of reclamation of the excavation site. Copies of the

required plans shall be presented to the Planning Commission for its review and recommendation. ~~The Planning Commission shall, after its review, state in writing the reasons for modifications, approval, or disapproval.~~

2. The Conditional Use Excavation Permit application of an existing excavation facility operation covered by this ordinance, that qualifies as a non-conforming use under the laws of the State of Utah, will not be denied so long as it complies with the permit application requirements, and the owner/operator complies with the annual progress report requirements, surety requirements, and those other provisions and requirements of this ordinance that reasonably relate to health, safety and welfare concerns.

### **15.31.020.3 Location Of New Excavation Sites Or Operations**

~~Because of the potential negative impact to the environment and to adjacent landowners and uses, special consideration as to location of any new excavation or excavation operation through the Design Review Process and Public hearing will be required. The Environmental Sensitive Zone is the allowed and logical potential location for any new excavating operation, but the intent of the Environmental Sensitive Zone will dictate specific allowable locations. Potential Excavation or Operation Sites shall not be allowed within any of wellhead protection zones, zones 1, 2, 3 or 4. Potential haul and access roads as well as any associated maintenance and safety issues will be analyzed as a potential impact. The material excavation site shall be separated (phased) into areas with legal descriptions of each phase noted. The owner/operator shall notify the City in writing which phase or phases he intends to excavate. At the time of this notification, he will provide the City the required surety. No excavation shall occur in any phased area until the surety is provided.~~

### **15.31.020.34 Application Requirements For New Excavation Facilities or Phases**

The following are application requirements for new excavation facilities or phases:

1. General ~~i~~Information to be ~~p~~Provided:
  - a. The name under which the property is to be excavated shall be stipulated and the legal description of the property noted.
  - b. The name(s) and address(s) of the property owners, ~~lessees and~~ operators of the property shall be noted.
  - c. A history of ownership and uses of the property for the previous ten (10) years.
  - d. ~~Five Ten (510)~~ each copies of the above.
2. Pre-excavation Inventory and Analysis: A pre-excavation inventory and analysis both off-site and on-site shall be performed by the applicant containing the following information:
  - a. A regional vicinity analysis describing other land uses and zoning surrounding the site; the possible impacts of the proposed excavation

- operation on surrounding land; the methods to be employed to mitigate any potentially negative effects;
- b. A description of the regional haulage routes proposed to be employed on public and private roads.
- 3 Proposed Excavation Site Inventory and Analysis: The applicant shall conduct and furnish Perry City a site inventory and analysis to include:
- a. A topographic map of the area at a scale of one inch equals five hundred feet (1" = 500') to a maximum contour intervals of twenty five (25) feet;
  - b. A cross sectional plan with at least three scaled cross section drawings of the proposed excavation property showing natural existing ground elevation together with the proposed maximum excavated surface areas of property to be excavated. Two of the three cross sections should be through the site areas of the greater proposed materials displacement, and the third cross section should show elevations of the major contributing drainage area. Cross sections shall be keyed to the topographic map and a physical reclamation plan;
  - c. A soils survey including a soil profile performed by an approved soils laboratory;
  - d. A description of the site hydrology and geology;
  - e. A description of the virtual characteristics with particular concern given to the use of natural topography and vegetation to shield excavation site operations from nearby properties and the general public;
  - f. Direction of prevailing winds.
4. Excavation Operations Plan: The applicant shall provide an excavation operations plan that ~~which~~ describes the following: ~~Such plans shall be approved and signed by a registered engineer. The plan shall include an overall useful life plan and specific plan for the next five years. Submittals shall include the following:~~
- a. ~~Excavation methods to be employed; That the applicant supply~~ A set of engineered plans containing the following: Drawings to be to scale with title block and north arrow (see city ordinance 15.17.040.2 for details)
  - b. ~~Maximum anticipated annual production in cubic yards;~~ Plans Stamped and dated by a licensed professional engineer.
  - c. ~~Anticipated period(s) of operation;~~ Existing and proposed operation contours and elevations shown.
  - d. ~~An operations development plan on topographic map (to scale of one inch equals five hundred feet (1"=500') of the area at least two hundred (200') feet beyond the proposed excavation limits showing the following operations:~~ Existing and proposed operations building, structures and semi-permanent equipment shown.
  - e. ~~Stockpiles, milling and processing systems;~~ Existing and surface improvements shown (e.g. parking, sidewalks, curb, etc.)
  - f. ~~Type and kinds of machinery and equipment, waste disposal systems; Site~~

- lighting shown.
- g. ~~The water to be used in the operation to include source, consumption, effect of the operation on the source, method of control and disposal and the quality of effluent, if any;~~ Site landscaping plan.
  - h. ~~Wind and air movement patterns with a description of techniques to be used to control dust and noise;~~ All existing and proposed utilities shown (underground and overhead).
  - i. ~~Schedule of proposed operations and a plan showing locations of buildings, storage areas, equipment;~~ Existing and proposed property lines and ownership shown on subject and adjacent properties.
  - j. ~~The effects of lighting on adjacent properties and as viewed from public roadways;~~ Existing and proposed utility and other easements.
  - k. ~~The possible and anticipated unfavorable effects of the operation on the surrounding properties, environment and roadways related to excavation dust, noise, vibration, light, welding lights, smoke, odor, traffic and the specific steps to be taken to mitigate such effects;~~ Adjacent streets and landmarks shown.
  - l. ~~Any anticipated social or economic effects on the surrounding lands and the steps proposed to be taken to mitigate such effects;~~ Proposed haul routes shown.
  - m. FEMA flood zones shown, if present.
  - n. Proposed final ~~reclaimed~~ excavation slopes ~~detain~~ (3:1 or flatter)
  - o. Site storm water detention/retention basin design and report, if required.
  - p. Clearance from fire marshal and city water division for gravel permit demands.
  - q. DWSP-Well Protection Zones shown and address State requirements therewith.
  - r. Flood Control/other utility review.
  - s. Public and private access roads and trails.
  - t. A current disturbance and projected 5 year disturbance boundaries map and five year projections to be submitted to the City every 5<sup>th</sup> year thereafter. ~~Every five years.~~
5. Reclamation Plan: No less than ~~Within~~ ten(10) years prior to the “end use” of the facility operator shall submit an “end of use” plan. ~~including the following.~~ The applicant shall provide a reclamation plan, including, but not limited to, the use of maps, imagery and renderings at a scale of one inches equals five hundred (1" = 500') feet extending two hundred (200') feet beyond the legal description of the excavation site area with a maximum contour interval of twenty five (25') feet which includes at least the following:
- a. A phased grading plan drawn and certified by a registered civil engineer or landscape architect indicating the areas to be excavated and the proposed finished grades. ~~(a typical phased grading plan is available at the Perry City office for review by the applicant);~~
  - b. A description of the methods and plans to be employed for reclamation of described excavation phase(s) during and after the excavation operation;

- c. A description and drawing of the reclamation landscape plan to include the installation of top soil, planting schedule, specifications for plant applications, plant species to be planted, mulching, and type of irrigation to be used, both for temporary plant establishment and for long term - ongoing irrigation needs (including springs and quantities and sources of water available);
  - d. Provide drawing of and describe the hydrology environment of the reclaimed site to include a map illustrating the surface runoff water drainage areas such as lakes, springs, ponds, streams, wells, pipe lines, culverts, ditches, canals, etc.;
  - e. A description of significant geologic conditions expected to exist in the final reclaimed site with an explanation of methods used to mitigate any hazards that might exist in the proposed future site use;
  - f. A description and the location of all permanent roads, surface runoff detention basins, and other man-made structures which are to remain after reclamation;
  - g. A drawing of the reclaimed site showing proposed slopes, vegetation and land uses;
  - h. A statement as to proposed maintenance, ownership, and operation of permanent surface water runoff facilities, both during and after operation of the gravel pit.
6. Authorization of Permit: The Conditional Use ~~of~~ Excavation Permit shall include approval signature blocks for the City Engineer, City Planning Commission, ~~and the City Attorney. and the Special Uses and Appeals Board, approving all maps, plans, etc. submitted with the application.~~ **and the City Attorney.**

**15.31.020.45 Application Requirements for Existing Excavation Facilities, Expansion, Amendment, And/Or Renewal:**

The following regarding application requirements for existing excavation facilities:

- 1. General information requirements are:
  - a. The name under which the property is being excavated shall be stipulated and the legal description of the property noted,
  - b. The name(s) and address(es) of the property owners, ~~lessees~~ **and** ~~operators~~ of the property shall be noted,
  - c. A history of ownership and uses of the property for the previous ten (10) years,
  - d. ~~Five~~ **Ten (10)** copies of each of the above. ~~Ten (10) each copies of the above.~~
- 2. Excavation Operations Plan: The applicant shall provide an updated excavation operations plan which describes the following, which are intended to be changed or modified from the previous year's excavation operation plan:

- a. Excavation methods used to be employed ex.(a stable slope of excavation face shall preclude wind and water erosion conducive to the erosion of airborne dust);
  - b. Maximum anticipated annual production in cubic yards;
  - c. Anticipated period(s) of operation;
  - d. An operations development plan on a topographic map (top scale of one inches equals five hundred feet (1" = 500') of the area at least 200 feet beyond the proposed excavation limits showing the following operations:
    - i. Stockpiles, milling and processing system;
    - ii. Type and kinds of machinery and equipment, waste disposal systems;
    - iii. The water to be used in the operation to include the source, consumption, effect of the operation on the source, method of control and disposal of the quality of effluent, if any;
    - iv. Wind and air movement patterns with a description of techniques to be used to control dust and noise;
    - v. The effects of lighting on adjacent properties and as viewed from public roadways;
    - vi. Schedule of proposed operations and plan showing locations of buildings, storage areas, equipment;
    - vii. The possible and anticipated unfavorable effects of the operation on the surrounding properties, environment, roadways and the specific steps to be taken to mitigate such effects;
    - viii. Any anticipated social or economic effects on the surrounding lands and the steps proposed to be taken to mitigate such effects.
3. Reclamation Plan: The applicant shall provide a reclamation plan indicating how the site will be reclaimed upon completion of the mining activities to allow for the productive and compatible use of the site. The reclamation plan shall include, but not limited to, the use of maps, imagery and renderings at a scale of one inch equals five hundred feet (1"= 500) extending two hundred (200) feet beyond the legal description of the excavation site area with a maximum contour interval of twenty five (25) feet which includes at least the following:
- a. A phased grading plan drawn and certified by a registered civil engineer or landscape architect indicating the areas to be excavated and the proposed finished grades (~~a typical phased grading plan is available at the Perry City office for review by the applicant~~);
  - b. A description of the methods and plans to be employed for reclamation of described excavation phase(s) during and after the excavation operation;
  - c. A typical site plan of proposed or potential use or uses of the site following reclamation, including the proposed zoning for the site, building locations, roads and streets, topography, parking and landscaping;
  - d. A description and drawing of the reclamation landscape plan to include the installation of top soil,- planting schedule,- specifications for plant



applications, plant species to be planted, mulching, and type of irrigation to be used both temporary for plant establishment and long term-ongoing irrigation needs (including springs and quantities and sources of water available);

- e. Provide drawing of and describe the hydrology environment of the reclaimed site to include a map illustrating the surface runoff water drainage areas such as lakes, springs, ponds, streams, wells, pipe lines, culverts, ditches, canals, etc.;
- f. A description of significant geologic conditions expected to exist in the final reclaimed site with an explanation of methods used to mitigate any hazards that might exist in the proposed future site use;
- g. A description and the location of all permanent roads, surface runoff detention basins, and other man-made structures which are to remain after reclamation;
- h. A drawing of the reclaimed site showing proposed slopes, vegetation and land uses;
- i. A statement as to proposed maintenance, ownership, and operation of permanent surface water runoff facilities, both during and after operation of the gravel pit;
- j. A financial analysis detailing all the costs of the reclamation plan; and
- k. A proposed form of financial security to assure the implementation of the reclamation plan.

