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# **WORKSHOP DOCUMENTS**

# Title 5

## ENVIRONMENT AND HEALTH

### Chapter 1

#### BOARD OF HEALTH

##### **5-1-1: ESTABLISHED:**

##### **5-1-2: APPOINTMENT:**

##### **5-1-3: POWERS, DUTIES, RESPONSIBILITIES:**

##### **5-1-4: SALT LAKE VALLEY HEALTH DEPARTMENT REGULATIONS ADOPTED:**

##### **5-1-5: VIOLATIONS:**

##### **5-1-6: ENFORCEMENT:**

##### **5-1-1: ESTABLISHED:**

Pursuant to the provisions of Utah Code Annotated section 10-7-3, a board of health for the city is established. (2001 Code § 50-2-201)

##### **5-1-2: APPOINTMENT:**

- A. Pursuant to the provisions of Utah Code Annotated title 26A, chapter 1, and pursuant to resolution of the city council approving the execution of an interlocal cooperation agreement providing for the appointment of the Salt Lake City-County board of health, now known as the Salt Lake Valley health department, to be the board of health for the city, the Salt Lake Valley health department is appointed and designated the board of health of the city, as established in section 5-1-1 of this chapter.
- B. The appointment effected in subsection A of this section shall not be irrevocable nor shall it be construed to be a relinquishment of the responsibility and authority of the city council to provide for the health and welfare of the residents of the city. (2001 Code § 50-2-202; Ord. 09-21, 7-14-2009)

##### **5-1-3: POWERS, DUTIES, RESPONSIBILITIES:**

The board of health shall have such powers, duties, responsibilities, organization and function as provided by Utah Code Annotated, other statutes, including title 26A, chapter 1, or successor provisions, and by other ordinances of the city. (2001 Code § 50-2-203)

##### **5-1-4: SALT LAKE VALLEY HEALTH DEPARTMENT REGULATIONS ADOPTED:**

- A. Those regulations of the Salt Lake Valley health department, heretofore adopted and not repealed or superseded, together with such future regulations as will be validly adopted and promulgated by the Salt Lake Valley health department, as required by law, are adopted and made part of this chapter as though set forth in their entirety. Chapter 4 of this title provides a listing of the currently adopted and incorporated rules.

B. The regulations of the Salt Lake Valley health department, as adopted by subsection A of this section, shall not be construed to repeal, supersede or otherwise invalidate any ordinance adopted by the city council that provides regulation or requirements stricter than those provided in the Salt Lake Valley health department regulations. In cases where a Salt Lake Valley health department regulation and a stricter city ordinance cannot be construed to give effect to both, the stricter city ordinance shall be given effect and the Salt Lake Valley health department regulation shall not be deemed to be adopted. (2001 Code § 50-2-204; Ord. 09-21, 7-14-2009)

#### **5-1-5: VIOLATIONS:**

A. It is unlawful for any person, association or corporation, or its officers to:

1. Violate, disobey or disregard the provisions of the public health laws or the requirements of any lawful notice, order, standard, rule or regulation issued pursuant to such laws;
2. Violate, disobey or disregard the provisions of any notice or order issued by the board of health, or any authorized officer or agent of the board;
3. Fail to make or file reports required by law or rule of the board relating to the existence of disease or other facts and statistics relating to the public health;
4. Wilfully and falsely make or alter any certificate or certified copy issued pursuant to the public health laws; or
5. Fail to remove or abate from private property under the control of the person, association or corporation at their own expense, any nuisance, source of filth, cause of sickness, dead animal, health hazard or sanitation violation within the jurisdiction of the board of health, whether such person, association or corporation shall be the owner, tenant or occupant of such private property. Such removal or abatement, if lawfully ordered, shall be accomplished within the time provided in the notice of violation or in the enforcement order.

B. Any person, association or corporation, or its officers, who violates this section or rules or regulations adopted by the board of health may be prosecuted administratively as provided in ~~title 1, chapter 14, article C~~ title 16 of this code, and/or as a class B misdemeanor. In addition, such person, association or corporation, or its officers, shall be liable for any expense incurred in removing or abating any nuisance, source of filth, cause of sickness, dead animal, health hazard or sanitation violation.

C. Conviction under this section or any other public health law shall not relieve the person convicted from civil liability for any act which was also a violation of the public health laws.

D. Each day of the violation of this section or rules or regulations adopted by the board of health may be a separate violation. (2001 Code § 50-2-205; amd. 2009 Code; Ord. 09-21, 7-14-2009; Ord. 12-10, 4-25-2012, eff. 7-1-2012)

#### **5-1-6: ENFORCEMENT:**

The city attorney shall prosecute, in the name of the city, the violations of the rules, regulations, ordinances and standards of the board of health. (2001 Code § 50-2-206)

## **Chapter 2**

### **CONTAMINATED SOILS**

#### **5-2-1: SCOPE:**

#### **5-2-2: APPLICATIONS FOR DEVELOPMENT AND LAND DISTURBANCE:**

#### **5-2-3: CONTAMINATED SOIL STABILIZATION PROJECTS:**

#### **5-2-4: VOLUNTARY CLEANUP PROJECTS:**

#### **5-2-5: PERMIT REQUIRED PRIOR TO ANY SOIL DISTURBANCE:**

#### **5-2-6: PROHIBITED DISCHARGES:**

#### **5-2-7: ALTERNATIVE COMPLIANCE:**

#### **5-2-1: SCOPE:**

The provisions of this title and this chapter are intended to provide substantive environmental study and compliance requirements for all actions, property developments and land disturbances governed by this code, subject only to express exemptions from regulation contained in this code. This chapter is especially pertinent to applications for ground disturbance and/or for land development under titles title 9, 10, 11, 13 and/or 14 of this code. (2001 Code § 42-1-101)

#### **5-2-2: APPLICATIONS FOR DEVELOPMENT AND LAND DISTURBANCE:**

- A. A phase I environmental assessment is required as part of any real property related development or soil disturbance application submitted to the city under title 9, 10, 11, 13 or 14 of this code. If a phase I environmental study or other reliable information indicates the possible existence of contaminated soils, the developer or land disturber shall make "all appropriate inquiries", as required under the comprehensive environmental response, compensation and liability act (CERCLA). The results of all studies and tests shall be provided to the city and to the state department of environmental quality (UDEQ) as they become available. Based on the information provided to UDEQ, UDEQ will determine with the applicant whether the proposed development or soil disturbance will proceed as a contaminated soil stabilization project or as a voluntary cleanup project.
- B. After considering the size, location and history of the real property to which the development or soil disturbance application relates, the city engineer may determine in his/her sole discretion to accept the application without a phase 1 environmental assessment. Except for good cause, as determined by the city engineer, a phase 1 environmental assessment will not be required for the following development applications:
  1. Lot line adjustments;
  2. Amended plats;
  3. Minor subdivisions;
  4. Condo conversions. (2001 Code § 42-1-102; amd. Ord. 13-17, 4-24-2013)

### **5-2-3: CONTAMINATED SOIL STABILIZATION PROJECTS:**

- A. If the testing or other reliable information indicates the presence of contaminated soil, and UDEQ concludes that such soils can be stabilized in place as part of the development project, as a prerequisite to receiving initial development approval from the city, the developer shall contact UDEQ, and shall provide written notice to the city that a UDEQ prescribed "necessary steps" plan for contaminated soil stabilization will be undertaken and completed by the developer during and as part of the development construction. Prior to receiving final occupancy or development use approval from the city for the project:
  - 1. If the developer is a public or quasi-public entity, the developer shall provide a signed letter from its senior managing official to the city confirming that all "necessary steps" prescribed by UDEQ have been followed and that the contaminated soils were effectively and appropriately contained in place.
  - 2. If the developer is a private person or entity, the developer shall provide a signed letter to the city from a qualified and licensed environmental engineer confirming that all "necessary steps" prescribed by UDEQ have been followed and that the contaminated soils were effectively and appropriately contained in place.
- B. If at any time during the construction process new environmental information is discovered concerning the level of contamination of the development project soils, such information shall be timely reported to the city and to UDEQ. UDEQ may require that a project begun as a stabilization project thereafter proceed as a voluntary cleanup project. (2001 Code § 42-1-102)

### **5-2-4: VOLUNTARY CLEANUP PROJECTS:**

If the testing or other reliable information indicates the presence of contaminated soil, and UDEQ concludes that such soils cannot be stabilized in place and must be remediated as part of the development project, as a prerequisite to receiving initial development approval from the city, the developer shall contact UDEQ, and shall develop and complete a UDEQ prescribed voluntary cleanup plan for contaminated soil remediation. Prior to receiving final occupancy or development use approval from the city for the project, the developer shall submit to the city a state certificate of completion pursuant to Utah Code Annotated section 19-8-101 et seq., and any amendments thereto. (2001 Code § 42-1-102)

### **5-2-5: PERMIT REQUIRED PRIOR TO ANY SOIL DISTURBANCE:**

Prior to commencing a stabilization plan or a voluntary cleanup plan under this chapter, the developer must obtain any needed soil disturbance permit as provided in title 9, 10, 11, 13 or 14 of this code. (2001 Code § 42-1-102)

### **5-2-6: PROHIBITED DISCHARGES:**

No person shall discharge or permit the discharge of any regulated substances or petroleum products, whether treated or untreated, to soils, air, groundwater or surface water in any recharge area or protection zone that may have a deleterious effect upon the groundwater in the city, unless the discharge complies with federal, state and local regulations. (2001 Code § 89-4-708; amd. 2009 Code)

## **5-2-7: ALTERNATIVE COMPLIANCE:**

- A. Contaminated soil stabilization plans required in section 5-2-3 of this chapter and voluntary cleanup plans required in section 5-2-4 of this chapter can be undertaken under the auspices of the United States environmental protection agency or another federal or Utah state agency rather than UDEQ, if approved by the city engineer; and can be in connection with a prior environmental investigation, order or other action.
- B. Contaminated soil stabilization plans other than, but substantially equivalent to, a UDEQ "necessary steps" plan will be deemed to meet the requirements of section 5-2-3 of this chapter if approved by the city engineer, and if substantially equivalent certification, for example an EPA no further action letter, is presented to the city as required by subsections 5-2-3A1 and A2 of this chapter.
- C. Contaminated soil cleanup programs prescribed by a federal or state agency other than, but substantially equivalent to, a UDEQ prescribed voluntary cleanup plan will be deemed to meet the requirements of section 5-2-4 of this chapter if approved by the city engineer, and if substantially equivalent certification, for example an EPA no further action letter, is presented to the city as required by section 5-2-4 of this chapter as determined by the city engineer. (Ord. 09-17, 6-9-2009)