4. Authorization of Permit: The Conditional Use ~~of~~ Excavation Permit shall include approval signature blocks for the City Engineer, City Planning Commission, ~~and the City Attorney.~~ ~~and the Special Uses and Appeals Board, approving all maps, plans, etc. submitted with the application.~~

### **15.31.020.56 Planning Commission Review Procedures Of Applications**

~~The following regarding the Planning Commission Review applications.~~

Staff will do design review and ~~&~~ follow Conditional Use Permit process as outlined in the Conditional Use Permit Ordinance 15.29.

~~Gravel Pit application:~~

~~1. \_\_\_\_\_~~

~~2. Pre-application: The excavator or owner or their representative shall acquire a copy of the Excavation and Reclamation Standards (this ordinance) from the City Recorder.~~

~~3. Pre-application Meeting: The excavator or owner or their representative shall meet with the Planning Commission for a pre-application review of the owner's proposed plans for the excavation site, The Planning Commission shall verify the location of the excavation site. (Required for new facilities.)~~

~~4. Pre-application Plans: The excavator, owner or their representative shall submit copies~~

~~of \_\_\_\_\_ the excavation plans to the Planning Commission at a regularly scheduled Planning Commission meeting. Pre-application plans shall include all the information requested above.~~

~~5. Pre-application Review: The chairman of the Planning Commission shall distribute copies of the pre-application plan to the City Engineer, the Perry City Council Representative(s) responsible for water and sewer development, the Perry City Representatives responsible for road development, the Special Uses and Appeals Board, and the Utah Geological and Mineral Survey for review and comment. Recommendations shall be returned to the Planning Commission Chairman. The departments and agencies listed above will be allowed fourteen (14) working days for review. They may request an extension of the review period. The Planning Commission Chairman, with the concurrence of the owner, may approve the requested time extension.~~

~~6. Planning Commission Action: The Planning Commission shall review the pre application plan for new excavation facilities and the application plan for existing facilities, together with the recommendations of the departments and agencies listed above at their next regularly scheduled meeting. The Planning Commission may recommend approval as is, approval with modifications, denial subject to revisions, or denial of the pre-application plan. Reasons for denial shall be submitted to the owner in writing.~~

~~7. Revised Application Plans: The owner, excavator, or their representative shall then revise the pre-application plans or application plans, if necessary, to comply with the recommendations of the Planning Commission. Copies of the revised plans shall be submitted to the chairman of the Planning Commission within one year following review of action on the plans by the Planning Commission. Copies of the revised plans shall be resubmitted to the departments and agencies previously listed. Recommendations for the revised plans shall be returned to the Planning Commission chairman within twenty-five (25) calendar days after distribution. The departments and agencies listed above may request an extension of the review period. The Planning Commission chair, with the concurrence of the developer, may approve the requested time extension.~~

~~7. Planning Commission Action: The Planning Commission shall review the revised pre-application plan or application plan, together with the recommendations of the departments and agencies listed above, at their next regularly scheduled meeting. The Planning Commission shall approve as is, approve with conditions, or deny the revised plan. Reasons for final review and determination shall be in writing.~~

### **15.31.020.67 Filing Fee For Application For Application For Conditional Use Excavation Permit**

The following regarding filing fees for Conditional Use Excavation Permit Application:

1. New Excavation Operations: The Perry City Council shall determine by resolution such filing fee as is reasonably required for City Review of the application and all information provided with it (sSee fFee sSchedule). The filing fee shall be paid to the City Recorder at the time the application is submitted. The applicant shall be required to pay for public

notification where appropriate and required by this Ordinance. Professional fees for the review of the application and all information provided with it done by Perry City staff including the City Engineer, other professionals and City Attorney will be paid for by the applicant.

2. Existing Excavation Operations: The Perry City Council shall determine by resolution such filing fee as is reasonably required for city review of the application to renew, amend or expand a Conditional Use Excavation Permit and evaluation of appropriate rehabilitation requirements, related surety requirements and other issues involved in the application and approval process (see ~~f~~Fee ~~s~~Schedule). The filing fee shall be paid to the Community Development Department at the time the application is submitted. Professional fees for the review of the application and all information provided with it done by Perry City staff including the City Engineer, other professionals and City Attorney will be paid for by the applicant.

### **15.31.020.8 Changes to Failure to Comply with Conditional Use Excavation on Permit**

~~The following regarding changes to Conditional Use Excavation Permits:~~

- ~~1. Failure to Comply: Should owner/operator fail to Comply with conditions of the Conditional Use Excavation Permit, their representative or individuals or firms employed by the owner/operator, their representative or individuals or firms employed by the owner/operator, or their representative fail to meet the conditions of the Conditional Use Excavation Permit, the holder of said permit shall be required to appear before the Planning Commission at a designated date and hour to show cause why said permit should not be revoked or modified.~~
- ~~2. Hearing: Upon the date set for hearing, the Planning Commission shall hear all changes and other testimony relating to the matter under consideration. The Planning Commission shall then decide to continue the permit, revoke it, or modify it.~~
- ~~3. Modification of the Conditional Use Excavation Permit Plans: Action on Modification of the Natural Resources Conditional Use Excavation Permit plan may be initiated either by the Planning Commission or by the owner/operator where it is merely sought to affect minor revisions in the approved grading plan, schedule of proposed phasing or operation, proposed reuse plan, or landscape plan. The Planning Commission shall determine whether the proposed changes are minor. If the Planning Commission determines the changes are more than minor, full review by the departments and agencies previously noted, shall be conducted. Otherwise, if minor, the Planning Commission may approve, deny, or require additional modification without full review by the departments or agency involved in previous reviews.~~

### **15.31.020.89 Special Regulations Applying to New and Existing Excavation Facilities**

The following special regulations apply to new and existing excavation facilities:

~~1. Buffer Distance:~~

- a. All excavation and related extractive operations, machinery, equipment, and stockpiles (excluding rock crushing) shall be kept at least one hundred (100') feet horizontal distance from any other property owner's property line except as may be reduced by the Planning Commission and so noted on the excavation plan, but in no event should the crushing operation be closer than five hundred (500') feet to the property line. The setback shall apply to the distance of the specific operation from the property line of any adjacent residentially zoned property.
- ~~b. Rock crushing operations shall not be conducted within one thousand (1,000') feet of the outside boundary of the permitted property, except such rock crushing operations may be conducted within five hundred (500') feet of the outside boundary of the permitted property if specifically approved as part of the excavation permit, with appropriate conditions consisting of a combination of buffering, berming, screening, landscaping, and other mechanisms to reduce or mitigate potential adverse impacts on neighboring land owners and the City.~~

~~2. Existing Crushing Operations: Setback exemption:~~

- a. All existing excavationcrushing operations in effect at the time of adoption of this ordinance shall be exempt from the above proposed setback requirements.
- ~~b. All excavations shall be kept at least one hundred (100') feet from a public road except where the Planning Commission determines the excavations may be moved closer if it will not endanger the road or users of the road and so noted on the excavation plan.~~
- ~~be.~~ Signing: The outer boundaries of the excavation site shall be continuously posted with signs not more than five hundred (500') feet apart and at each change of direction of said boundary line, stating in letters at least two (2") inches in height: must read "DANGER KEEP OUT EXCAVATION SITE." Said signs shall be of wood or metal and shall be maintained in legible conditions at all times.
- ~~cd.~~ Fencing: Areas of excavation with serious or hazardous conditions as determined by the City shall be fenced with a permanent chain link fence, or an approved equivalent thereof, not less than six (6') feet in height the entire perimeter of the outer boundaries of the gravel pit. ~~except where in the determination of the Planning Commission other suitable devices may be used.~~
- ~~e.~~ Grading: All slopes, overburden stockpiles, and abandon soil piles shall be graded to a 3:1 slope or flatter, and smoothed so as to control erosion and prevent the creation of potentially dangerous areas. Grading shall include specifications for slope stabilization and shall be done in accordance with the latest approved excavation and reclamation plans, with the concurrence of the City Engineer. ~~A request for a greater than 3:1 but not greater than~~

~~2:1 slope may be submitted. Said request must be accompanied by a qualified engineer/geologist certifying that the request is safe, prudent and reasonable for the site.~~

- ~~f. Air Quality: All air quality related plans and actions shall be monitored and approved by the State of Utah, Department of Environmental Quality, Division of Air Quality. Compliance shall be in accordance with requirements of the State of Utah, Division of Air Quality, Approval Order (A) for Sand and Gravel Operations, as mandated by the State of Utah. All costs incurred for such monitoring shall be paid for by the owner/operator.~~
- ~~dg.~~ Dust Containment: Graded or disturbed surfaces of excavations or fill, and all equipment, materials and roadways at the excavation site shall be dampened or suitably treated, managed or otherwise contained to prevent the deposit of rust on neighboring properties. ~~All materials transported to or from the excavation site shall be adequately covered and otherwise contained~~ to prevent the deposit of dust on neighboring properties. All materials transported to or from the excavation site shall be adequately covered and otherwise contained during transportation to prevent spillage or the escape of fugitive dust at the site, streets or other properties outside of the excavation site.
- ch. Hours of Operation: Plant operation, except for the maintenance and repair of vehicles and equipment, shall be confined to the hours between 6:00 a.m. and 7:00 p.m. Monday through Saturday, except for operations as required by public emergency demands or by the State or federal governments, which may be performed as approved by the Special Uses and Appeals Board. Maintenance and repair of equipment may be performed at all hours provided Noise and Light regulations are complied with. Loading of trucks shall be confined to the hours between 6:00 a.m. and 7:00 p.m. Monday through Saturday, except for operations as required by public emergency demands or by the State or federal governments, which may be performed as approved by the Mayor. No trucks used in the hauling operations will be allowed into the site before the specified time or permitted to leave the site loaded with material from the site after the specified time.
- if. Hours of Operation-Temporary Extension: Perry City Staff shall be empowered to temporarily extend the hours of loading operations upon the submittal and review of sufficient written justification.
- jg. Hours of Operation- Appeal: Appeal of any decision to temporarily extend such hours of loading operations may be directed to City Council for a final decision.
- ~~k. Run-off Water Detention: The operator or owner shall, on determination by the City Engineer, be required to construct run-off water detention facilities to prevent storm water pollution, damage to neighboring property and structures, and for protection of residents below the site. All Federal, State and Local regulations governing storm water control and pollution prevention shall be adhered to, including the provisions of a Phase II National Pollution Discharge Elimination System (NPDES) Storm Water Management Plan.~~

- h. Mitigating Impacts on Public Roads and Highways: In order to mitigate the impact of gravel operations and related activities on public roads and highways, the conditions of an excavation permit may include a requirement to asphalt access roads for a prescribed distance before entering a public road or highway. In addition, all access roads used for gravel operations and related activities shall be **required by Perry City periodically** swept and cleaned as determined necessary for safety purposes.
- i. Lighting Control: All lighting, both temporary and permanent, as well as equipment lighting shall be such that it will comply with "Dark Sky" methods and concepts, shall not detract from or adversely affect adjacent property uses and shall be only sufficient for excavation operations, safety and security. When excavation lighting is used, lighting shall be designed to minimize glare and diffusion onto other properties. When the use is next to a residential zone or use, direct and defused light shall be shielded from the residential zone or use. General parking lot illumination is permitted only during night business hours. All lighting shall comply with the hours of operation with only sufficient lighting necessary for safety and security outside of such hours.
- j. Landscaping: Properties containing a use for which a Conditional Use Excavation Permit is required shall be landscaped for purposes of screening such uses from public streets and adjoining properties. Approved vegetative materials shall be planted together with necessary top soil as per the schedule approved in the granting of the Conditional Use Permit and shall be maintained in a healthy growing condition. In addition, any bare soil in the area proposed for excavation which is not being actively excavated by the owner or operator shall be planted with vegetation to reduce dust arising from those areas.
- k. On Site Parking: All required employee and visitor on-site parking areas shall be paved with asphalt or concrete. Paving will meet current design standards of the City Engineer. Parking shall be striped on the pavement or designated with some other form of permanent marking. All parking shall comply with Perry City Parking Regulations.
- l. Noise and Vibration Control: All equipment onsite and offsite utilized in the extraction and processing of excavating materials shall be operated and maintained so as to minimize the emanation of noise and vibration from the premises. The operator is responsible to identify haul routes and percussive noise sources that might particularly annoy sensitive receptors and to prevent these sources from becoming a problem.
- q. ~~Historic Trails, Monuments, and Landmarks:~~

### 3. Definitions and Standards:

- a. All terminology used in this provision and not defined below, shall meet applicable American National Standards Institute (ANSI) publications and commonly accepted practices of acoustical measurements.

- i. Receptor: An occupied residential dwelling, church, hospital, school, outdoor stage, or structure continuing other noise sensitive activities.
  - ii. Noise Sensitive Zone: The land enclosed within a fifteen hundred (1500') foot radius circle of any receptor.
  - iii. Sound Level: The total sound pressure level from all concurrent excavation activities related to the subject project, as measured with a sound level meter using the A-weighting network (ANSI 81.4). The Standard notation is db (A) or da.
  - iv. Percussive Noise: Short burst(s) of banging or chattering noise including but not limited to blasting, pile driving, and jack hammering.
- b. **Prohibitions:** Excavation work shall not be permitted under the following conditions:
- i. Wherever **project-related** excavation activity in a noise sensitive zone would cause the sound level within ten (10') feet of the nearest receptor to exceed: 95 d**Bb** in daytime (6:00 a.m. to 7:00 p.m.), or 55 d**Bb** in nighttime (7:00 p.m. to 6:00 a.m.), except for operations as required by public emergency demands or by the State or federal governments, which may be performed as approved by the Mayor **or designee**.
  - ii. No outdoor public address systems shall be permitted.
  - iii. In a noise sensitive zone on Sundays and legal holidays.
  - iv. When **the Perry City Representative** notifies the operator that project related excavation noise or vibration does not meet specifications, that portion of excavation work responsible for the problem shall cease until reduced to the required noise standards.
  - ~~v. Compliance: The above requirements and all local noise ordinances shall be adhered to, except where the operator has obtained a variance in accordance with local regulations.~~
  - vi. Percussive Noise: The operator shall notify **the Perry City Representative** at least two (2) weeks in advance of any percussive noise activity that is expected to exceed the above requirements, so that the Perry City Representative has sufficient time to coordinate with area residents.
- c. Roads: All permanent haul roads within five hundred (500') feet of public streets or land shall be regularly treated (not less than twenty-two (22') feet wide) with oil or other approved chemicals or be asphalt surfaced. All other roadways in use shall be regularly watered or surfaced with a dust palliative and properly maintained during the operation of the gravel pit.
- ~~d. Fuel Storage: All fuels and other fluids, lubricates and cleaning solvents or solutions shall be stored and dispensed according to the applicable Federal and State regulations.~~
- ~~e. Overloading: Gravel pit, sand and clay pit owners/operators shall prevent the~~

~~overloading of trucks and vehicles, and spillage of gravel, rocks or sand upon the public roads and highways in accordance with State Law.~~

- f. ~~Transportation Vehicles: All vehicles transporting excavated product on public roads and highways shall be covered, and otherwise prepared so that they will not disperse fugitive dust and/or mud along the public roads and highways.~~

#### **15.31.020.10 Timeline For Implementation For Existing Excavation Facilities**

~~Within one hundred twenty (120) days after the adoption of this Ordinance, all existing operations shall comply with the provisions set forth herein, provided that in no case shall requirements be imposed which are unreasonable in respect to acceptable standards, as defined by the City, where such conditions exist prior to the enactment of this Ordinance.~~

#### **15.31.02.911 Provision Of Surety Required On New And Existing Excavation Facilities**

The following regarding provision of surety requirement:

1. Provision for Surety: An adequate surety, approved by the ~~city staff~~ **Planning Commission**, must be provided by the owner/operator of any sand, gravel and clay pits within the city limits of Perry City, in an amount sufficient to secure performance of the rehabilitation of each phase of the site before the Conditional Use Excavation Permit can be approved or issued. Such provision for surety shall be provided for the specific phase of the operation as the "active" phase. At the time the excavation operation is proposed to commence on any subsequent phase, additional surety shall be provided to Perry City for each subsequent phase in the same manner as provided hereafter. As the rehabilitation of any entire phase of excavation operation is approved by Perry City as "complete" under the provisions of this ordinance, Perry City shall release any further claim on the surety placed on that completed phase. The surety for rehabilitation of any uncompleted phase of the excavation operation shall remain impounded in the possession of Perry City. ~~The amount of the surety shall be reviewed and revised not less than every five (5) years.~~
2. Release of Surety: The liability under surety provisions shall continue until such time as released in part, or in its entirety, ~~city staff.~~ **by the Planning Commission.**
3. Amount of Surety: The ~~city staff~~ **Planning Commission** of Perry shall determine the amount of the surety to be provided, ~~and in making that determination shall consult with the City Engineer and City Attorney.~~ **the Planning Commission shall hold a public hearing in the matter, and consult with the City Engineer and City Attorney.** It may also consult with independent engineering or reclamation firms that may have helpful experience or expertise, and conduct such other investigation or analysis as it may deem appropriate, in evaluating the nature and extent of the rehabilitation and the potential costs thereof. The ~~city staff~~ **Planning Commission** shall consider factual information as to the magnitude, type and costs of approved reclamation activities planned for the land affected and the nature, extent, and duration of the operation. The ~~city staff~~ **Planning**



~~Commission~~ shall fix the form and amount of surety reasonably related thereto, to protect Perry City and insure compliance with the requirements of the Conditional Use ~~E~~excavation Permit; however, the cost amount of the bond shall not exceed one hundred percent (100%) of the cost of rehabilitating the excavation determined by the ~~city staff Planning Commission~~ after it concludes its investigation and analysis set forth above ~~each five years.~~ ~~The Planning Commission shall review the amount of the surety required to insure that the amount is adequate to pay for the reclamation required. The amounts determined by the Planning Commission to be approved by the Special Uses and Appeals Board.~~

4. Form of Surety: The ~~city staff Planning Commission~~ shall determine the form of the surety. In determining the form of the surety to be provided, the ~~city staff Planning Commission~~ may require one, or a combination of the following: corporate surety bond issued by a licensed surety company; certified check; or such other financial guarantee acceptable to the ~~city staff Planning Commission~~. The nature and form of any surety agreement or other financial guarantee shall be approved by the City Attorney. ~~and the Special Uses and Appeals Board.~~
5. Continuing Liability of the Owner/Operator: If the actual cost of rehabilitation exceeds the surety, the owner/operator shall be liable to Perry City for the difference, together with costs and expenses incurred.
6. Forfeiture of Surety: If the owner/operator fails or refuses to undertake and complete the reclamation, the ~~city staff Planning Commission~~ may, ~~after notice and hearing,~~ declare any surety filed in connection herewith; to be forfeited to the city. In the case of a corporate surety bond, Perry City may commence suit against the owner and his bonding company. The City shall also have the right to file suit against the owner/operator for costs of rehabilitation and reasonable attorney's fees and court costs.

#### **1531.020.1012 Filing Of An Annual Progress Report For New And Existing Excavation Facilities**

On or before February 15th of each calendar year ~~At the end of each calendar year (on or before February 15 or each calendar year)~~, the owner/operator conducting mining operations shall file an operations and progress report with the ~~city staff Planning Commission~~. The report will summarize activities in fulfillment of the requirement for the approved phased excavation and reclamation in confirmation with the reclamation plan previously submitted and approved. The owner/operator shall state in writing to the ~~city staff Planning Commisison~~ that he is in full compliance with the approved Conditional Use Excavation Permit. Should it be determined as hereafter noted that ~~owner/operator he~~ is in compliance, he shall be so notified in writing that he can proceed with his operation for the next calendar year subject to monitoring noted in this ordinance ~~and with continue compliance with the Conditional Use Excavation permit~~ . Perry City shall then appoint a representative to survey the excavation operation to verify that it is in full compliance, or list those items for which it is not in compliance. The owner/operator shall then be notified in writing, of such noncompliance items and may be granted a specified period of time to bring such items into compliance. Should the owner/operator then fail to bring the

operation into compliance within the stipulated time., ~~the Planning Commission may revoke the Conditional Use Excavation Permit.~~

### **1531.020.1113 Transfer To Successor Owner/Operator Of The Excavation Operation**

Whenever an owner/operator succeeds to the interest of another person by sale, assignment, lease or other means, the ~~Perry City Planning Commission~~ will not release the first operator from his responsibilities, conditions, policies and agreements, under his approved plan, including surety, unless and until the successor assumes all of the responsibilities of the former operator, to the satisfaction of the ~~Perry City Planning Commission~~ under the approved operations and reclamation plans and the posting of surety. Upon satisfactory assumption of such responsibilities by the successor owner/operator, under conditions approved by the Planning Commission, the responsibility of the total excavation site may then be transferred to the successor. An Assumption ~~Agreement Form, available from the City Recorder,~~ shall be issued attesting to these agreements, and a signed copy shall be retained in Perry City files.

### **15.31.020.1214 Public Emergency And Governmental Exceptions To Regular Requirements**

If the Mayor finds and approves of operations which are required by either public emergency demands or by the State or federal governments, then requirements may be temporarily modified for the duration of the emergency or requirement of the State or federal governments. ~~The Mayor's decision is final, unless appealed to the City Council (by an aggrieved party) within 10 days (of publishing the Mayor's decision in the City newsletter and/or on the City website.~~

ORDINANCE No. 17-F

ORDINANCE ADOPTING THE REVISED TRANSPORTATION & TRAFFIC CIRCULATION ELEMENT PLAN

WHEREAS, Section 10-9a-501 et seq, Utah Code Annotated, 1953 as Amended, grants the authority to municipalities to enact land user ordinances, regulations and plans; and

WHEREAS, the Perry City Planning Commission has studied the possibility of amending the Transportation & Traffic Circulation Element Plan previously adopted by the Perry City Council; and

WHEREAS, a potential development has caused the review of such plan; and

WHEREAS, the City Engineer has suggested that the Transportation Circulation Element Plan be amended to allow a proposed road to be moved to a different location in order that it could be constructed within prudent engineering standards; and

WHEREAS, on June 1, 2017, the Planning Commission conducted a public hearing to receive and consider public comments; and

WHEREAS, after the public hearing the Planning Commission formally recommended the modification and adoption of the revised Transportation Circulation Element Plan attached as Exhibit "A" to the City Council.

NOW, THEREFORE, be it ordained by the Perry City Council that the Transportation Circulation Element Plan as recommended by the Planning Commission attached as Exhibit "A" be adopted.