# **Chapter 3**

## **NUISANCES**

### **5-3-1: NUISANCE DEFINED AND PROHIBITED:**

### **5-3-2: EXEMPTED ACTIVITIES:**

### **5-3-3: ACTION FOR ABATEMENT OF A NUISANCE:**

### **5-3-1: NUISANCE DEFINED AND PROHIBITED:**

- A. Nuisance Defined: A "nuisance" is:
  - 1. Any item, thing, manner or condition whatsoever that is dangerous to human life or health or general welfare, or renders soil, air, water or food impure or unwholesome;
  - 2. A crime against the good order and economy of the state and consists in unlawfully doing any act or omitting to perform any duty, which act or omission does one of the following:
    - a. Annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons;
    - b. Offends public decency;
    - c. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, stream, canal or basin, or any public park, square, street or highway; or

- d. In any way renders three (3) or more persons insecure in life or the use of property;
- 3. Placing the carcass of any dead animal, or the offal from any slaughter pen, corral or butcher shop into any river, creek, pond, street, alley or public highway, or road in common use, or the attempt to destroy such carcass or offal by fire, within the city limits;
- 4. Constructing or maintaining a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse, where the waste or drainage shall flow directly or indirectly into the waters of any stream, well, or spring of water used for domestic purposes;
- 5. Depositing, piling, unloading or leaving any manure heap, offensive rubbish or the carcass of any dead animal where the waste or drainage will flow directly or indirectly into the waters of any stream, well or spring of water used for domestic purposes;
- 6. Dipping or washing sheep in any stream, or constructing, maintaining or using any pool or dipping vat for dipping or washing sheep in close proximity to any stream or well used by the inhabitants of the city for domestic purposes as to make the waters impure or unwholesome;
- 7. Constructing or maintaining any corral, yard or vat to be used for the purpose of shearing or dipping sheep within the city limits, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of the city for domestic purposes;
- 8. Establishing and maintaining any corral, camp or bedding place for the purpose of herding, holding or keeping any cattle, horses, sheep, goats or hogs within the city limits, where the refuse or filth from the corral, camp or bedding place will naturally find its way into any stream of water or well used by the inhabitants of the city for domestic purposes; or
- 9. Any injurious or noxious weeds, garbage, refuse, or unsightly or deleterious objects.
  - a. For purpose of this chapter, "injurious weeds" shall mean plants of any type growing in an uncultivated state, not used for food, fiber or ornamentation, extending in height greater than twelve inches (12") above ground, including, without limitation, tumbleweeds. The term "noxious weeds" shall also include those plants listed as noxious weeds by the state commissioner of agriculture pursuant to Utah Code Annotated section 4-17-3, together with such plants later added to such list.
  - b. If a parcel of undeveloped ground is a size of five (5) contiguous acres or larger, weed growth, other than noxious weeds, may be left at a height higher than twelve inches (12") above ground if the property owner maintains a defense strip of fifty feet (50') along every property line or road/sidewalk edge surrounding the property.
  - c. Tumbleweeds are the result of various plants that have dried out and been broken free of their roots and the soil by the wind. Tumbleweeds present a distinct fire hazard that becomes greater as they dry out and accumulate against structures such as fences, outbuildings, houses and businesses. Property owners are expected to clear and remove tumbleweeds originating on their property before they invade someone else's property.

d. A "defense strip" as used in subsection A9b of this section means an area of land that is bare earth. This means that weeds and other vegetative growth has been cut down to the ground, hauled away, and herbicide has been applied to kill all plant life down to the root. A defense strip will need weekly continuous attention during the growing season.

B. Prohibition And Penalty: Nuisances are prohibited in and around the City. Any person, whether as owner, agent or occupant, who creates, aids in creating, tolerates or contributes to a nuisance, or who supports, continues or retains a nuisance, is guilty of a Class B misdemeanor, and may be prosecuted criminally or may be subject to administrative enforcement procedures provided in ~~title 1, chapter 14~~ title 16 of this Code.

C. Unequal Effect: An act which affects three (3) or more persons in any of the ways specified in this section is still a nuisance regardless if the extent of annoyance or damage inflicted on individuals is unequal.

D. General Applicability: The duties imposed upon landowners pursuant to this section apply to all properties within the City. These provisions apply to undeveloped or undivided parcels and to individual developed lots, including the front yard, side yard or rear portion of any lots owned by such owner and to, pursuant to Utah Code Annotated section 10-8-23, that area in front of the property to the curb line of the street. (Ord. 13-08, 3-13-2013; amd. Ord. 15-17, 7-22-2015)

### **5-3-2: EXEMPTED ACTIVITIES:**

The following activities are exempted from the definition of a nuisance and will not be subject to City enforcement action:

A. Not A Nuisance: It is not a nuisance if the condition or animal described in section 5-3-1 of this chapter:

1. Is merely the result of those naturally occurring noises made by animals, including, but not limited to, mooing, bleating or crowing during daytime hours; provided that the foregoing exemption does not apply to the barking of dogs; and
2. The animal is lawfully kept on premises zoned for the keeping of such animal pursuant to the provisions of this Code.
3. Owners of animals claiming this exemption are required to maintain and control such animals in a responsible manner to prevent undue noise disturbances during nighttime hours. All animals making noise, including, but not limited to, dogs should, where possible, be confined in an enclosed structure between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.

B. Preexisting Farms And Ranches: The definition of a "nuisance" shall not apply to those properties and portions of properties engaged in active agricultural/ranch operations continuously dating from before the surrounding land was developed into the current residential or commercial uses. "Active agricultural/ranch operations" includes, but is not limited to, sights, sounds, odors, and dust inherent to raising crops, livestock, and livestock products. Included in this exemption are weeds growing in areas of cultivated farm properties which cannot be economically utilized for crop production.

C. Ditch Bank Protection: The definition of "nuisance" shall not apply to weeds growing along active ditch banks, unless a traffic hazard or other danger is presented by the growth of the weeds and so long as the weeds are maintained below twelve inches (12") in height and are not noxious weeds. In this regard, the City Council finds that weeds along active ditch banks are necessary to preserve the stability of the ditch. (Ord. 13-08, 3-13-2013; amd. Ord. 15-17, 7-22-2015; Ord. 17-44, 7-26-2017)

### **5-3-3: ACTION FOR ABATEMENT OF A NUISANCE:**

A. Authority: The ~~city attorney is~~ officials identified in title 16 are empowered to institute an action in the name of the city to abate a nuisance.

B. Judgment: If the existence of a "nuisance", as defined by section 5-3-1 of this chapter, is admitted or established, in an administrative, civil or criminal proceeding, a judgment shall be entered which shall:

1. Permanently enjoin each defendant and any other person from further maintaining the nuisance at the place complained of and each defendant from maintaining such nuisance elsewhere;
2. Direct the person enjoined to surrender to the sheriff of the county in which the action was brought any material in his possession which is subject to the injunction, and the sheriff shall seize and destroy this material; and
3. Without proof of special injury, direct that an accounting be had and all monies and other consideration paid as admission to view any motion picture film determined to constitute a public nuisance or paid for any publication determined to constitute a public nuisance, in either case without deduction for expenses, be forfeited and paid into the general fund of the city.

C. Administrative Code Enforcement: As an alternative to commencing a civil action, the city may commence administrative enforcement processes as provided in ~~title 1, chapter 14~~ title 16 of this code.

D. Removal Of Nuisance:

1. If any owner or occupant of lands shall fail or neglect to eradicate, destroy or remove weeds, garbage, refuse or objects upon the premises after notice to do so, the city may employ necessary assistance and cause such weeds, garbage, refuse or objects to be removed or destroyed. The city shall prepare an itemized statement of all expenses incurred in the removal and destruction and shall mail a copy to the owner demanding payment within twenty (20) days of the date of mailing. This notice shall be deemed delivered when mailed by registered certified mail addressed to the property owner's last known address, or as otherwise allowed by title 16. If the owner fails to make payment of the amount set forth in the statement to the city treasurer within twenty (20) days, the inspector, on behalf of the city, may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer, as provided in this subsection and in title 16.
2. If collection of such costs are pursued through the courts, the city may sue for and receive judgment upon all of such costs of removal and destruction, together with reasonable attorney fees, interest and court costs. The city may execute on such judgment in the manner provided by law.

3. If the city elects to refer the matter to the county treasurer for inclusion in the tax notice of the property owner, as provided by Utah Code Annotated section 10-11-4, the city shall make, in triplicate, an itemized statement of all expenses incurred in the removal and destruction of the nuisance and shall deliver the three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the work removing such weeds, garbage, refuse or objects. (Ord. 13-08, 3-13-2013; amd. Ord. 15-17, 7-22-2015)

## Chapter 4

# SALT LAKE VALLEY HEALTH DEPARTMENT RULES

<http://www.slvhealth.org/envRegs/index.html>

Number	Title Of Regulation
Document SLVHD	Adjudicative Hearing Procedures
19	Body Art Facilities Regulation
32	Chemically Contaminated Properties Regulation
21	Community Noise Pollution Control Regulation
34	Correctional Institutions and Community Correctional Centers Regulation
20	Cosmetology Facilities Regulation
02	Design, Construction, and Operation of Pools Regulation
28	Diesel Vehicle Inspection/Maintenance Program Regulation
33	Fluoridation in Public Water Supplies
05	Food Sanitation Regulation
07	General Sanitation Regulation
03	Housing Regulation
11	Individual Water Systems Regulation
18	Massage Facilities Regulation
04	Public Lodging Facilities Regulation
35	Residential Childcare Food Service Regulation
01	Solid Waste Management and Permitting Regulation
12	Subdivision Regulation

25	Tanning Facilities Regulation
17	Temporary Mass Gatherings Regulation
22A	Vehicle Inspection/Maintenance Program Regulation
13	Waste Water Disposal Regulation
14	Watershed Regulation

(2001 Code §§ 42-2-101 – 42-2-107; 2009 Code §§ 5-4-1 – 5-4-7; Ord. 09-21, 7-14-2009)

## **Chapter 5** **SOLID WASTE COLLECTION**

**5-5-1: DEFINITIONS:**

**5-5-2: SOLID WASTE COLLECTION:**

**5-5-3: CONDITIONS FOR SOLID WASTE COLLECTION:**

**5-5-4: SERVICE FEE:**

**5-5-5: WASTE DISPOSAL:**

**5-5-6: CITY OWNED GARBAGE CONTAINERS:**

**5-5-1: DEFINITIONS:**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**GREEN WASTE:** Compostable trees and plant trimmings, grass cuttings, dead plants and plant material, leaves, weeds, chips, shavings and sawdust.