DATED this 22<sup>nd</sup> day of June, 2017.

PERRY CITY COUNCIL

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

VOTING:

Montgomery      Yea \_\_\_ Nay \_\_\_  
Lewis              Yea \_\_\_ Nay \_\_\_  
Taylor             Yea \_\_\_ Nay \_\_\_  
Tueller            Yea \_\_\_ Nay \_\_\_

Wright

Yea \_\_\_\_ Nay \_\_\_\_

**ATTEST:**

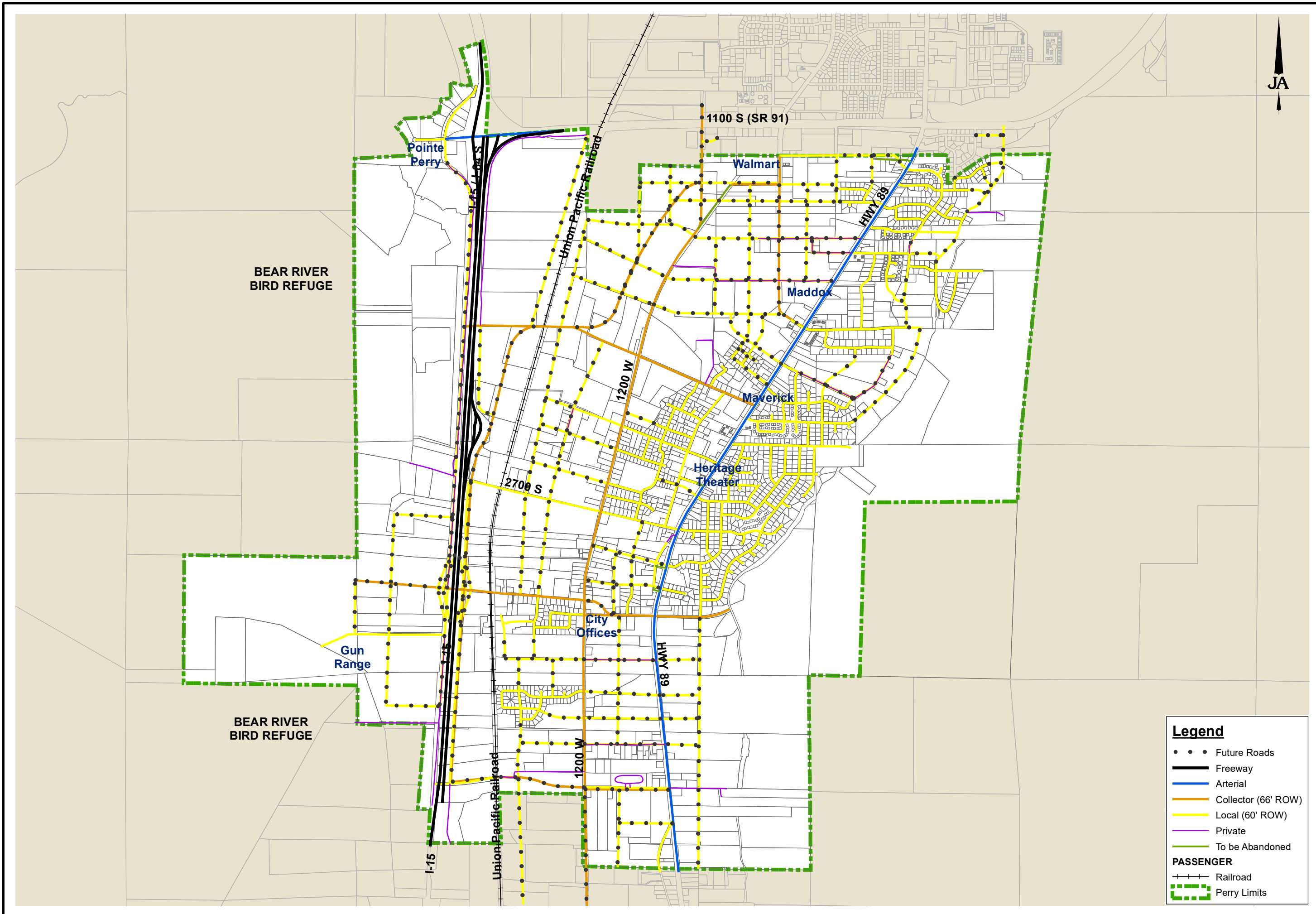
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Susan O Bray  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_ day of June, 2017.

**RECORDED** this \_\_\_\_ day of June, 2017.

# EXHIBIT A



**PERRY CITY CORPORATION**  
**GENERAL PLAN**  
**TRANSPORTATION AND TRAFFIC**  
**CIRCULATION ELEMENT**

|                 |             |
|-----------------|-------------|
| SCALE:          | DATE:       |
| 1 in = 2,000 ft | 05/04/2017  |
| SEH DESIGNED    | SEH DRAWN   |
|                 | BMI CHECKED |

**Legend**

- • • Future Roads
- Freeway
- Arterial
- Collector (66' ROW)
- Local (60' ROW)
- Private
- To be Abandoned

**PASSENGER**

- Railroad
- Perry Limits

|  |                                  |
|--|----------------------------------|
| <b>Utah State Tax Commission - Property Tax Division</b><br><b>Resolution Adopting Final Tax Rates and Budgets</b> | <b>Form PT-800</b><br>Rev. 02/15 |
|--|----------------------------------|

**County: BOX ELDER**

**Tax Year: 2017**

It is hereby resolved that the governing body of:

**PERRY CITY**

approves the following property tax rate(s) and revenue(s) for the year: **2017**

| 1.<br>Fund/Budget Type     | 2.<br>Revenue    | 3.<br>Tax Rate  |
|----------------------------|------------------|-----------------|
| 10 General Operations      | 616,652          | 0.002377        |
| 190 Discharge of Judgement | 0                |                 |
|                            | <b>\$616,652</b> | <b>0.002377</b> |

This resolution is adopted after proper notice and hearing in accordance with UCA 59-2-919 and shall be forwarded to the County Auditor and the Tax Commission in accordance with UCA 59-2-913 and 29-2-920.

**Signature of Governing Chair**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

|   |                                     |
|---|-------------------------------------|
| <b>Utah State Tax Commission - Property Tax Division</b><br><b>Tax Rate Summary (693)</b><br><b>ENTITY: 3110 PERRY CITY</b> | <b>Form PT-693</b><br><br>Rev. 2/15 |
|---|-------------------------------------|

**BOX ELDER COUNTY**

**Tax Year: 2017**

The Board of Trustees for the above special district has set the current year's tax rates as follows:

| Purpose of Tax Rate<br>(Code from Utah Code Annotated) | Auditor's<br>Tax Rate | Proposed<br>Tax Rate | Maximum<br>By Law    | Budgeted<br>Revenue |
|--|-----------------------|----------------------|----------------------|---------------------|
| 10 General Operations<br>§10-6-133                     | 0.002377              | 0.002377             | .007                 | 616,652             |
| 190 Discharge of Judgement<br>§59-2-1328 & 1330        |                       |                      | Sufficient           | 0                   |
| <b>Total Tax Rate</b>                                  | <b>0.002377</b>       | <b>0.002377</b>      | <b>Total Revenue</b> | <b>\$616,652</b>    |

**Certification by Taxing Entity**

I, \_\_\_\_\_, as authorized agent, hereby certify that this statement is true and correct and in compliance with all sections of the Utah State Code relating to the tax rate setting process.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing address: \_\_\_\_\_



**PERRY CITY**

**RESOLUTION NO. 17-20**

**A RESOLUTION ADOPTING RESTRICTIONS ON THE USE OF FIREWORKS  
WITHIN CERTAIN AREAS OF THE CITY**

**WHEREAS**, in 2011 the Utah Legislature modified the State law by amending the types of fireworks that may be discharged in Utah; and

**WHEREAS**, in 2012 State law changed the dates allowed for discharge; and

**WHEREAS**, there currently is, and may be in the future, a high risk of fire during the times when fireworks are allowed to be discharged; and

**WHEREAS**, the City's Fire Marshall has recommended that fireworks be prohibited in the certain areas of the City which present unique hazards for the ignition of trees and significant challenges in fighting fires; and

**WHEREAS**, the City Council finds it is in the best interest of the municipality and the general health, safety and welfare of the public that this Resolution should be passed.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THIS MUNICIPALITY AS FOLLOWS:**

**1. Definition.** All terms relating to fireworks used in this ordinance shall have the same meaning as they are defined in *Utah Code Ann.* § 53-7-202 of the Utah Fire Prevention Act.

**2. Sale, Discharge and Possession of Certain Fireworks Restricted.**

a. It is unlawful for any person to sell or offer for retail sale, to ignite, or to discharge, or to have in their possession any fireworks in this municipality, other than class C common Utah State approved explosives used in accordance with, and only on the dates allowed, by *Utah Code Ann.* § 53-7-220 through 225; the rules adopted pursuant thereto; and this Resolution, except as otherwise permitted by State law;

b. Due to unusually hazardous fire conditions in certain portions of the municipality, the discharge of any and all fireworks is prohibited within those certain areas of the City more particularly identified on Exhibit "A," attached hereto and incorporate herein by reference.

**3. Public Displays.** This ordinance and restrictions contained herein do not apply to the City's 4<sup>th</sup> of July Civic Celebration because of adequate fire prevention preparations.

**4. Enforcement.**

a. Every officer charged with enforcement of State and municipal laws, including the Fire Marshal, is hereby charged with the responsibility to enforce this Resolution;

b. Fireworks possessed, sold or offered for sale in violation of this Resolution may be seized and destroyed and the license of the person selling or offering fireworks for sale may be revoked.

**5. Punishment.** Violation of this Resolution shall be a Class B misdemeanor punishable by both fine and imprisonment as set forth in Utah law.

**6. Effective Date.** This Resolution shall take effect immediately upon passing and shall expire unless extended by an affirmative vote of the City Council at 11:59 p.m. on September 30, 2017.

**PASSED AND APPROVED** this \_\_\_\_\_ day of June, 2017.

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

**VOTING:**

Esther Montgomery Yea \_\_\_\_ Nay \_\_\_\_  
Brady Lewis Yea \_\_\_\_ Nay \_\_\_\_  
James Taylor Yea \_\_\_\_ Nay \_\_\_\_  
Nathan Tueller Yea \_\_\_\_ Nay \_\_\_\_  
Toby Wright Yea \_\_\_\_ Nay \_\_\_\_

-

**ATTEST:**

\_\_\_\_\_  
Susan O Bray  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_\_ day of June, 2017.

**RECORDED** this \_\_\_\_\_ day of June, 2017.

**Exhibit "A"**

**Areas Restricted for Use of Fireworks**

**PERRY CITY**

**RESOLUTION NO. 17-21**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A COOPERATIVE AGREEMENT WITH STATE OF UTAH, DIVISION OF FORESTRY, FIRE AND STATE LANDS REGARDING WILDFIRE MANAGEMENT**

**WHEREAS**, the State of Utah, Division of Forestry, Fire and State Lands (“Division”)has proposed a Cooperative Agreement to provide cooperative fire suppression for wildlife fires; and

**WHEREAS**, such agreement requires a commitment from Perry City (“Perry”) in the form of preparing and adopting a Community Wildfire Preparedness Plan within two years of the execution of the Cooperative Agreement together with an annual financial obligation; and

**WHEREAS**, the Cooperative Agreement requires Perry to provide the initial attack and response to any wildfire with manpower and equipment and financial resources; and

**WHEREAS**, Division, pursuant to the terms of the Cooperative Agreement agrees to provide manpower and equipment and financial resources for extended incidents and the costs of all aviation expenses during the initial attack; and

**WHEREAS**, the execution of said Cooperative Agreement is intended to create a partnership that is mutually beneficial to Perry, the Division, and the citizens of Perry and Box Elder County.

**NOW, THEREFORE**, be it resolved by the City Council of Perry City that the Mayor is authorized to execute the Cooperative Agreement with State of Utah, Division of Forestry, Fire and State Land for wildfire management in substantially the form of Exhibit “A” with its accompanying related documents.

**PASSED AND APPROVED** this \_\_\_ day of June, 2017.

**PERRY CITY COUNCIL**

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

**VOTING:**

|            |         |         |
|------------|---------|---------|
| Montgomery | Yea ___ | Nay ___ |
| Lewis      | Yea ___ | Nay ___ |
| Taylor     | Yea ___ | Nay ___ |
| Tueller    | Yea ___ | Nay ___ |
| Wright     | Yea ___ | Nay ___ |

**ATTEST:**

---

Susan O Bray  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_\_ day of June, 2017.

**RECORDED** this \_\_\_\_ day of June, 2017.

Exhibit "A"  
Cooperative Agreement for Wild fire Management

# PARTICIPATION COMMITMENT ACTIONS

## For Local Governments

(Suggested actions, not a conclusive or final list. Other actions will be added as appropriate)



### WILDFIRE PREVENTION

Activities directed at reducing the number of human-caused fires. (Goal: *Fire-Adapted Communities*)

- Costs of wildfire prevention campaigns
- Costs of wildfire mitigation educational materials (defensible space, firewise landscaping etc)
- Costs of implementing Ready, Set, GO! program
- Law enforcement patrols to enforce fire restrictions and/or burn permit violations
- Volunteer hours for meetings and events that promote, plan or implement CWPPs
- Costs of wildfire prevention media campaigns/ PSAs
- Costs of designing, producing and installing community awareness and/or wildfire prevention boards/displays

### WILDFIRE PREPAREDNESS (25% max.)

Activities that lead to a safe, efficient and capable wildfire suppression response (Goal: *Strong Initial Attack Capability*)

- Costs of improving wildland fire apparatus, communication or support
- Costs of improving or creating additional ingress/egress into Wildland Urban Interface (WUI) areas identified in CWPPs
- Costs of improving or increasing firefighter access to secondary water systems through hydrants, tanks or drafting sites
- Actual costs for providing wildfire suppression training to fire department and/or emergency management personnel
- Volunteer hours spent in training for wildland fire suppression
- Costs of wildland-specific Personal Protective Equipment (PPE)
- Costs of producing and installing road signs and address markers (including evacuation routes) as part of a CWPP
- Costs of certifying bulldozer operators
- Costs associated with enforcement of WUI code
- Costs associated with installing/maintaining helicopter dip sites
- Costs of inspecting resident defensible space work to certify for individual tax incentives
- Costs of producing and/or updating city emergency response plans that address CWPPs
- Costs of land-use planning that support objectives of CWPPs
- Costs supporting the development of Community Wildfire Protection Plans (CWPPs)
- Costs associated with gaining "Firewise Community" recognition

### WILDFIRE MITIGATION (50% min)

Actions taken to reduce or eliminate risks to persons, property or natural resources. (Goal: *Resilient Landscapes*)

- Costs of equipment and labor (including volunteer hours) used to reduce hazardous fuels in accordance with CWPP (i.e. *fuel breaks, prescribed fire, timber harvests and certain activities that support grazing*)
- Costs or volunteer value of equipment and labor toward ongoing maintenance of existing CWPP fuel reduction projects
- Volunteer hours toward removing hazardous fuels from community common areas identified in CWPPs
- Volunteer hours toward improving ingress/egress in community common areas identified in CWPPs
- Costs associated with community fuel reduction events (i.e. *chipper days*)
- Costs of vegetation management equipment

### Activities that DO NOT qualify:

- Any activity funded by other state or state-administered federal funds
- Any previously matched prevention/preparedness
- Costs of state or federally provided trainings
- Costs of initial attack suppression of wildfires
- Costs of improving ordinary water systems
- Costs to improve individual structures
- Costs of existing county employees or programs including weed departments

**PERRY CITY**

**RESOLUTION NO. 17-22**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN --  
AGREEMENT WITH BRIGHAM CITY FOR FISCAL YEARS 2017-  
2019 FOR ANIMAL CONTROL SERVICES**

**WHEREAS**, Brigham City and the Perry City desire to enter into an interlocal cooperation agreement providing for the Perry City’s animal control services; and

**WHEREAS**, the Brigham City and the Perry City are governmental entities and are authorized pursuant to the Utah Interlocal Cooperation Act, Utah Code Ann. § 11-13-101, *et seq.* to enter into agreements for the joint cooperation of the parties for the benefit of their residents; and

**WHEREAS**, a proposed Interlocal Agreement between the City and Brigham City has been prepared.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Perry City that the Mayor is authorized to execute the Interlocal Cooperative Agreement for the providing of animal control services for Fiscal Years 2017/2019 with Salt Lake County for Perry City, attached as Exhibit A.

**PASSED AND APPROVED** this \_\_\_ day of June, 2017.

**PERRY CITY COUNCIL**

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

**VOTING:**

|            |                 |
|------------|-----------------|
| Montgomery | Yea ___ Nay___  |
| Lewis      | Yea ___ Nay ___ |
| Taylor     | Yea ___ Nay ___ |
| Tueller    | Yea ___ Nay ___ |
| Wright     | Yea ___ Nay ___ |

**ATTEST:**

\_\_\_\_\_  
Susan Obray  
City Recorder



**DEPOSITED** in the office of the City Recorder this \_\_\_\_\_ day of June, 2017.

**RECORDED** this \_\_\_\_ day of June, 2017.

**EXHIBIT A**

**INTERLOCAL COOPERATIVE AGREEMENT**

**ANIMAL CONTROL SERVICES  
AGREEMENT WITH PERRY CITY**

WHEREAS, BRIGHAM CITY, a municipal corporation, hereinafter referred to as the "City" is an operating animal shelter; and

WHEREAS, Perry City, hereinafter referred to as the "Municipality" is desirous of entering into an agreement whereby the City will provide certain animal service; and

WHEREAS, the City is desirous of entering into an agreement whereby the City may determine how many municipalities it will be providing services for;

NOW, THEREFORE, in exchange for the promises and other considerations specified herein, the parties agree as follows:

I. **Term:** The term of this agreement is for two years beginning July 1, 2017 and ending on June 30, 2019.

II. **Fees:**

Reclaimed by Owner:

|              |                                       |
|--------------|---------------------------------------|
| 1st Offense: | Altered, \$35.00 - Unaltered, \$45.00 |
| 2nd Offense: | Altered, \$45.00 - Unaltered, \$55.00 |
| 3rd Offense: | Altered, \$55.00 - Unaltered, \$65.00 |

*(NOTE: The Municipality will not be billed for animals reclaimed by owner.)*

Boarding: \$5.00 per day

Relinquishment Fees:

|             |   |
|-------------|---|
| Owner:      | \$45.00 per individual animal<br>\$60.00 per litter |
| Perry City: | \$50.00 per individual animal<br>\$65.00 per litter |

Quarantined Animals:

Dogs/Cats: \$75.00 (12-day quarantine)

Medical treatment for a sick or injured animal is not included in this fee and is solely at the discretion of Brigham City Animal Control. If Brigham City Animal Control determines that medical treatment is necessary, the municipality will be billed for the cost of the medical treatment.

The services included in this rate are as follows:

1. Logging in procedures, record keeping, handling financial transactions.
2. Strays will be held a minimum of five (5) working days for reclaim (holidays and Sundays are not included in this holding period).

3. Provision of adoption for strays, owned animals or litters when possible.
4. Euthanasia and disposal for unclaimed or unadopted animals.
5. The Municipality will only be billed for animals surrendered by Municipality officials. Perry City residents may surrender animals at their own expense, which will be paid at the time the animal is relinquished.

Brigham City Animal Shelter will not accept the following: livestock, wildlife, animals being held for cruelty or neglect pending prosecution of the owner.

Additional charges will be assessed for each service performed, for each animal, on the following basis:

1. Outside agencies bringing in dead animals \$ 5.00
2. Owner relinquish of dead animal from contract city \$ 5.00

III. **Billing:** The City shall send out a quarterly billing to the Municipality, which the Municipality shall pay within thirty (30) days.

IV. **Transportation of Animal:** The Municipality shall be responsible for transporting the animal to the shelter.

V. **Amendment:** This agreement may be amended in writing, by the parties, with sixty (60) days notice.

VI. **Default:** If either party defaults under the terms of this agreement, the defaulting party shall be liable to the other party for its attorney's fees and costs, whether or not suit is filed.

VII. **Indemnification:** Municipality agrees to at all times protect, indemnify, save harmless and defend the City, its agents and employees from and against any and all claims, demands, judgments, expense, and all other damages of every kind and nature made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the parties hereto and their employees, which may arise out of any act or failure to act, work or other activity related in any way to the project, by the Municipality, its agents, employees, subcontractors, or suppliers in the performance and execution of the work.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

MUNICIPALITY REPRESENTATIVE:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

BRIGHAM CITY REPRESENTATIVES:

\_\_\_\_\_  
Tyler Vincent, Mayor

\_\_\_\_\_  
Michael Nelsen, Chief of Police

ATTEST:

\_\_\_\_\_  
Mary Kate Christensen  
City Recorder

**ANIMAL CONTROL SERVICES  
AGREEMENT WITH PERRY CITY**

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WHEREAS, Perry City, hereinafter referred to as the "Municipality" is desirous of entering into an agreement whereby the City will provide certain animal service; and

WHEREAS, the City is desirous of entering into an agreement whereby the City may determine how many municipalities it will be providing services for;

NOW, THEREFORE, in exchange for the promises and other considerations specified herein, the parties agree as follows:

I. **Term:** The term of this agreement is for two years beginning July 1, 2015 and ending on June 30, 2017.

II. **Fees:**

Reclaimed by Owner:

|              |                                       |
|--------------|---------------------------------------|
| 1st Offense: | Altered, \$35.00 - Unaltered, \$45.00 |
| 2nd Offense: | Altered, \$45.00 - Unaltered, \$55.00 |
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|             |   |
|-------------|---|
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---

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V. **Amendment:** This agreement may be amended in writing, by the parties, with sixty (60) days notice.


VI. **Default:** If either party defaults under the terms of this agreement, the defaulting party shall be liable to the other party for its attorney's fees and costs, whether or not suit is filed.

VII. **Indemnification:** Municipality agrees to at all times protect, indemnify, save harmless and defend the City, its agents and employees from and against any and all claims, demands, judgments, expense, and all other damages of every kind and nature made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the parties hereto and their employees, which may arise out of any act or failure to act, work or other activity related in any way to the project, by the Municipality, its agents, employees, subcontractors, or suppliers in the performance and execution of the work.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

MUNICIPALITY REPRESENTATIVE:

ATTEST:

  
\_\_\_\_\_

\_\_\_\_\_

BRIGHAM CITY REPRESENTATIVES:

\_\_\_\_\_  
Tyler Vincent, Mayor

\_\_\_\_\_  
Michael Nelsen, Interim Chief of Police

ATTEST:

\_\_\_\_\_  
Mary Kate Christensen  
City Recorder



**ANIMAL CONTROL SERVICES  
AGREEMENT WITH PERRY CITY**

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WHEREAS, Perry City, hereinafter referred to as the "Municipality" is desirous of entering into an agreement whereby the City will provide certain animal service; and

WHEREAS, the City is desirous of entering into an agreement whereby the City may determine how many municipalities it will be providing services for;

NOW, THEREFORE, in exchange for the promises and other considerations specified herein, the parties agree as follows:

I. **Term:** The term of this agreement is for two years beginning July 1, 2015 and ending on June 30, 2017.

II. **Fees:**

Reclaimed by Owner:

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*(NOTE: The Municipality will not be billed for animals reclaimed by owner.)*

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Relinquishment Fees:

|             |   |
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| Owner:      | \$45.00 per individual animal<br>\$60.00 per litter |
| Perry City: | \$50.00 per individual animal<br>\$65.00 per litter |

Quarantined Animals:

Dogs/Cats: \$75.00 (12-day quarantine)

Medical treatment for a sick or injured animal is not included in this fee and is solely at the discretion of Brigham City Animal Control. If Brigham City Animal Control determines that medical treatment is necessary, the municipality will be billed for the cost of the medical treatment.