**MIXED WASTE:** Dead animals of less than ten (10) pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or their branches, chips, shavings, sawdust, printer matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes, booths, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and all other waste materials commonly produced by normal residential living, but specifically excluding those items designated as bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter, as prohibited by subsection 5-5-3B of this chapter.

RECYCLABLE MATERIALS: Discarded household items acceptable for recycling as described in the city current recycling collection and processing contract. A copy of the above contract is on file with the city clerk/recorder and available for inspection during regular business hours of that office. (2001 Code § 70-2-101) .

#### **5-5-2: SOLID WASTE COLLECTION:**

- A. Collection of "solid waste", as defined in section 5-5-1 of this chapter, from single-family dwellings, duplex residential dwellings, and mobile homes in a mobile home subdivision is prohibited, except pursuant to an executed contract with the city, or as otherwise may be authorized by this title.
- B. Unless otherwise agreed to by the ~~city manager~~ directed by the chief executive officer, the ~~city manager~~ chief administrative officer or his/her designee shall collect from each single-family dwelling, each duplex residential dwelling and each mobile home in a mobile home subdivision, the mixed waste, green waste, and recyclable materials produced at such residential dwelling. Such collection, and associated service fees, shall occur regardless of whether the resident opens an account with the city. The ~~city manager~~ chief administrative officer or his/her designee shall properly dispose of the mixed waste, green waste and recyclable materials so collected.
- C. The ~~city manager~~ chief executive officer may negotiate and present to the city council for approval an appropriate contract with a commercial or governmental solid waste collection and disposal service, to perform the duties stipulated in subsections A and B of this section. Payment for the contractual services so performed shall be made from the revenues collected by the ~~city manager~~ chief executive officer from the service fees assessed pursuant to section 5-5-4 of this chapter. (2001 Code § 70-2-102)

#### **5-5-3: CONDITIONS FOR SOLID WASTE COLLECTION:**

- A. Conditions Specified: All solid waste materials for collection and disposal shall be placed entirely within approved containers owned and furnished by the city. The container shall be placed in the gutter, with the wheels of the container facing away from the street. The lid of the container must be completely closed. The container must be placed at curbside by seven o'clock (7:00) A.M. on the designated day of collection. In cases of construction in the curbside area or in cases of other obstructions, the container shall be placed for collection in the nearest accessible point of access to the regular point of collection. The point of collection must be clear of trees, overhead wires, poles, mailboxes, cars and any other overhead obstruction which would prevent the mechanical collection arm from grasping, raising and emptying the container without the driver having to reposition the collection vehicle and allowing the driver to pull directly away to the next stop without backing. The collector may refuse to collect any residential refuse which is not contained within the garbage container. For the collection and disposal of solid residential waste from single-family residences for which there is no direct access on a public street, the ~~city manager~~ chief administrative officer may make such arrangements for the collection and disposal of such solid waste and the charges as he deems appropriate; provided, that the daily service fee for such collection and disposal shall not exceed that charged for a single-family residence as provided in this chapter.

B. Prohibited Collection And Disposal:

1. The collection and disposal of the following items is prohibited:
  - a. Bulky Waste: Stoves, refrigerators, water tanks, washing machines, furniture and other similar waste materials with weights or volumes greater than those allowed for containers.
  - b. Dead Animals: Animals or portions of animals equal to or greater than ten (10) pounds in weight that have expired from any cause.
  - c. Hazardous Waste: Any chemical, compound, mixture, substance or article which is designated by the United States environmental protection agency, or appropriate agency of the state, to be "hazardous", as that term is defined by or pursuant to federal or state law.
  - d. Stable Matter: All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and all manure or other waste material resulting from the keeping of animals, poultry or livestock.
  - e. Construction Debris: Waste building materials resulting from construction, remodeling, repair or demolition operations, if such materials are not fully enclosed within the container or if such materials cause the weight of the container and contents to exceed the weight limitation of subsection B1g of this section.
  - f. Hot Ashes: Ashes which are warm to the touch.
  - g. Maximum Weight: Any item such that the total weight of the collection container and contents weighs in excess of two hundred fifty (250) pounds.
2. It is unlawful for any person to place any of the items listed in subsection B1 of this section into a city owned garbage collection container and place the container curbside for collection and disposal.

C. Ownership Of Material: When the container of solid waste is placed at curbside, title to the contents of the container shall pass to the city or its designee. Any expectation of privacy in the contents of any such container so placed at curbside is declared to be unreasonable.

D. Placement Of Container: When practical, the container shall be placed on the edge of the street next to the driveway on the opposite side of the driveway approach from the mailbox. The container will not be placed closer than three feet (3') to any obstruction. When snow or street construction prevents the placing of the container against the curb, the container shall be placed not over two feet (2') from the edge of the snow or construction and in a manner that will not obstruct traffic or unduly impede snow plowing activities. In areas where there is no curb or gutter, containers shall be placed off the traveled portion of the roadway, but close enough to the roadway that the container can be picked up without undue difficulty. The container shall not be placed in a location that will block the driveway or traffic on the roadway. It is unlawful to park a vehicle upon a public street within ten feet (10') of a garbage container placed at curbside for collection of the residential refuse therein.

- E. Time For Placement; Removal: Unless otherwise provided by regulations adopted by the ~~city manager~~ chief executive officer, the garbage container must not be set out upon the street for collection prior to six o'clock (6:00) P.M. of the evening before the day of collection. All empty containers must be removed from the street as soon as practical after being emptied and in every case must be removed from the street the same day they are emptied. (2001 Code § 70-2-103)

#### **5-5-4: SERVICE FEE:**

- A. Solid Waste Collection Service Fee Set By Resolution: All service fees for solid waste collection and disposal service, including, but not limited to, associated late payment penalties and interest charges, shall be that amount which is established by resolution of the city council. Two (2) copies of said fee resolution shall be on file with the city clerk/recorder and available for inspection during regular business hours of that office.
- B. Property Owner Responsible For Payment: All rates and charges specified in this chapter shall be the responsibility of the owner of the property to which the service was provided. (2001 Code § 70-2-104)

#### **5-5-5: WASTE DISPOSAL:**

- A. Landfill Designated: "Mixed waste" and "green waste", as defined in section 5-5-1 of this chapter, and collected pursuant to this chapter, may be disposed of in the Trans-Jordan cities landfill, which is owned and operated by the city and other municipalities pursuant to an interlocal cooperation agreement.
- B. City Representative: The ~~city manager~~ chief executive officer, shall appoint or designate a qualified person, with the advice and consent of the city council, to represent the city on the board of directors of the Trans-Jordan cities landfill.
- C. Recyclable Materials: Recyclable materials shall be delivered to and processed by an appropriate and approved recycling facility. (2001 Code § 70-2-105)

#### **5-5-6: CITY OWNED GARBAGE CONTAINERS:**

- A. Issuance; Rental Fee: All solid waste to be collected by the city from residential users shall be placed only in approved containers owned and provided by the city and issued to the user. The use of containers issued to other persons is prohibited. Ownership of the container shall be retained by the city. The monthly service charge includes a rental fee to amortize the cost of the container.
- B. Maintenance Required: Residents using the city provided containers shall keep the container free from destructive or decorative markings, maintain the original color, and keep the inside of such container clean and free from buildup of fungus, bacteria or any other type of contaminant that causes odors or facilitates deterioration of the container. The resident to whom the container is assigned is responsible for the container. The resident shall report to the ~~city manager~~ chief administrative officer or his designee any damage to or malfunctioning of the container. The containers provided by the city shall be issued to specific residents and are nontransferable. Upon discontinuance of use by a resident or upon the resident's moving from the community, the resident shall return the container to the ~~city manager~~ chief administrative officer or his designee. The resident is authorized to paint, with white paint, neatly stenciled house numbers, not more than six inches (6") in height, on the outside of the container.

- C. Additional Containers: Should a resident determine that additional containers are necessary, the resident shall request the additional garbage containers. The ~~city manager~~ ~~chief administrative officer~~ shall assess and collect the fee set forth in the fee resolution of the city council for each additional container. Two (2) copies of said fee resolution shall be on file with the city clerk/recorder and available for inspection during regular business hours of that office. The additional containers shall be provided to the resident for six (6) month periods of time, which will be automatically renewed unless the resident surrenders the garbage container to the ~~city manager~~ ~~chief administrative officer~~ or his designee prior to the ending of the six (6) month period.
- D. Removal, Damage Prohibited: It is unlawful to remove the city owned container from the immediate premises to which it has been assigned. It is unlawful to intentionally damage or deface the city owned garbage container or to utilize it for purpose or in a manner other than the collection and disposal of residential refuse. (2001 Code § 70-2-106)

## **Chapter 6**

## **GRAFFITI**

### **5-6-1: DEFINITIONS:**

### **5-6-2: PROHIBITED ACTS:**

### **5-6-3: REMOVAL OF GRAFFITI:**

### **5-6-4: REWARDS AND REIMBURSEMENTS FOR INFORMATION:**

#### **5-6-1: DEFINITIONS:**

**GRAFFITI:** Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property.

**GRAFFITI REMOVAL:** The removal or painting over of graffiti.

**UNAUTHORIZED:** Not authorized in advance by the owner. Despite advance authorization, graffiti may otherwise be deemed a public nuisance or a nonconforming sign by authorized city personnel. (Ord. 13-13, 8-27-2013)

#### **5-6-2: PROHIBITED ACTS:**

- A. Defacement: It shall be unlawful for any person to apply graffiti to any natural or manmade surface within the city. Any violation of this section may be prosecuted as criminal mischief under the Utah code. (Ord. 13-13, 8-27-2013)

### **5-6-3: REMOVAL OF GRAFFITI:**

- A. Property Owner: Owners of property, structures, buildings or natural features upon which graffiti has been placed shall remove the graffiti within forty eight (48) hours after learning of the presence of the graffiti; provided, however that a property owner may contact the city code enforcement director and request an extension of time for the removal if it is not possible to effect removal in the initial time period.
- B. The Perpetrator: Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this chapter. Where graffiti is applied by a minor child, the parents or legal guardian of that minor shall also be responsible for such removal or for the payment for the removal.
- C. State Criminal Code: Nothing in this section prohibits charging a perpetrator with state criminal code graffiti crimes. (Ord. 13-13, 8-27-2013)

### **5-6-4: REWARDS AND REIMBURSEMENTS FOR INFORMATION:**

- A. The city may offer a reward in an amount to be established by resolution of the city council for information leading to the identification, apprehension and conviction (including any plea in abeyance or nolo contendre) of any person who wilfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any minor child must reimburse the city for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the city in the manner it shall deem appropriate.
- B. Claims for rewards under this section shall be filed with the city addressed to the chief of police.
- C. No claim for a reward shall be allowed unless the city investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied. (Ord. 13-13, 8-27-2013)