The services included in this rate are as follows:

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Brigham City Animal Shelter will not accept the following: livestock, wildlife, animals being held for cruelty or neglect pending prosecution of the owner.

Additional charges will be assessed for each service performed, for each animal, on the following basis:

1. Outside agencies bringing in dead animals \$ 5.00
2. Owner relinquish of dead animal from contract city \$ 5.00

III. **Billing:** The City shall send out a quarterly billing to the Municipality, which the Municipality shall pay within thirty (30) days.

IV. **Transportation of Animal:** The Municipality shall be responsible for transporting the animal to the shelter.

V. **Amendment:** This agreement may be amended in writing, by the parties, with sixty (60) days notice.


VI. **Default:** If either party defaults under the terms of this agreement, the defaulting party shall be liable to the other party for its attorney's fees and costs, whether or not suit is filed.

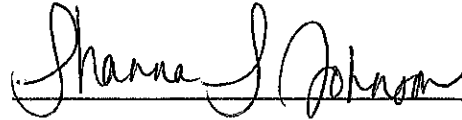
VII. **Indemnification:** Municipality agrees to at all times protect, indemnify, save harmless and defend the City, its agents and employees from and against any and all claims, demands, judgments, expense, and all other damages of every kind and nature made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the parties hereto and their employees, which may arise out of any act or failure to act, work or other activity related in any way to the project, by the Municipality, its agents, employees, subcontractors, or suppliers in the performance and execution of the work.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

MUNICIPALITY REPRESENTATIVE:

ATTEST:

  
\_\_\_\_\_

  
\_\_\_\_\_

BRIGHAM CITY REPRESENTATIVES:

\_\_\_\_\_  
Tyler Vincent, Mayor

\_\_\_\_\_  
Michael Nelsen, Interim Chief of Police

ATTEST:

\_\_\_\_\_  
Mary Kate Christensen  
City Recorder

**PERRY CITY**

**RESOLUTION NO. 17-23**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A  
LETTER AGREEMENT WITH BEAR RIVER ASSOCIATION OF  
GOVERNMENTS FOR THE PARTICIPATION IN THE  
MULTI-JURISIDCTIONS HAZARD MITIGATION  
PLANNING PROCESS**

**WHEREAS**, Bear River Association of Government (“Bear River”) and Perry City (“Perry”) desire to mutually participate in a process to update the regional natural hazard mitigation plan for all jurisdiction in Box Elder, Cache, and Rich Counties; and

**WHEREAS**, the Bear River will serve as the lead agency guide this process to update the adopted 2015 Plan as required by FEMA’s 5-year plan update requirements; and

**WHEREAS**,with the recent occurrence of natural disasters such as flooding, wildfires, and other similar events, such a planning process is essential to be eligible for federal pre and post disaster funding and reimbursements; and

**WHEREAS**,the planning process only requires a commitment of time and some limited resources, but not direct financial commitment.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Perry City that the Mayor is authorized to execute the Letter of Commitment substantially in the form attached as Exhibit A.

**PASSED AND APPROVED** this \_\_\_\_ day of June, 2017.

**PERRY CITY COUNCIL**

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

**VOTING:**

|            |          |          |
|------------|----------|----------|
| Montgomery | Yea ____ | Nay ____ |
| Lewis      | Yea ____ | Nay ____ |
| Taylor     | Yea ____ | Nay ____ |
| Tueller    | Yea ____ | Nay ____ |
| Wright     | Yea ____ | Nay ____ |

**ATTEST:**

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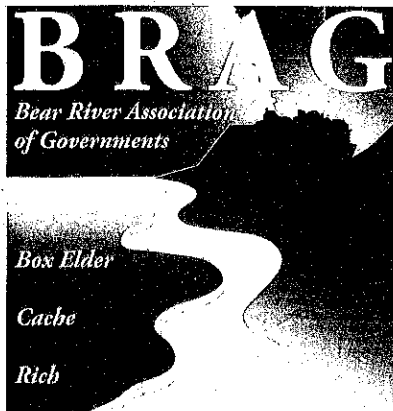
Susan Obray  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_\_ day of June, 2017.

**RECORDED** this \_\_\_\_ day of June, 2017.

**EXHIBIT A**

**INTERLOCAL COOPERATIVE AGREEMENT**



June 12, 2017

Susan Obray  
City Recorder  
Perry City  
3005 S. 1200 W.  
Perry, UT 84302

Dear Ms. Obray,

Bear River Association of Governments (BRAG) will be applying for funding in the next few weeks to update the regional natural hazard mitigation plan for all jurisdictions in Box Elder, Cache, and Rich Counties.

In order to do so, the Federal Emergency Management Agency (FEMA) now requires us to collect "letters of commitment to participate" from local governments before we can apply for funds. While local governments are not required by law to participate, those that would like to be eligible for federal pre- and post-disaster funds from FEMA are required to participate in a planning process that leads to a FEMA-approved hazard mitigation plan, and adopt the final plan by resolution when completed. As we have seen in the Bear River region this year with recent flooding, wildfire, and other natural hazard events, it is advantageous for communities to participate in this planning process and to adopt the plan so they are eligible to apply for various federal funds when the need arises.

There will be no financial commitment required by your jurisdiction for this plan update process. We only ask for your time to participate in meetings, to create natural hazard mitigation strategies for your community, to review the draft plan, and to adopt the plan after it is completed.

BRAG was asked by local governments to write the first regional plan in 2004, and updated the plan in 2009, then in 2015 (visit [www.brag.utah.gov](http://www.brag.utah.gov) to see the current plan). We would like to start the update process in early 2018 and complete the plan in 2020 to comply with FEMA's 5-year plan update requirements.

Enclosed is a letter template for your use. **Please fill in the letter and have the chief elected official for your jurisdiction sign and return it to me by Friday, June 23<sup>rd</sup>** (Please let me know if you need more time). Scan and e-mail the letter to [zacc@brag.utah.gov](mailto:zacc@brag.utah.gov), or mail a hard copy to: **BRAG, Attn: Zac Covington, 170 N. Main, Logan, UT 84333.**

Thank you for your consideration, and please let me know if you have any questions or concerns by calling 435.713.1423.

Sincerely,

Zac Covington  
Sr. Regional Planner

Enc

**EXECUTIVE DIRECTOR**  
Roger C. Jones

**GOVERNING BOARD**  
Chair  
Stan Summers  
County Commissioner

**BOX ELDER COUNTY**  
Roger Vidar  
Mayor of Tremonton  
Jeff Hadfield  
County Commissioner  
Jeff Scott  
County Commissioner  
Tyler Vincent  
Mayor of Brigham City

**CACHE COUNTY**  
Craig Buttars  
County Executive  
Craig Petersen  
Mayor of Logan  
Val K. Potter  
County Council Member  
Darrell Simmons  
Mayor of Smithfield  
Cordell (Cory) Yeates  
County Council Member

**RICH COUNTY**  
William Cox  
County Commissioner  
John Spuhler  
Mayor of Garden City  
Norman A. Weston  
County Commissioner  
Simeon (Sim) Weston, Vice Chair  
Mayor of Laketown  
Thomas J. Weston  
County Commissioner

\_\_\_\_\_ (TOWN/CITY)

\_\_\_\_\_ (DATE)

Zac Covington, Sr. Regional Planner  
Bear River Associations of Governments (BRAG)  
170 N. Main  
Logan, UT 84321

Re: Letter of Commitment to Participate in the Bear River Region Multi- jurisdictional Hazard Mitigation Planning Process

Dear Mr. Covington,

As the Federal Emergency Management Agency's (FEMA) Local Mitigation Plan requirements under 44 CFR §201.6 specifically identify criteria that allow for multi-jurisdictional mitigation plans and that many issues are better resolved by evaluating hazards more comprehensively by coordinating at the county, regional, or watershed level, \_\_\_\_\_ (Town/City) is submitting this letter of commitment to confirm that \_\_\_\_\_ (Town/City) has agreed to participate in the Bear River Region Multi-jurisdictional Hazard Mitigation Planning Process.

Further, as a condition to participating in hazard mitigation planning; \_\_\_\_\_ (City/Town) agrees to meet the requirements for mitigation plans identified in 44 CFR §201.6 and to provide such cooperation as is necessary and in a timely manner to BRAG to complete the plan in conformance with FEMA requirements.

\_\_\_\_\_ (City/Town) understands that it must engage in the following planning process, as more fully described in FEMA's Local Mitigation Plan Review Guide dated October 1, 2011, including, but not limited to:

- Identification of hazards unique to the jurisdiction and not addressed in the master planning document;
- The conduct of a vulnerability analysis and an identification of risks, where they differ from the general planning area;
- The formulation of mitigation goals responsive to public input and development of mitigation actions complementary to those goals. A range of actions must be identified specific for each jurisdiction;
- Demonstration that there has been proactively offered an opportunity for participation in the planning process by all community stakeholders (examples of participation include relevant involvement in any planning process, attending meetings, contributing research, data, or other information, commenting on drafts of the plan, etc.);
- Documentation of an effective process to maintain and implement the plan; and,
- Formal adoption of the Multi-jurisdictional Hazard Mitigation Plan by the jurisdiction's governing body (each jurisdiction must officially adopt the plan).

Therefore, with a full understanding of the obligations incurred by participating in the FEMA hazard mitigation planning process as a participant in a multi-jurisdictional plan; I \_\_\_\_\_ (Name), commit \_\_\_\_\_ (Town/City) to participate in the Bear River Region Multi-jurisdictional Hazard Mitigation Planning Process.

Executed this \_\_\_\_ day of \_\_\_\_\_ (Month), \_\_\_\_\_ (Year)

\_\_\_\_\_  
Name, Title (Chief Elected Official Signature)



**PERRY CITY**

**RESOLUTION NO. 17-24**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH STATE OF UTAH, ACTING BY AND THROUGH THE DIVISION OF FORESTRY, FIRE AND STATE LANDS FOR LANDS NORTH AND WEST OF THE THREE MILE CREEK SHOOTING SPORTS COMPLEX**

**WHEREAS**, State of Utah by and through the Division of forestry, Fire and state Lands (“Division”) and the Perry City (“City”) desire to enter into a First Amendment to General Permit 720 00065 for the extension of a previously executed lease of property north and west of the Three Mile Creek Shooting Sports Complex; and

**WHEREAS**, said amendment will provide the opportunity for citizens of the City, Box Elder County and the State of Utah to safely exercise their 2<sup>nd</sup> Amendment Rights; and

**WHEREAS**, said amendment will allow the City to continue to improve the opportunity for individuals to exercise these rights while reducing the potential safety risks associated with discharging such weapons in the foothills surrounding the City for an additional period of more than two years.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Perry City that the Mayor is authorized to execute the First Amendment to General Permit 720 00065, substantially in the form of Exhibit A, attached hereto.

**PASSED AND APPROVED** this \_\_\_ day of June, 2017.

**PERRY CITY COUNCIL**

By: \_\_\_\_\_  
Karen Cronin, Mayor

[SEAL]

**VOTING:**

|            |         |         |
|------------|---------|---------|
| Montgomery | Yea ___ | Nay ___ |
| Lewis      | Yea ___ | Nay ___ |
| Taylor     | Yea ___ | Nay ___ |
| Tueller    | Yea ___ | Nay ___ |
| Wright     | Yea ___ | Nay ___ |

**ATTEST:**

---

Susan O Bray  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_\_ day of June, 2017.

**RECORDED** this \_\_\_\_ day of June, 2017.

**EXHIBIT A**

## FIRST AMENDMENT TO GENERAL PERMIT 720-00065

This First Amendment, hereinafter referred to as Amendment, is made by and between the State of Utah, acting by and through the Division of Forestry, Fire and State Lands, hereinafter referred to as DIVISION, and Perry City Corporation., hereinafter referred to as PERRY CITY, with regard to General Permit No. 720-00065. PERRY CITY has made request to the DIVISION to amend the General Permit to extend the term for an additional three (3) years, beginning as of January 1<sup>st</sup>, 2016 and expiring December 31<sup>st</sup>, 2019.

It is hereby agreed that General Permit 720 00065 shall be amended as follows:

### OLD:

TO HAVE AND TO HOLD for a term of 3 years, beginning as of November 4, 2013 subject to any and all existing rights in said land and subject also to the following terms and conditions: The DIVISION issues this general permit in order that the PERMITTEE may use the above described land for the purpose hereinafter described consisted with the responsibilities and obligations of the State under the Public Trust Doctrine, and statutes and the rules governing the management and use of sovereign lands.

1. **Purpose of Permit.** The subject tract shall be used by PERMITTEE for the purpose of providing a public safety buffer for the city's public shooting range. Non-motorized hunter access to the permitted area will be allowed during the waterfowl hunt, generally between the second week in September until the end of January. The PERMITTEE agrees that the sovereign land usage permitted under this General Permit will not be used for any other purpose than for the purposes set forth in this permit.
2. **Rental.** The DIVISION, in compliance with R652-70-700, the application and rental fee have been waived for the PERMITTEE.

### NEW:

TO HAVE AND TO HOLD for a term of 3 years, beginning as of January 1, 2016 and expiring December 31, 2019, subject to any and all existing valid rights in said land and subject also to the following terms and conditions: The DIVISION issues this general permit in order that the PERMITTEE may use the above described land for the purpose hereinafter described consistent with the responsibilities and obligations of the State under the Public Trust Doctrine, and statutes and the rules governing the management and use of sovereign lands.

1. **Purpose of Permit.** The subject tract shall be used by PERMITTEE for the purpose of providing a public safety buffer for the city's public shooting range except during all State of Utah waterfowl seasons, as established by the Division of Wildlife Resources and published in the Utah Waterfowl Guidebook. During these waterfowl seasons, the PERMITTEE shall have no right to restrict public use of the permit area. The PERMITTEE agrees that the sovereign land usage permitted under this General Permit will not be used for any other purpose than for the purposes set forth in this permit.

2. **Rental.** The DIVISION, in compliance with R652-70-700, has waived the application and rental fee for the PERMITTEE.

Except as set forth in this Amendment, the original General Permit is unaffected and shall continue in full force and effect in accordance with the terms and conditions therein. If there is conflict between this Amendment and the Agreement, the terms of this Amendment shall control.

**IN WITNESS WHEREOF** the parties hereto have set their hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

DIVISION: STATE OF UTAH  
DIVISION OF FORESTRY, FIRE AND STATE LANDS  
1594 West North Temple, Suite 3520  
PO Box 145703  
Salt Lake City, UT 84114-5703

BY: \_\_\_\_\_  
Brian L. Cottam, Director

STATE OF UTAH            )  
  §  
COUNTY OF SALT LAKE )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me personally appeared, Brian L. Cottam, being first duly sworn did say that he is the Director of the Division of Forestry, Fire & State Lands of the State of Utah, and acknowledged to me that he executed the same on behalf of the Division.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

APPROVED AS TO FORM:  
SEAN D. REYES  
ATTORNEY GENERAL

BY: \_\_\_\_\_  
Michael S. Johnson  
Fredric J. Donaldson  
Assistant Attorney General

PERMITTEE: PERRY CITY CORPORATION  
3005 South 1200 West  
Perry Utah

BY: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF )  
§  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me personally appeared \_\_\_\_\_, the signer(s) of the above instrument who duly acknowledged to me that s/he executed the same on behalf of Perry City Corporation.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

1 PERRY CITY COUNCIL MEETING  
2 PERRY CITY OFFICES  
3 June 8, 2017  
4

7:00 PM

5 OFFICIALS PRESENT: Mayor Karen Cronin presided and conducted the meeting. Toby  
6 Wright, Esther Montgomery, Brady Lewis and Nathan Tueller.  
7

8 OFFICIALS EXCUSED: James Taylor  
9

10 CITY STAFF PRESENT: Shanna Johnson, Chief Deputy Recorder  
11 Greg Westfall, City Administrator  
12 Ryan Arbon, Chief of Police  
13 Craig Hall, City Attorney  
14

15 OTHERS PRESENT: Clair Canfield, Harlan Taylor, Jeanette Taylor, Lorraine Vernon, Vicki  
16 Call, Brandon Cole Hansen, James Bruce Whiting

17 **ITEM 1: CALL TO ORDER**

18 Mayor Cronin called the City Council meeting to order.

19 **A. INVOCATION**

20 Mayor Cronin offered the invocation.

21 **B. PLEDGE OF ALLEGIANCE**

22 City Administrator, Greg Westfall led the audience in the Pledge of Allegiance.

23 **C. REVIEW AND ADOPT THE AGENDA**

24 **MOTION:** Council Member Lewis made a motion to approve the agenda. Council Member Wright  
25 seconded the motion.

26 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
27 Council Member Tueller, Yes  
28 Council Member Montgomery, Yes  
29 **Motion Approved.** 4 Yes, 0 No.  
30

31 **ITEM 2: PROCEDURAL ISSUES**

32 **A. CONFLICT OF INTEREST DECLARATION**

33 None.  
34

35 **B. PASS OUT WARRANTS TO COUNCIL MEMBERS (AND POSSIBLE DISCUSSION)**

36 Shanna Johnson passed out the warrants.  
37

38 **C. BUSINESS LICENSE(S)**

- 39 • **Yesterdays Treasures & Old Car Museum**  
40

41 Mayor Cronin stated this business application is from Harlan and Jeanette Taylor and their  
42 business will have visiting clientele.  
43

44 Harlan Taylor stated he has many antique cars which will be on display at the museum, and  
45 they will have an antique shop in the front part of the shop. He stated the business will most

46 likely be a nonprofit business (the money will go to Shriners Foundation) but this aspect of  
47 the business is still in progress.

48  
49 Jeanette Taylor stated the hours of operation would be from 10 am- 5 pm, Tuesday-  
50 Saturday and they would be closed Sunday and Monday.

51  
52 Council Member Wright inquired if all the cars would be on display.

53  
54 Mr. Taylor explained most of them will be on display, he may sell a few of them so that he  
55 can properly maintain those on display.

56  
57 Council Member Wright inquired if they would be displaying cars inside and outside the  
58 building.

59  
60 Mr. and Mrs. Taylor affirmed they would be showing them both inside and outside. They  
61 explained they will charge a small fee for entrance once everything is ready to go.

62  
63 They stated they hope to have a small scale grand opening at some point in the near future.

64  
65 **MOTION:** Council Member Montgomery made a motion to approve the business license for  
66 Yesterdays Treasures & Old Car Museum. Council Member Tueller seconded the motion.

67 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
68 Council Member Tueller, Yes  
69 Council Member Montgomery, Yes  
70 **Motion Approved.** 4 Yes, 0 No.

71  
72 • **Canfield Conflict & Collaboration Consulting**

73  
74 Mayor Cronin explained this business application is from Clair Canfield and the business  
75 will have no visiting clientele.

76  
77 Clair Canfield stated he runs a consulting business, which assists other businesses in  
78 running their business better. He explained he would be working mostly in the Cache Valley  
79 area.

80  
81 Council Member Montgomery inquired how long Mr. Canfield had been consulting.

82  
83 Mr. Canfield stated around 15 years.

84  
85 Council Member Tueller inquired if he was a mediator

86  
87 Mr. Canfield stated he is a Certified Mediator but he does more trainings and workshops  
88 than actual mediating.

89  
90 **MOTION:** Council Member Lewis made a motion to approve the business license for Canfield  
91 Conflict & Collaboration Consulting. Council Member Wright seconded the motion.

92 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
93 Council Member Tueller, Yes  
94 Council Member Montgomery, Yes  
95 **Motion Approved.** 4 Yes, 0 No.

96  
97 **ITEM 3: PUBLIC HEARING AND/ OR PUBLIC COMMENT**



98

99

**A. Public Comment**

100 Loraine Vernon stated she lives at 2506 S. 400 W. She explained she is here to persuade the Council  
101 to pass an ordinance which gives the City recourse for enforcing maintenance requirements for  
102 residual properties and vacant lots, as well as, an ordinance for enforcing covenants for the  
103 approval of subdivision development.

104

105 Ms. Vernon stated when she first moved to Perry 20 years ago, her home was one of the first to be  
106 built in her subdivision with ten other lots available. She explained four homes have since been  
107 built and one of the homes built (used as a rental) has never had a yard installed. She stated the lots  
108 which have not been developed were sold to the developer's parents, and she said they have no  
109 intention of selling them.

110

111 Ms. Vernon said the covenants of this subdivision state homes are to be built within two years of  
112 purchase of the lots, yards should be installed within the year of purchase (as the home was being  
113 built), and housing materials should consist of 75% brick. Ms. Vernon said none of these covenants  
114 have been enforced and that 75% of this subdivision lacks sidewalks.

115

116 Ms. Vernon said the vacant lots have become eyesores, and one of these lots neighbors her home.  
117 She stated the owners have done nothing to maintain the lots and keep the weeds down. She said  
118 these lots are full of construction debris along with noxious weeds.

119

120 Ms. Vernon stated she installed a vinyl fence to separate her home from the noxious weeds. She said  
121 in 20 years the owners have done nothing to alleviate the weed problem on their lots, and said  
122 these lots are a fire hazard. She said she believes their failure to maintain their lots has created a  
123 fire hazard and lessened the value of their home and the other homes in the subdivision, (making it  
124 more difficult to sell their home if they were to choose to).

125

126 Ms. Vernon stated having an ordinance which allows enforcement of maintenance and the keeping  
127 of covenants will alleviate this issue, and increase the beautification of the City. She expressed her  
128 thanks to the Council and hoped they will take her words under consideration.

129

130 Cameron Hansen stated he lives at 435 W. 2825 S. and his concern regards the gravel pit. He stated  
131 he would like the City to enforce the hours of operation of the gravel pit. He said the gravel pit is  
132 starting around 5:15 am when their hours indicate they start at 6 am.

133

134 Mr. Hansen also said the dust is a difficulty for those who neighbor the gravel pit, and the gravel pit  
135 is supposed to water down their dirt to help keep the dust down.

136

137 Mr. Hansen also stated he would like to have the gravel pit away from the residents and not keep  
138 the buildings up and have a conveyor belt going over the canyon and creek.