# **Title 10 BUILDING REGULATIONS**

## **Chapter 1**

### **CODES ADOPTED AND REGULATIONS**

- 10-1-1: RELATIONSHIP TO CONTAMINATED SOILS PROVISIONS:**
- 10-1-2: INTERNATIONAL BUILDING CODE:**
- 10-1-3: INTERNATIONAL MECHANICAL CODE:**
- 10-1-4: UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS:**
- 10-1-5: INTERNATIONAL PLUMBING CODE:**
- 10-1-6: NATIONAL ELECTRICAL CODE:**
- 10-1-7: INTERNATIONAL FIRE CODE:**
- 10-1-8: INTERNATIONAL ENERGY CONSERVATION CODE:**
- 10-1-9: INTERNATIONAL FUEL GAS CODE:**
- 10-1-10: INTERNATIONAL RESIDENTIAL CODE:**
- 10-1-11: INTERNATIONAL EXISTING BUILDING CODE:**
- 10-1-12: VIOLATIONS OF CODES:**

#### **10-1-1: RELATIONSHIP TO CONTAMINATED SOILS PROVISIONS:**

Title 5 of this Code contains substantive environmental compliance requirements applicable to all subjects otherwise regulated by this Code. Specifically, title 5, chapter 2 of this Code applies to all land disturbance and land development applications filed with the City. Persons considering filing applications for land disturbance or land development should consult title 5, chapter 2 of this Code, in addition to the applicable provisions of this title and titles 9, 11, 13 and 14 of this Code. (2001 Code § 18-1-101)

#### **10-1-2: INTERNATIONAL BUILDING CODE:**

- A. Adoption Of International Building Code: For the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of the buildings and structures and certain equipment within the City, the entire 2015 edition of the International Building Code, including any amendments, is hereby adopted. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The International Building Code, as adopted above, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Adoption Of Appendices: The following appendices, or subsequent equivalent provisions, of the 2015 (or subsequent) edition of the International Building Code, are adopted and made part of this Code as though set forth in their entirety:

1. Appendix B, Board of Appeals;
2. Appendix J, grading; and
3. Appendix K, administrative provisions.

C. Substitution Of Terms: The words and phrases used in the International Building Code shall be construed to be consistent with this title.

D. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Building Code has been filed for use and examination by the public in the City Clerk-Recorder's Office, with an additional copy available with the Development Department Secretary. (2001 Code § 18-2-101; amd. 2009 Code)

E. Jurisdiction Defined: Whenever the word "jurisdiction" is used in the International Building Code, it shall mean the City of West Jordan, Utah. (2001 Code § 18-2-102; amd. Ord. 10-16, 6-23-2010; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

### **10-1-3: INTERNATIONAL MECHANICAL CODE:**

A. Adoption Of International Mechanical Code: For the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance or use of heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat producing appliances within the City, the entire 2015 edition of the International Mechanical Code, including any amendments, is hereby adopted as promulgated by the International Code Council. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The International Mechanical Code is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.

B. Substitution Of Terms: The words and phrases used in the International Mechanical Code shall be construed to be consistent with this title.

C. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Mechanical Code has been filed for use and examination by the public in the City Clerk-Recorder's Office, with an additional copy available with the Development Department Secretary. (2001 Code § 18-2-201; amd. 2009 Code)

D. Definitions:

1. Whenever the word "jurisdiction" is used in the International Mechanical Code, it shall mean the City of West Jordan, Utah.
2. Whenever the words "Code official" are used in the International Mechanical Code, they shall mean the building official.
3. Whenever the words "Department of Mechanical Inspection" are used in the International Mechanical Code, they shall mean the Building and Safety Division. (2001 Code § 18-2-202; amd. 2009 Code; Ord. 10-16, 6-23-2010; Ord. 12-10, 4-25-2012, eff. 7-1-2012; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

#### **10-1-4: UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS:**

- A. Adoption Of Code To Abate Dangerous Buildings: For the purpose of providing a just, equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by the International Building Code, or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished, the entire 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings is hereby adopted as promulgated by International Conference of Building Officials. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The Uniform Code for the Abatement of Dangerous Buildings is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the Uniform Code for the Abatement of Dangerous Buildings has been filed for use and examination by the public in the City Clerk-Recorder's Office. (2001 Code § 18-2-301)
- C. Jurisdiction Defined: Whenever the word "jurisdiction" is used in the Uniform Code for the Abatement of Dangerous Buildings, it shall mean the City of West Jordan, Utah. (2001 Code § 18-2-302)
- D. Code Construed In Light Of State Statutes:
  - 1. The Uniform Code for the Abatement of Dangerous Buildings shall be construed so as to give effect to the Statutes of the State which authorize cities to abate dangerous buildings and shall not be construed as to require the City to follow a more restrictive procedure than that set forth in State Statute.
  - 2. The City may attach the costs of abating a dangerous building pursuant to this Code to the Property Taxes as provided by State Statute. (2001 Code § 18-2-303; amd. Ord. 17-59, 10-25-2017)

#### **10-1-5: INTERNATIONAL PLUMBING CODE:**

- A. Adoption Of International Plumbing Code: For the purpose of providing minimum requirements and standards for the protection of the public health, safety and welfare by regulating the erection, installation, alteration, addition, repair, relocation, replacement, and maintenance or use of any plumbing system, the entire 2015 edition of the International Plumbing Code, including any amendments, is hereby adopted as promulgated by the International Code Council. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The International Plumbing Code is hereby fully incorporated, as adopted above, as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Adoption Of Appendices: The following appendices, or subsequent equivalent provisions, of the 2015 (or subsequent) edition of the International Plumbing Code, as published by the International Code Council, are adopted and made part of this Code as though set forth in their entirety:

1. Appendix B, pertaining to rates of rainfall for various cities.
- C. Substitution Of Terms: The words and phrases used in the International Plumbing Code shall be construed to be consistent with this title.
- D. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Plumbing Code has been filed for use and examination by the public in the City Clerk-Recorder's Office, with an additional copy available with the Development Department Secretary. (2001 Code § 18-2-401; amd. 2009 Code)
- E. Definitions:
  1. Whenever the words "administrative authority" are used in the International Plumbing Code, they shall mean the Building and Safety Division.
  2. Whenever the words "Code official" are used in the International Plumbing Code, they shall mean the building official.
  3. Whenever the words "Department of Plumbing Inspection" are used in the International Plumbing Code, they shall mean the Building and Safety Division. (2001 Code § 18-2-402; amd. Ord. 10-16, 6-23-2010; Ord. 12-10, 4-25-2012, eff. 7-1-2012; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

#### **10-1-6: NATIONAL ELECTRICAL CODE:**

- A. Adoption Of National Electrical Code: For the purpose of safeguarding persons and property from hazards arising from the use of electricity, the entire 2014 edition of the National Electrical Code is hereby adopted as promulgated by the National Fire Protection Association. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The National Electrical Code, as adopted above, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Adoption Of Appendix: The following appendix, or subsequent equivalent provisions, of the 2014 (or subsequent) edition of the National Electrical Code is adopted and made part of this Code, as though set forth in its entirety:
  1. Appendix C, conduit and tubing fill tables for conductors and fixture wires of the same size.
- C. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the National Electrical Code has been filed for use and examination by the public in the City Clerk-Recorder's Office. (2001 Code § 18-2-501; amd. Ord. 12-18, 6-27-2012; Ord. 17-59, 10-25-2017)

## **10-1-7: INTERNATIONAL FIRE CODE:**

- A. Adoption Of International Fire Code And Appendices: For the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, the entire 2015 edition of the International Fire Code (IFC) is hereby adopted as recommended by the International Code Council, Inc., including appendices B and C thereof. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The IFC, as adopted above, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Fire Code has been filed for use and examination by the public in the City Clerk-Recorder's Office, with an additional copy available with the Development Department Secretary.
- C. Substitution Of Terms: The words and phrases used in the International Fire Code shall be construed to be consistent with this title. (2001 Code § 18-2-601; amd. 2009 Code)
- D. Definitions:
  - 1. Wherever the word "jurisdiction" is used in the International Fire Code, it shall be held to mean the City of West Jordan, Utah.
  - 2. Wherever the words "Department of Fire Prevention" are used, they shall be held to mean all West Jordan Fire Department personnel assigned by the Fire Chief to assist with inspections and enforcement of the IFC. The Fire Chief shall serve as the Code official for the IFC. The Fire Chief designee shall serve as the deputy Code official.
  - 3. "Intentionally caused fire/hazardous materials emergency" means a fire/hazardous materials emergency deliberately or recklessly set or caused by any person or entity and which presents a direct and immediate threat to property or public safety and requires immediate action to mitigate the threat.
  - 4. "Negligently caused fire/hazardous materials emergency" means a fire/hazardous materials emergency caused by the negligence of any person or entity and which presents a direct and immediate threat to property or public safety and requires immediate action to mitigate the threat.
  - 5. "Hazardous materials" are those chemicals or substances which are physical hazards or health hazards as defined and classified in the International Fire Code, whether the materials are in usable or waste condition.
  - 6. "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration or physical, chemical or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

7. "Expenses" means the actual labor costs of government and volunteer personnel, including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal, the cost of any contract labor, equipment or materials, and the similar costs incurred by the City of West Jordan, or any assisting agencies.

8. "Person", for the purposes of this chapter, shall have the same meaning as defined in the International Fire Code. (2001 Code § 18-2-602; amd. 2009 Code)

E. Fees For Services: The City Council shall annually adopt, by resolution, a fee schedule setting forth the amount of the fees for services performed by the Fire Chief or designee. The City Manager Chief Administrative Officer or designee shall assess, collect and properly account for the fees in accordance with the most recent resolution. (2001 Code § 18-2-603; amd. 2009 Code)

F. Fire/Hazardous Materials Emergency Expense Recovery:

1. Recovery Authorization And Procedure: The City is hereby empowered to recover expenses from any person whose intentional or negligent act caused the City and/or assisting agencies to incur any expenses directly associated with responding to an intentionally or negligently caused fire/hazardous materials emergency, regardless of whether or not such person actually caused the fire/hazardous materials emergency. These expenses shall be collected as follows:

a. The City shall determine responsibility for the emergency and notify the responsible party in person or by mail of the City's determination of responsibility and the expenses to be recovered.

b. The notice shall specify that the determined responsible party may appeal the City's determination, in writing, to the City Manager Chief Executive Officer, who may designate a Hearing Officer to hear the appeal.

c. Any appeal must be filed, in writing, with the City Manager Chief Executive Officer not more than fifteen (15) days from the date the notice was received by the determined responsible party.

d. In the event the determined responsible party appeals the determination, the Hearing Officer shall hold a public hearing to consider any issues raised by the appeal. Both the appealing party and the City shall be entitled to present evidence in support of their respective positions to the Hearing Officer.

e. Following the hearing, the Hearing Officer shall make a recommendation to the City Manager Chief Executive Officer, who shall issue a final decision assessing responsibility and expenses.