139

140 Mr. Hansen said he would like to see some more enforcement when it comes to the gravel pit and  
141 thanked the Council.

142

143 Bruce Whiting stated he lives on 2824 Peach St. and he expressed he agrees with Mr. Hansen on the  
144 dust issue from the gravel pit.

145

146 Mr. Whiting explained (the abandoned home) 2760 Peach St. has some issues and has been broken  
147 into. He said the sidewalk in front of the home is hazardous, with a three inch gap. He said kids  
148 going to school have to walk on the street because of this side walk. Mr. Whiting said he believed  
149 this home is a fire hazard and neighbors are moving, due to the many issues surrounding this home.

150 Mr. Whiting feels it needs to be torn down and rebuilt, and said he would like the City to enforce the  
151 City codes regarding such matters.

152  
153 Mr. Whiting thanked the Council for all their work.

154  
155 Mayor Cronin thanked the public for their comments.

156  
157 **ITEM 4: ACTION ITEMS**

158  
159 **A. APPROVAL OF THE WARRANTS**

160  
161 **MOTION:** Council Member Montgomery made a motion to approve the warrants as presented.  
162 Council Member Lewis seconded the motion.

163 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
164 Council Member Tueller, Yes  
165 Council Member Montgomery, Yes  
166 **Motion Approved.** 4 Yes, 0 No.

167  
168 **B. RESOLUTION 17-16 ADOPTING A FISCAL YEAR 2017-2018 FINAL BUDGET**

169 Mayor Cronin explained the City has been working on their budget over the last three months  
170 for the upcoming Fiscal Year 2017-2018.

171  
172 Mayor Cronin reviewed the process of building the City's budget with the public and Council.  
173 She then presented an overview of the City's budget with the public and Council and served a  
174 treat to commemorate the many hours of hard work.

175  
176 The Council, Staff, and Public discussed and clarified sections of the City Budget in greater  
177 detail.

178  
179 **MOTION:** Council Member Wright made a motion to adopt Resolution 17-16 Fiscal Year 2017-  
180 2018 Final Budget. Council Member Montgomery seconded the motion.

181 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
182 Council Member Tueller, Yes  
183 Council Member Montgomery, Yes  
184 **Motion Approved.** 4 Yes, 0 No.

185  
186 **C. RESOLUTION 17-17 ADOPTING A FISCAL YEAR 2016-2017 FINAL AMENDMENT**

187 Mayor Cronin explained this amendment is for the (current) Fiscal Year 2016-2017 budget. She  
188 explained when the City receives a grant the City must make an amendment to the budget to be  
189 able to use the grant. She also stated the amendment also regards the Mass Transit Tax which  
190 the State now requires to be part of the City budget, though the City doesn't receive money from  
191 this tax.

192  
193 Mayor Cronin stated Ms. Johnson has done a great job tracking the grants the City has received  
194 throughout the year.

195  
196 Ms. Johnson explained the Mass Transit Tax is used by the UTA and is used towards bringing  
197 the Front Runner to this area.

198  
199 Mayor Cronin stated the City held a Public Hearing at the last City Council Meeting and there  
200 was no comment from the public.

201

202 **MOTION:** Council Member Lewis made a motion to approve Resolution 17-17. Council Member  
203 Tueller seconded the motion.

204 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
205 Council Member Tueller, Yes  
206 Council Member Montgomery, Yes  
207 **Motion Approved.** 4 Yes, 0 No.  
208

209 **ITEM 5: DISCUSSION ITEMS**  
210

211 Mayor Cronin suggested moving item 5A to after 5C.  
212

213 **MOTION:** Council Member Lewis made a motion to move Item 5-C (Code Enforcement) to 5-A.  
214 Council Member Wright seconded the motion.

215 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
216 Council Member Tueller, Yes  
217 Council Member Montgomery, Yes  
218 **Motion Approved.** 4 Yes, 0 No.  
219

220 **A. CODE ENFORCEMENT**

221 Mayor Cronin noted the task force members who assisted in creating the flow chart for this  
222 document: Bruce Whiting, Brandon Hansen, Blake Ostler, Ben Ashcroft, Randy Matthews,  
223 and Devin Miles. She explained from the flow chart, Blake Ostler, Greg Westfall, and herself  
224 then strived to put the flow chart into a verbal document. She recognized and thank Mr.  
225 Ostler and Mr. Westfall for their great efforts in formulating this document.  
226

227 Mayor Cronin also thanked City Attorney, Craig Hall for his incredible efforts in this process  
228 as well.  
229

230 Mayor Cronin then turned the time over to Blake Ostler to comment on this document with  
231 the Council.  
232

233 Mr. Ostler stated he felt those who have worked on it feel it is an excellent representation of  
234 the flow chart agreed upon by the task force. He explained that this document will allow a  
235 civil pathway for code enforcement, whereas, presently the only option for code  
236 enforcement is a criminal pathway.  
237

238 Mayor Cronin then reviewed the civil pathway presented in the Code Enforcement  
239 document. She explained this document is not up for action tonight because she desires the  
240 Council to review it individually, thoroughly and completely over the next couple of weeks,  
241 and then pass on their suggestions, this way the document is as comprehensive as possible.  
242

243 The Council and Staff discussed the cost/budget options for funding this proposed  
244 ordinance. Mayor Cronin encouraged funding it more at a future time, however, currently  
245 there has not been increased budget for code enforcement.  
246

247 Mr. Ostler explained a future option could be the use of code officers which are used by  
248 larger cities to enforce the city codes.  
249

250 Mayor Cronin reiterated the City wants to encourage being neighborly but also must  
251 protect the community from noncompliant property owners.  
252

253 Mayor Cronin explained those citizens who have reported the issue can follow up with the  
254 City if they so desire.

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Craig Hall stated he felt the City needs to reach out to the public and instruct them on what the City will now be expecting with these changes. He felt it would be unwise to start enforcing without prepping the community and allowing them the opportunity to comply with the City codes.

Council Member Lewis thanked all those who have worked on this document.

**B. FOURTH OF JULY AWARDS**

Mayor Cronin stated the 4<sup>th</sup> of July theme is *“Home of the free, because of the brave”*. She then reviewed the 4<sup>th</sup> of July itinerary with the Council. She encouraged the Council to encourage their friend and neighbors to participate in the festivities.

**C. GRAVEL PIT ORDINANCE**

Greg Westfall reviewed the process the City has gone through in creating this proposed ordinance. He recognized the task force members who started this process: Craig Hall, Blake Ostler, Cameron Hansen, Brett Jones, Nathan Tueller, Dave Kallas, and himself.

Mr. Westfall explained the work the Planning Commission has put into this document. He stated it is now being presented to the Council with recommendation from the Planning Commission. He stated a redlined draft will be emailed to the Council Members tomorrow morning for their review. He implored the Council to go through it in detail. He explained the highlighted sections are those deemed by the Planning Commission to be City Council decisions, ergo Council suggestions need to be made on those sections.

Mayor Cronin stated the task force felt it was fair to all involved to keep the hours of operation the same. She suggests this course of action to the Council.

Mayor Cronin praised Chief Ryan Arbon for taking initiative in enforcing those employees of Geneva who were not acting in compliance of approved operational hours. She explained she contacted Geneva and they are now enforcing compliance with their employees.

Mayor Cronin explained (in regards to the Code Enforcement document) that for situations like this where a large business is out of compliance, the City could change the fee schedule to be \$500.00 for each day of noncompliance.

Mayor Cronin reminded the Council that Geneva is allowed to work outside operation when there is an emergency but not because they are behind schedule.

Mayor Cronin stated on the 20<sup>th</sup> of December the City put a moratorium on this matter and they are coming up on their 6 month mark for this moratorium.

Mayor Cronin explained this ordinance will especially affect future pits in this area and if Geneva desires to do a Phase 2 of their pit.

**ITEM 6: MINUTES & COUNCIL/MAYOR REPORTS**

**A. APPROVAL OF CONSENT ITEMS**

- 302 • **April 27, 2017 City Council Meeting Minuets**
- 303
- 304 • **May 11, 2017 City Council Meeting Minuets**
- 305
- 306 • **May 23, 2017 Redevelopment Agency Meeting Minuets**
- 307
- 308 • **May 23,2017 City Council Meeting Minutes**
- 309

310 **MOTION:** Council Member Wright made a motion to approve all the presented minutes with  
311 grammatical changes. Council Member Montgomery seconded the motion.

312 **ROLL CALL:** Council Member Wright, Yes Council Member Lewis, Yes  
313 Council Member Tueller, Yes  
314 Council Member Montgomery, Yes  
315 **Motion Approved.** 4 Yes, 0 No.  
316

317 **B. MAYOR'S REPORT**

318 Mayor Cronin stated the City has received a resignation from the Wastewater Treatment  
319 Plant Assistant Operator. She explained the City will be posting this positon on their website.  
320

321 Mayor Cronin stated the City has received an invitation from the Boys and Girls Club to their  
322 Summer Luau and Auction on June 23<sup>rd</sup> at the Fair Grounds. She said there will be a buffet and  
323 Hawaiian Knife Dancers, and said if any Council Members would like to attend to let her  
324 know.  
325

326 Mayor Cronin said the 4<sup>th</sup> of July T-Shirts are being designed and asked the Council members  
327 who would like to give their thoughts on the design to get with her.  
328

329 Mayor Cronin stated the Guns N Grits Invitational is next Friday and the City has received a  
330 sizable response for this event. She explained the Smith & Edwards Range Day is on Saturday  
331 and is open to the public. She said there will also be food trucks in attendance. She reminded  
332 the council members they will need to help coordinate parking during the Range Day.  
333

334 Mayor Cronin noted Joe Morgan, Public Works, and the Boy Scouts have been busy in getting  
335 things ready at the gun range for these events.  
336

337 **C. COUNCIL REPORTS**

338 Council Member Tueller expressed he would like to spend some time with the different City  
339 departments in preparation for the budget next year, to get a better idea of what the needs  
340 are for the City.  
341

342 Council Member Wright stated he would like to do the same.  
343

344 Council Member Montgomery reported she has decided to run for re-election.  
345

346 Commissioner Vicki Call reported the Commission is currently working on the proposed  
347 Conservation Subdivision Ordinance.  
348

349 Mayor Cronin thanked the Commission for their efforts and stated Tresa Peterson will be  
350 taking part as an alternate Commissioner.  
351

352 **D. STAFF COMMENTS**

353 Greg Westfall stated the time for declaring candidacy has passed, and those declared  
354 candidates are listed on the website. He explained there are four candidates running for the  
355 two available Council seats and two running for the Mayor seat. He stated there is not a need  
356 for a Primary Election due to this.

357  
358 Shanna Johnson thanked the Council on their efforts on the budget.

359  
360 Craig Hall reported in July he will not be at the Council meeting and Mr. Tracy will be  
361 providing assistance for the City for the month of July in lieu of Mr. Hall’s absence.

362  
363 **E. ITEMS FOR NEXT CITY NEWSLETTER**

364  
365 **ITEM 7: ADJOURNMENT**

366  
367 **MOTION:** Council Member Montgomery made a motion to adjourn the City Council Meeting.

368 **Motion Approved.** All Council Members were in favor.

369 The meeting adjourned at 8:53 PM.

370  
371  
372  
373

374 \_\_\_\_\_  
Susan Obray, City Recorder

\_\_\_\_\_   
Karen Cronin, Mayor

375  
376  
377  
378

379 \_\_\_\_\_  
380 Shanna Johnson, Chief Deputy Recorder

381  
382