2. Payment Does Not Admit Liability: The payment of expenses determined owing under this section does not constitute an admission of liability or negligence in any legal action for damages.

3. Action To Recover Expenses:

a. Subsequent to a final decision of the City Manager Chief Executive Officer, pursuant to this section, and upon certification of expenses by the Fire Chief to the City Manager Chief Executive Officer, the City Manager Chief Executive Officer may authorize the Finance Director to recover the expenses directly associated with responding to a fire/hazardous materials emergency from those persons determined by the City Manager Chief Executive Officer to have directly or indirectly caused the emergency expenses.

b. In the event the person determined to be responsible for the payment of intentional or negligently caused fire/hazardous materials emergency expenses fails to make payment to the City and/or assisting agencies within thirty (30) days after a determination of any appeal to the City Manager Chief Executive Officer, or thirty (30) days from the deadline for appeal in the event no appeal is filed, the City and/or assisting agency may initiate legal action to recover from the determined responsible person the expenses determined to be owing, including the reasonable attorney fees and costs of such recovery. (2001 Code § 18-2-604; amd. Ord. 10-16, 6-23-2010; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

**10-1-8: INTERNATIONAL ENERGY CONSERVATION CODE:**

- A. Adoption Of International Energy Conservation Code: The entire 2015 edition of the International Energy Conservation Code is hereby adopted. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The International Energy Conservation Code, as adopted above, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City. (2001 Code § 18-2-701; amd. 2009 Code)
- B. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Energy Conservation Code has been filed for use and examination by the public in the City Clerk-Recorder's Office.
- C. Substitution Of Terms: The words and phrases used in the International Energy Conservation Code shall be construed to be consistent with this title. (2001 Code § 18-2-701; amd. Ord. 10-16, 6-23-2010; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

**10-1-9: INTERNATIONAL FUEL GAS CODE:**

- A. Adoption Of International Fuel Gas Code: For the purpose of safeguarding persons and property, the entire 2015 edition of the International Fuel Gas Code is hereby adopted. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The International Fuel Gas Code, as adopted above, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Substitution Of Terms: The words and phrases used in the International Fuel Gas Code shall be construed to be consistent with this title.

- C. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Fuel Gas Code has been filed for use and examination by the public in the City Clerk-Recorder's Office prior to its adoption and, thereafter, at least one copy shall be in the City Clerk-Recorder's Office at all times. (2001 Code § 18-2-801; amd. 2009 Code)
- D. Definitions:
  - 1. Whenever the words "Code official" are used in the International Fuel Gas Code, they shall mean the building official.
  - 2. Whenever the words "Department of Inspection" are used in the International Fuel Gas Code, they shall mean the Building and Safety Division. (2001 Code § 18-2-802; amd. Ord. 10-16, 6-23-2010; Ord. 12-10, 4-25-2012, eff. 7-1-2012; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

#### **10-1-10: INTERNATIONAL RESIDENTIAL CODE:**

- A. Adoption Of International Residential Code: For the purpose of safeguarding persons and property, the entire 2015 edition of the International Residential Code is hereby adopted. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The International Residential Code, as adopted above, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.
- B. Adoption Of Appendix: The following appendices, or subsequent equivalent provisions, of the 2015 edition of the International Residential Code are adopted and made part of this Code as though set forth in their entirety:
  - 1. Appendix J, existing buildings and structures.
- C. Substitution Of Terms: The words and phrases used in the International Residential Code shall be construed to be consistent with this title.
- D. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Residential Code has been filed for use and examination by the public in the City Clerk-Recorder's Office, with an additional copy available with the Development Department Secretary. (2001 Code § 18-2-901; amd. 2009 Code; Ord. 10-16, 6-23-2010; Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

#### **10-1-11: INTERNATIONAL EXISTING BUILDING CODE:**

- A. Adoption Of International Existing Building Code: For the purpose of regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings; providing for the issuance of permits and collection of fees therefor; and providing for each and all of the regulations, provisions, penalties, conditions and terms contained therein, the entire 2015 International Existing Building Code is hereby adopted. As subsequent editions and amendments of this Code are enacted by the State Legislature, in Utah Code Annotated section 15A-2-101 et seq., or otherwise, said subsequent editions and amendments shall be deemed to be automatically adopted by the City. The 2015 International Existing Building Code, as here adopted, is hereby fully incorporated as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City.

- B. Filing With City Clerk-Recorder: Pursuant to Utah Code Annotated section 10-3-711, as amended, one copy of the International Existing Building Code has been filed for use and examination by the public in the City Clerk-Recorder's Office.
- C. Substitution Of Terms: The words and phrases used in the International Existing Building Code shall be construed to be consistent with this title. (Ord. 10-16, 6-23-2010; amd. Ord. 13-25, 7-31-2013; Ord. 17-59, 10-25-2017)

#### **10-1-12: VIOLATIONS OF CODES:**

A violation of any of the codes in this chapter may be prosecuted administratively as provided in ~~title 1, chapter 14, article C title 16~~ of this City Code, and/or as a Class B misdemeanor and is subject to the maximum penalties allowed by State or City law. (Ord. 17-59, 10-25-2017)

## **Chapter 2**

## **ENFORCEMENT**

#### **10-2-1: BUILDING AND SAFETY DIVISION:**

#### **10-2-2: DEPARTMENT OF FIRE PREVENTION:**

#### **10-2-3: PENALTIES:**

#### **10-2-4: ENFORCEMENT:**

#### **10-2-1: BUILDING AND SAFETY DIVISION:**

- A. Building Division Inspections: The building and safety division is hereby authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification, or repair.
- B. Enforcement By Building And Safety Division: The building and safety division shall enforce all of the provisions of this chapter, with the exception of section 10-1-7 of this title, employing all legal means available to do so. The building official is also an enforcement official and may designate any other division employee as an enforcement official.
- C. Inspections: Any employee designated as an enforcement official is authorized to enter upon any property or premises to ascertain whether the provisions of the codes adopted by chapter 1 of this title; any applicable city or state codes; or any conditions imposed by the planning commission or board of adjustment are being obeyed and to make any examinations and surveys as may be necessary in the performance of the employee's enforcement duties, but only consistent with law. This may include the taking of photographs, samples, or other physical evidence.

D. Owner Refusals; Warrants: All inspections, entries, examinations and surveys shall be done in a reasonable manner based upon cause. If the property owner or person responsible for the property refuses to allow the employee to enter the property, the employee may obtain and execute a search warrant. The building and safety division may suspend or delay action on a building permit or other necessary approval if the person responsible for the property refuses to allow an inspection. (2001 Code § 18-2-1001; amd. 2009 Code)

#### **10-2-2: DEPARTMENT OF FIRE PREVENTION:**

A. Fire Department Inspections: The department of fire prevention is hereby authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification or repair.

B. Enforcement By Fire Department: The department of fire prevention shall enforce the provisions of section 10-1-7 of this title, employing all legal means available to do so.

C. Inspections: The department of fire prevention is authorized to enter upon any property or premises to ascertain whether the provisions of the international fire code or any applicable city or state codes are being obeyed and to make any examinations and surveys as may be necessary in the performance of the inspector's enforcement duties, but only consistent with law. This may include the taking of photographs, samples or other physical evidence.

D. Owner Refusals; Warrants: All inspections, entries, examinations and surveys shall be done in a reasonable manner based upon cause. If the property owner or person responsible for the property refuses to allow entrance onto the property, the inspector may obtain and execute a search warrant. The department of fire prevention may suspend or delay action on a building permit or other necessary approval if the person responsible for the property refuses to allow an inspection. (2001 Code § 18-2-1002; amd. 2009 Code)

#### **10-2-3: PENALTIES:**

Unless otherwise provided herein or by state or federal law, failure to comply with the provisions of any code adopted in chapter 1 of this title shall be a class B misdemeanor. Each day that the violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such. (2001 Code § 18-2-1003)

#### **10-2-4: ENFORCEMENT:**

Unless otherwise provided, this title may be enforced pursuant to the provisions of title 13, chapter 4 or title 16 of this code, by filing civil or criminal actions as provided by law, or any other lawful means. The city has sole discretion to decide whether to file a civil or criminal case for a violation. The city may file both, or one or the other. The possibility of an administrative remedy pursuant to titles 13 or 16 of this code shall in no way interfere with the city's right to prosecute violations of this chapter as criminal offenses, or to seek any civil remedy to enjoin, prevent, or abate the violation. The city may use any of the remedies available under the law in both civil litigation and criminal prosecution. If the city chooses to file both civil and criminal charges for the same violation on the same day, no civil fines shall be assessed, but all other remedies shall be available. (2001 Code § 18-2-1004; amd. 2009 Code)

# Chapter 3

## BOARD OF BUILDING APPEALS

### **10-3-1: ESTABLISHED:**

### **10-3-2: PURPOSE:**

### **10-3-3: COMPOSITION:**

### **10-3-4: CONDUCT OF BUSINESS:**

### **10-3-5: APPEAL:**

### **10-3-6: PROCEDURE FOR CONDUCT OF APPEAL:**

### **10-3-7: CONDUCT OF HEARING:**

### **10-3-8: METHOD AND FORM OF DECISION:**

### **10-3-9: APPEAL TO CITY COUNCIL DISTRICT COURT:**

### **10-3-1: ESTABLISHED:**

There is created a board of building appeals. (2001 Code § 18-3-101)

### **10-3-2: PURPOSE:**

The board of building appeals shall provide interpretation of the provisions of any building code or its enforcement and to hear appeals under the code. (2001 Code § 18-3-102)

### **10-3-3: COMPOSITION:**

- A. Board Composition: The board of building appeals shall consist of five (5) members, appointed by the ~~city manager~~ chief executive officer, with the advice and consent of the city council. Members may be removed from the board at any time by the ~~city manager~~ chief executive officer, ~~with the advice and consent of the city council~~. The board members shall be knowledgeable in general construction practices and procedures in customary use in the city. None of the members of the board shall be employed by the city. Members of the board shall be appointed for three (3) year terms with the first appointees being appointed for one, two (2) and three (3) years, respectively. Members of the board shall receive twenty five dollars (\$25.00) per diem compensation for their services actually rendered hearing and deciding appeals. The ~~city manager~~ chief executive officer shall provide the board with adequate clerical support staff and office supplies for the conduct of its business.
  
- B. Filling Vacancy: In the event of a vacancy during any unexpired term, the ~~city manager~~ chief executive officer shall appoint to fill any vacancy, with the advice and consent of the city council, for the remainder of the unexpired term of the original appointment. (2001 Code § 18-3-103)

#### **10-3-4: CONDUCT OF BUSINESS:**

The board of building appeals shall adopt reasonable rules and regulations, consistent with this chapter, for the conduct of its business. It shall render all decisions and findings in writing to the appellant and the building official. Copies of all rules and regulations adopted by the board shall be available to the public. (2001 Code § 18-3-104)

#### **10-3-5: APPEAL:**

- A. **Filing Notice Of Appeal:** Any person aggrieved by the action of a building official may appeal from any notice, order or action of such official by filing at the office of ~~the city planner~~ development assistance a written appeal. The appeal should contain a brief statement setting forth the legal interest of the appellant. The appeal should also contain a brief statement in ordinary language of the specific order or action protested, together with any material facts claimed to support the position of the appellant, and a brief statement of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or set aside.
- B. **Time To File Appeal:** The appeal shall be filed within thirty (30) days from the date upon which the order, decision or notice of the building official occurred.
- C. **Hearing Date:** The board shall meet once per month to hear any and all appeals filed ten (10) days prior to the meeting. Written notice of the time and place of the hearing shall be given to each appellant by the secretary of the board.
- D. **Waiver Of Appeal Rights:** Failure of any person to file an appeal in accordance with the provisions of this chapter shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order or any portion thereof.
- E. **Issues On Appeal:** Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- F. **Matters Stayed Pending Appeal:** Except for vacation orders, enforcement of any notice or order of the building official issued under any code shall be stayed during the pendency of an appeal which is properly and timely filed. (2001 Code § 18-3-105)

#### **10-3-6: PROCEDURE FOR CONDUCT OF APPEAL:**

- A. **File Forwarded:** The ~~city planner~~ office of development assistance shall cause a complete file of each appeal to be sent to the members of the board of building appeals prior to each meeting of the board.
- B. **Minutes:** Minutes of the entire proceedings shall be kept.
- C. **Assessment Of Cost Of Minutes:** A copy of the minutes shall be made available to all parties upon request and upon payment of the prescribed fee. Such fees may be established by the board, but shall in no event be greater than the reasonable actual and indirect costs incurred by the city.
- D. **Continuances:** The board may grant continuances for good cause shown.

- E. Oaths/Affirmations: In any proceedings under this chapter, the board or any board member has the power to administer oaths and affirmations and to certify to official acts.
- F. Timely Proceedings: The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.
- G. Notices: The notice to the appellant shall inform him of the time and place of the hearing and his rights under subsection 10-3-7F of this chapter.
- H. Subpoena Issuance: The board may obtain the issuance and service of a subpoena for the attendance or witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit which states the name and address of the proposed witness, specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved, and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for in this subsection shall be guilty of a misdemeanor. (2001 Code § 18-3-106; amd. 2009 Code)

#### **10-3-7: CONDUCT OF HEARING:**

- A. Evidentiary Rules: Hearings under this chapter need not be conducted according to the technical rules relating to evidence and witness.
- B. Oral Testimony: Oral evidence shall be taken only on oath or affirmation.
- C. Hearsay Evidence: Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
- D. Relaxed Rules Of Evidence And Due Process: Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdictions in this state.
- E. Excluded Evidence: Irrelevant and unduly repetitious evidence shall be excluded.
- F. Rights Of Parties: Each party shall have these rights, among others:
  - 1. To call and examine witnesses on any matter relevant to the issues of the hearing.
  - 2. To introduce documentary and physical evidence.
  - 3. To cross examine opposing witnesses of any matter relevant to the issues of the hearing.
  - 4. To impeach any witness regardless of which party first called him to testify.

5. To rebut the evidence against him.
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

G. Ruling: In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board, or departments and ordinances of the city, or rules and regulations of the board. Parties present at the hearing shall be informed of the matters to be noticed; and these matters shall be noted, referred to, or appended to the record.

H. Right To Refute Notices/Matters: Parties present at the hearing shall be given reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board.

I. Inspection Of Building/Premises: The board may inspect any building or premises involved in the appeal during the course of the hearing; provided, that notice of such inspection shall be given to the parties before the inspection is made, the parties are given an opportunity to be present during the inspection, and the board shall state for the record upon completion of the inspection the material facts observed and the conclusion drawn. Each party then shall have a right to rebut or explain the matters so stated by the board. (2001 Code § 18-3-107)

#### **10-3-8: METHOD AND FORM OF DECISION:**

- A. Board Member Duty To Know Record: Where a case is heard before the board of building appeals, no member of the board who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.
- B. Right To Rely On Matters Of Record: The board may decide the case upon the entire record before it, with or without taking into consideration any additional evidence.
- C. Written Decision Required: The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by mail.
- D. Effective Date Of Decision: The effective date of the decision shall be as stated in the decision. (2001 Code § 18-3-108)

#### **10-3-9: APPEAL TO CITY COUNCIL DISTRICT COURT:**

Either party unsatisfied with a decision rendered by the board of building appeals may appeal (or ask for judicial review of) such decision to the ~~city council by delivering a notice of such appeal to the city clerk/recorder within ten (10) working days following receipt of the board's decision. The city clerk/recorder shall place the matter upon the agenda for the next regularly scheduled meeting. Unless the city council provides, the decision of the board shall not be stayed during the pendency of the appeal to the city council district court.~~ (2001 Code § 18-3-109)

# **Title 11** **LAND DISTURBANCE**

## **Chapter 1** **ADMINISTRATION**

### **11-1-1: RELATIONSHIP TO THIS TITLE AND TITLE 15:**

#### **11-1-2: SHORT TITLE:**

#### **11-1-3: AUTHORIZATION TO ADOPT STANDARDS:**

#### **11-1-4: PURPOSE:**

#### **11-1-5: DEFINITIONS:**

#### **11-1-6: ADMINISTRATION:**

### **11-1-1: RELATIONSHIP TO THIS TITLE AND TITLE 15:**

- A. CC&Rs, HOA Agreements And Similar Covenants Or Agreements: This title shall not nullify the more restrictive provisions of covenants and agreements like covenants, conditions and restrictions (CC&Rs), homeowners' association agreements and similar covenants and agreements.
- B. Substantive Ordinances: This title contains substantive ordinances governing its subject matter and scope. In the event of a conflict between the substantive terms of this title or between this title and the substantive terms of any other title, law, ordinance or rule, the more restrictive provision shall apply.
- C. Procedural Ordinances: Title 15 of this code is designed to contain procedural ordinances governing the procedures involved in the application of this title and other property development and use titles. The boundary between what is substantive and what is procedural is imprecise. Persons using this title should look for procedural requirements in this title and in title 15 of this code. The procedures, if any, contained in this title and those contained in title 15 of this code should be followed. If a procedural provision of this title clearly and obviously conflicts with a provision in title 15 of this code, the provision in title 15 of this code shall govern. (2001 Code § 81-1-060; amd. 2009 Code)

### **11-1-2: SHORT TITLE:**

This title is to be known as the *LAND DISTURBANCE ORDINANCE OF THE CITY* and may be so cited. (2001 Code § 81-1-010)

### **11-1-3: AUTHORIZATION TO ADOPT STANDARDS:**

The ~~city manager~~ chief executive officer is hereby authorized to adopt these standards pursuant to this title. (2001 Code § 81-1-020)

### **11-1-4: PURPOSE:**

The purpose of this title is to establish minimum requirements and procedures for conducting land disturbance activities within the city. It is the intent of this title to protect the health, safety and welfare of the public against inadequate, unwarranted or unsafe land disturbance activities during all aspects of land disturbance activities, including, but not limited to, the following:

- A. To establish processes, procedures and standards for land disturbance activities such as clearing, grubbing, grading, excavating, filling, dredging and other land disturbance related activities, to minimize hazards to life and limb, protect against erosion and sedimentation, maintain the natural environment, protect the safety, use and stability of public rights of way and drainage facilities, and provide for restoration of the land through revegetation and landscaping.
- B. To assure that projects approved under this title, as well as neighboring and downstream properties, will be free from harmful effects of new land disturbance activities with regard to runoff, including inundation, flooding, erosion, air pollution and sedimentation.
- C. To ensure proper restoration of vegetation and soil systems disturbed by land disturbance activities, to maintain an attractive and healthy landscape, and to control against dust and erosion and their consequent effects on soil structure and air and water quality during and after excavation.
- D. To provide processes and standards in compliance with state and federal requirements regarding pollution, environmental quality and stormwater discharge. (2001 Code § 81-01-030)

### **11-1-5: DEFINITIONS:**

~~As used in this title, the following words and phrases shall have the meanings given in this section: The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

**APPLICANT:** Any person who submits an application for a permit pursuant to this title.

**ASSISTANT CHIEF ADMINISTRATIVE OFFICER:** See the definition in section 1-3-2.

**BEST MANAGEMENT PRACTICE (BMP):** Practices, procedures or designs used for erosion control and more fully described in the most current version of the city land disturbance, design and construction standards.

**BUILDING ENVELOPE:** The area within the lot which will be used to construct the building, landscaped areas, retaining walls, fences, porches, patios, decks, swimming pools, driveways, parking areas, or any other permanent feature which is appurtenant to the building.

**BUTTRESS FILL:** A designed compacted earth fill used for providing lateral support to an unstabilized earth or rock mass.

CHIEF ADMINISTRATIVE OFFICER: See the definition in section 1-3-2.

CHIEF EXECUTIVE OFFICER: See the definition in section 1-3-2.

CITY: City of West Jordan, Utah.

CITY ENGINEER: The city engineer of city of West Jordan, or the person engaged by the city and authorized to perform the duties assigned to the city engineer, and shall include any deputies and representatives.

CIVIL ENGINEER: A professional engineer in the branch of civil engineering holding a valid certificate of registration issued by the state of Utah.

CLEARING AND GRUBBING: Moving, removing, displacing and/or stockpiling, by manual or mechanical means, trees and other vegetation and/or the top organic layer as described in the geotechnical report. In the absence of a geotechnical report, the organic layer shall not be greater than eight inches (8").

COMPACTION: The act of compacting or consolidating soil and rock material to a specified density, and the resulting compacted state of the material.

COUNCIL CHAIR: See the definition in section 1-3-2.

DETENTION: The holding back or delaying of the flow of water, through manmade or natural means.

DEVELOPMENT DIRECTOR: That person charged with the responsibility of directing all phases of the development department and the enforcement of all state statutes and city laws pertaining to his office, or his duly authorized representative.

DREDGING: The practice of deepening a waterway by mechanical means by the removal of sediments.

ENFORCEMENT AUTHORITY: The city engineer, the engineering inspector, and other designated representatives of the city engineer, or any duly appointed code enforcement officer or police official charged with the responsibility for enforcement of the provisions of this title.

ENGINEERING GEOLOGIST: A professional engineering geologist licensed or registered under the laws of Utah and capable of applying the geological sciences to engineering practices for the purpose of assuring that the geological features affecting the location, design, construction, operation and maintenance of engineering works are recognized and adequately provided for.

EROSION: The process of detachment of soil particles or other surface material by the action of wind, water, snow or ice.

EROSION CONTROL MEASURES: The structural and nonstructural best management practices (BMPs) for erosion control that prevents displacement of soil particles by wind or water. BMP erosion control measures may include seeding, mulching, vegetative buffer strips, sod, plastic coverings, riprap, gabions, other channel armoring methods, burlap coverings, watering, and other BMP measures that control the movement of the ground surface or soil.

FARMING AND AGRICULTURAL OPERATIONS: Any activity or process normally performed as part of the farming use of the land which would prepare the soil for planting or harvesting of agriculturally usable products.

**FILL:** Deposits of soil, rock or other materials placed by man.

**FINISHED GRADE:** The final grade or elevation of the building site, slope or terrace (0.1 plus or minus feet).

**GRADE:** The elevation of the ground surface as measured from a known vertical control. "Existing grade" means grade currently on the site. "Natural grade" means the grade unaltered evidenced by the presence of indigenous plants and grasses.

**GRADING:** The act or result of digging, excavating, transporting, spreading, depositing, filling, compacting, settling or shaping of land surfaces and slopes, and other operations or activities involving the physical movement of rock or soil.

**LDDCS:** Land disturbance design and construction standards.

**LAND DISTURBANCE:** Any disturbance of native soils, plants or environment, including, but not limited to, clearing, grubbing, grading, excavation, filling, dredging, construction of earth filled dams, and any other types of earthwork.

**LAND DISTURBANCE DESIGN AND CONSTRUCTION STANDARDS:** City of West Jordan land disturbance design and construction standards, as adopted by the city.

**LAND DISTURBANCE PERMIT:** The land disturbance permit required by the city in accordance with provisions of this title.

**LANDMARK TREES:** Trees that measure over three inch (3") caliper.

**LANDSCAPE ARCHITECT:** A professional landscape architect licensed or registered under the laws of Utah.

**LOT LEVEL:** Design, construction and infrastructure related to construction on a specific lot within an approved subdivision or site plan development.

**PLANTING DATE:** The date native seed can be applied without temporary irrigation, generally from October 15 through March 1, or as otherwise determined by the city engineering department.

**PROJECT:** A defined site that has obtained final subdivision plat or site plan approval from the city.

**SEDIMENT:** The transport of soil or earth material by wind, water, snow or ice.

**SEDIMENT CONTROL MEASURES:** The structural and nonstructural BMP that contains the deposited, displaced soil particles caused by erosion. This may include, but not be limited to, dikes, sediment detention traps, sediment detention basins, filters, fences, barriers, swales, berms, drains, check dams, and other measures that control the deposition of soil or earth material.

**SITE:** A parcel or parcels of real property owned by one or more persons on which activity regulated by this title is occurring or is proposed to occur.

**SLOPE:** A portion of ground forming a natural or artificial incline, including a retaining wall.

**SOIL:** All earth material, of whatever origin, which overlies bedrock.

**SOILS ENGINEER:** A professional civil engineer licensed under the laws of Utah who is experienced in soil mechanics and slope stability analysis.

**STRUCTURE:** Anything constructed or erected which requires location on the ground or is attached to something having location on the ground.

**SUBDIVISION LEVEL:** Design, construction and infrastructure related to subdivision development and systems, such as drainage, culinary water, wastewater systems, etc.

**SWALES:** Shallow grassed or otherwise protected trenches that are wider than they are deep that provide a specific pathway for drainage water.

**WET WEATHER PLAN:** A detailed erosion and sediment control plan and construction sequence that clearly shows how construction will be processed during the period of October 31 of each year until March 31 of each year. (2001 Code § 81-1-040; amd. 2009 Code)

#### **11-1-6: ADMINISTRATION:**

The engineering department is designated as the responsible department, with the city engineer as the official responsible for the administration of this title. The city engineer may delegate any or all administrative duties provided herein as deemed necessary. (2001 Code § 81-1-050)

## Chapter 2

# LAND DISTURBANCE PERMIT

- 11-2-1: LAND DISTURBANCE PERMIT REQUIRED:**
- 11-2-2: CLEARING AND GRUBBING LIMITED LAND DISTURBANCE PERMIT:**
- 11-2-3: EXEMPTIONS:**
- 11-2-4: APPLICATION FOR PERMIT:**
- 11-2-5: PLANS AND SPECIFICATIONS:**
- 11-2-6: REQUIRED PLANS AND REPORTS:**
- 11-2-7: SLOPE LENGTH:**
- 11-2-8: APPLICATION WAIVER:**
- 11-2-9: FEES:**
- 11-2-10: CONDITIONS OF APPROVAL:**
- 11-2-11: DENIAL OF LAND DISTURBANCE PERMITS:**
- 11-2-12: APPROVED PLANS:**
- 11-2-13: MODIFICATION OF PLANS:**
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- 11-2-15: TERM OF LAND DISTURBANCE PERMITS:**
- 11-2-16: EXTENSION OF TERM:**
- 11-2-17: SUSPENDED OR ABANDONED WORK:**
- 11-2-18: RENEWAL OF EXPIRED LAND DISTURBANCE PERMIT:**
- 11-2-19: SUSPENSION OR REVOCATION OF PERMIT:**
- 11-2-20: NO TRANSFER OR ASSIGNMENT OF PERMIT:**
- 11-2-21: VALIDITY OF PERMIT:**
- 11-2-22: ADDITIONAL PERMITS:**
- 11-2-23: EMERGENCIES:**

### **11-2-1: LAND DISTURBANCE PERMIT REQUIRED:**

- A. Except as otherwise provided herein, no person, developer, builder or contractor shall cause to be commenced or performed any land disturbance, grading, relocation of earth, or any other land disturbance activity, and no person shall import or export any earth materials to or from any site, without first obtaining a land disturbance permit. Except as set forth in subsection B of this section, no land disturbance permit shall be issued for any site or project requiring site plan approval until and unless a final site plan has been approved by the city for the site or project, and no land disturbance permit will be issued for any site or project requiring subdivision approval until and unless the final subdivision plat has been approved by the city for the site or project.
- B. Notwithstanding the provisions of subsection A of this section, a land disturbance permit may be issued by the city prior to receiving final site plan approval or final subdivision plat approval; provided, that an application for final site plan approval or final subdivision plat approval has been made and engineering grading plans have been reviewed and accepted by the city engineer or designated representative. To issue the land disturbance permit without final site plan approval or final subdivision plat approval all the following conditions must be met:

1. The proposed project is located in an economic development area as adopted by the redevelopment agency of the city of West Jordan, in accordance with Utah Code Annotated title 17C - limited purpose local government entities - community reinvestment agency act, or its successor provision(s);
2. The project is for an industrial or commercial development considered of high economic value to the city as determined by the ~~city manager~~ chief executive officer with concurrence from the city engineer;
3. The project is a minimum of fifty (50) acres as presented in the pending application for site plan or subdivision approval; and
4. The applicant complies with all remaining provisions in this title, which still apply to the application and issuance of the land disturbance permit. (2001 Code § 81-2-010; amd. Ord. 10-27, 9-8-2010; Ord. 16-29, 7-27-2016)

#### **11-2-2: CLEARING AND GRUBBING LIMITED LAND DISTURBANCE PERMIT:**

- A. Limited Permit: Notwithstanding the provisions of section 11-2-1 of this chapter, a land disturbance permit limited to clearing and grubbing activities may be issued by the city for a development project for which final site plan or final subdivision approval has not yet been granted; provided, that final application has been made and final engineering grading plans have been reviewed and accepted by the city engineer or designated representative.
- B. Requirements: The following shall be required to be submitted to, and receive approval from, the city engineer prior to issuance of any land disturbance permit for clearing and grubbing:
  1. Preliminary title report, in a form satisfactory to the city engineer and city attorney, evidencing that the developer is the vested owner of the property to be cleared and grubbed.
  2. A separate set of engineering drawings and specifications which define the nature, extent and location of the clearing and grubbing activities to be performed. These drawings and specifications shall include a stormwater pollution prevention plan (SWPPP) and revegetation plan, which meet city standards and ordinances.
  3. Payment for the review and processing of the clearing and grubbing land disturbance permit, and estimated payment for inspection of the clearing and grubbing activities. The developer will be invoiced for the city staff time required to review and inspect the clearing and grubbing activities.
  4. Separate revegetation and restoration bonds for the clearing and grubbing work and site restoration work to be performed, to ensure the site will be restored to an acceptable condition.
  5. A letter from the developer and one from the contractor indicating that each understands and agrees to the following:
    - a. The land disturbance permit for clearing and grubbing limits the work to that identified on the separate set of engineering drawings and specifications submitted and approved for clearing and grubbing;

- b. Work will be stopped if it exceeds that identified in the clearing and grubbing plans and specifications; and
  - c. Developer and contractor will be jointly and severally responsible and liable for any damages caused by exceeding the scope of the clearing and grubbing plans and specifications. Developer and contractor shall further warrant that they have received all applicable local, state and federal permits for the work.
- C. Stop Work Order: If the developer or contractor fails to comply with the provisions of the clearing and grubbing land disturbance permit, including, but not limited to, expansion of work beyond that identified in the clearing and grubbing land disturbance permit, the city may stop work. (2001 Code § 81-2-011; amd. Ord. 10-27, 9-8-2010)

### **11-2-3: EXEMPTIONS:**

The following activities do not require a land disturbance permit. Activities exempted from the land disturbance permit requirements set forth herein are subject to and shall be performed in accordance with the land disturbance design and construction standards, the hillside overlay ordinance and all other applicable ordinances, rules, regulations, standards and specifications of the city.

- A. An excavation which does not exceed fifty (50) cubic yards; or affects an area that is less than three thousand (3,000) square feet; or does not create a cut slope greater than five feet (5') in height or steeper than two horizontal to one vertical (2:1); provided, however, any excavation which is made in an area of adverse geological conditions or which alters a drainage course must obtain a permit.
- B. A fill which is less than one foot (1') in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical (5:1); affects an area that is less than three thousand (3,000) square feet; is less than three feet (3') in depth and is not intended to support structures; provided, any fill over fifty (50) cubic yards or which affects a drainage course must obtain a permit.
- C. Excavations below the finished grade for basements and footings of buildings, retaining walls, swimming pools, or other structures authorized by a valid building permit. This shall not exempt any fill made of materials from such excavations or exempt any excavation having an unsupported height greater than five feet (5') after the completion of such structures.
- D. Mining and quarrying operations conducted under a valid special use permit issued by the city pursuant to applicable zoning regulations.
- E. The depositing of rubbish or other materials at any dump or sanitary fill conducted under a valid permit and/or applicable zoning ordinances. Such exemption shall not extend to surrounding berms, permanent access roads, building sites or protective drainage works.
- F. Farming and agricultural operations conducted under a valid use permit or applicable zoning ordinances.
- G. Soil and water conservation work under the direct control of the United States natural resources conservation service; provided, the construction of water impounding structures of earth shall require a permit where the maximum depth to which water is or may be impounded is five feet (5') or greater.

- H. Grading operations conducted by the city for approved capital improvement projects. (2001 Code § 81-2-020)

#### **11-2-4: APPLICATION FOR PERMIT:**

Application for a land disturbance permit shall be filed with the city engineer on forms furnished by the city for such purpose. Applications shall include all the plans, specifications, reports, documentation and information required herein. Three (3) sets of all required plans, specifications and reports shall be submitted with each application. All such plans, specifications and reports shall be prepared and signed by a civil engineer, soils engineer, engineering geologist and/or landscape architect, as required by this title and the LDDCS. Additional experts in applicable fields should be utilized for preparation of such documents and reports as appropriate. No application shall be processed until all required plans, specifications, reports, documentation and information have been received by the city in accordance with the provisions and requirements of this title. (2001 Code § 81-2-030)

#### **11-2-5: PLANS AND SPECIFICATIONS:**

Each application for a land disturbance permit shall include the following plans, specifications, reports, documentation and information:

- A. A vicinity sketch or other data adequately indicating the site location;
- B. The property lines and dimensions and bearings of the property on which the work is to be performed;
- C. The location of any existing buildings or structures on the property where the work is to be performed and the location of any building or structure on the land of adjacent property owners, which building or structure is within fifty feet (50') of the property boundary;
- D. The location of landmark trees as indicated by the designation of the location of the center of the trunk;
- E. Accurate topography showing suitable contours of the existing and proposed ground elevations. The contours shall be extended past the boundary lines of any project for a minimum of one hundred feet (100'). The city engineer may require the contours to be extended to include watershed areas and all other areas influencing the proposed project or site;
- F. The elevations, dimensions, locations, extent and slopes of all proposed land disturbance activities shown by contours or other means;
- G. A certification, by a soils engineer, of the quantity and type of material of any proposed excavation and fill;
- H. The estimated starting and completion dates for the proposed land disturbance activities and proposed land disturbance activities schedule and permit term;
- I. Detailed plans of all drainage devices, walls, cribbing, dams, or other protective devices to be constructed in connection with, or as a part of, the proposed work, together with a map showing the drainage area and estimated runoff of the area served by the drains. All hydrologic and hydraulic calculations shall be signed by a civil engineer;
- J. Temporary construction entrance and exit plan as indicated in the LDDCS;

- K. An indication as to the type of structures to be constructed or the proposed use of the site, such as single-family residence, multiple-family development, commercial or industrial; and
- L. Any additional plans, drawings or calculations required herein or by the city engineer. (2001 Code § 81-2-040)

#### **11-2-6: REQUIRED PLANS AND REPORTS:**

Unless an application waiver is obtained in accordance with the provisions of section 11-2-8 of this chapter, each application for a land disturbance permit shall include the following plans and reports for the proposed land disturbance activity and site. The grading plan shall be prepared in accordance with the requirements and standards for such plans as set forth in the land disturbance design and construction standards.

- A. Grading Plan: Grading plan prepared and signed a civil engineer.
- B. Drainage Plan: Each application for a land disturbance permit shall include a drainage plan for the proposed land disturbance activity and site. The drainage plan shall be prepared by a civil engineer and shall be prepared in accordance with the requirements and standards for such plans as set forth in the LDDCS.
- C. Rear And Side Lot Drainage Swales: Swales located in rear and side yards shall be part of the grading and drainage plan and be designed as set forth in the LDDCS.
- D. Erosion And Sediment Control Plan: Each application for a land disturbance permit shall include an erosion and sediment control plan for the proposed land disturbance activity and site. The erosion and sediment control plan shall be prepared by a civil engineer and shall be prepared in accordance with the requirements and standards for such plans as set forth in the LDDCS.
- E. Revegetation Plan: Each application for a land disturbance permit shall include a revegetation plan for the proposed land disturbance activity and site. The revegetation plan shall be prepared by an erosion control specialist or professional of comparable expertise and shall be prepared in accordance with the requirements and standards for such plans as set forth in the LDDCS, section 4.
- F. Soils Report: Each application for a land disturbance permit shall include a soils report for the site. The soils report shall be prepared and signed by a soils engineer and shall be prepared in accordance with the requirements and standards for geological reports as set forth in the LDDCS, section 2.
- G. Geological Report: When deemed necessary by the city engineer due to the circumstances and conditions of the site, an application for a land disturbance permit shall include a geological report for the site. The geological report, when required, shall be prepared and signed by an engineering geologist and shall be prepared in accordance with the requirements and standards for geological reports as set forth in the LDDCS, section 2.
- H. Exploratory Work: Surface and subsurface exploratory work and reports may be required when deemed necessary by the city engineer due to site conditions and/or hazards on the site. When required, such exploratory work and reports shall be performed and prepared by a soils engineer and/or engineering geologist. (2001 Code § 81-2-050)

**11-2-7: SLOPE LENGTH:**

All applications for land disturbance activities involving or proposing cut and/or fill slopes shall include a report prepared and signed by an erosion control specialist or professional of comparable expertise addressing the design, safety and stability of the proposed slope lengths. Such report shall indicate how the applicant will address the issue of length of slope using the revised uniform soils loss equation (RUSLE). The report shall indicate the method and/or materials to be used. (2001 Code § 81-2-100)

**11-2-8: APPLICATION WAIVER:**

The city engineer may waive any application requirement, plan, specification or report when deemed unnecessary for the proposed application and for good cause shown. A request for an application waiver shall be submitted by the applicant in writing, setting forth the grounds and reasons for the waiver. An application shall not be deemed complete for purposes of the filing of a completed application until the city engineer has approved the application waiver request. Failure of the city engineer to approve the request within sixty (60) days shall be deemed a denial. (2001 Code § 81-2-120)

**11-2-9: FEES:**

All applicable fees, including, but not limited to, application, review and inspection fees, shall be paid by applicant with the filing of an application for a land disturbance permit. An application will not be deemed complete until the required fees have been received by the city. The fee amount shall be as adopted by city council. (2001 Code § 81-2-120; amd. Ord. 10-27, 9-8-2010)

**11-2-10: CONDITIONS OF APPROVAL:**

In granting any land disturbance permit pursuant to the provisions of this title, the city engineer or his or her authorized representative may attach such conditions as may be reasonably necessary to protect public health and safety, prevent creation of a nuisance and assure completion of the grading. Such conditions may include, but will not be limited to:

- A. The improvement of any existing site condition to conform with the standards of this title;
- B. Requirements for fencing excavations or fills which would otherwise be hazardous;
- C. Requirements for access and haul routes;
- D. Dust, mud, erosion control, revegetation, noise control, hours of operation, sequence of work, and weather condition requirements;
- E. Time allowed for the work to be completed;
- F. Construction staking;
- G. Posting of a guarantee sufficient for, at a minimum, reseeding, temporary water and maintenance for three (3) years;
- H. Preliminary title report, in a form satisfactory to the city engineer and city attorney, evidencing that the developer is the vested owner of the property;
- I. Payment for applicable review, processing and inspection of the permit application and land disturbance activities; and

J. A written acknowledgment that the permit is for land disturbance activity only. (2001 Code § 81-2-160; amd. Ord. 10-27, 9-8-2010)

#### **11-2-11: DENIAL OF LAND DISTURBANCE PERMITS:**

- A. A land disturbance permit shall not be issued in any case where it is determined by the city engineer that the work proposed by the applicant is hazardous, or is likely to endanger any private property, result in the deposit of debris on any public way, or interfere with any existing drainage course.
- B. A land disturbance permit shall not be issued if the land area for which grading is proposed is subject to geological or flood hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to human life or property as determined by the city engineer.
- C. A land disturbance permit shall not be issued if the proposed land disturbance activity would not comply with the requirements of an approved site plan, subdivision plat, or any provisions of law, including the provisions of this title. (2001 Code § 81-2-170)

#### **11-2-12: APPROVED PLANS:**

Prior to issuance of the land disturbance permit, the applicant shall provide the city with four (4) sets of the final grading plans, specifications and computations (full size) and two (2) sets of eleven inch by seventeen inch (11" x 17") plans. Upon issuance of the land disturbance permit, the city engineer shall endorse in writing, or stamp "Released For Construction" on all required sets of grading plans and specifications. The city engineer shall retain two (2) sets of the plans and specifications during the period of construction and as thereafter required by the government records access and management act (GRAMA). Upon approval, the city engineer shall return one set of the stamped final grading plans and specifications to the applicant. The applicant shall retain the stamped set of plans and specifications at the site covered by the land disturbance permit at all times during which the work authorized thereby is in progress. (2001 Code § 81-2-180; amd. Ord. 10-27, 9-8-2010)

#### **11-2-13: MODIFICATION OF PLANS:**

No approved plans or specifications shall be changed, modified, altered or amended, without approval of the city engineer in accordance with the procedures and requirements set forth herein for original approval of such plans and specifications. Modification of plans will require additional city review and will be subject to additional fees. (2001 Code § 81-2-190)

#### **11-2-14: CORRECTION OF ERRORS:**

The issuance of a land disturbance permit based upon submitted plans, specifications and documents shall not prevent or preclude the right of the city from thereafter requiring the correction of errors which may be later discovered in such plans, specifications and documents. (2001 Code § 81-2-200)

#### **11-2-15: TERM OF LAND DISTURBANCE PERMITS:**

Each land disturbance permit shall contain a specified term as determined by the city. The date the land disturbance permit expires shall be noted on the land disturbance permit. No person shall perform land disturbance, grading, relocation of earth, or any other land disturbance activity beyond the expiration date, unless an extension of term is granted or a new land disturbance permit is obtained in accordance with this title. (2001 Code § 81-2-210)

**11-2-16: EXTENSION OF TERM:**

Prior to expiration of the land disturbance permit, the land disturbance permit holder may apply for an extension of time in which to complete the work in a reasonable and expeditious manner. The city engineer may grant an extension of time, upon a showing of good cause, for a period or periods not exceeding a total of one year. Denial of an extension of time does not preclude the right of the land disturbance permit holder to apply for a new land disturbance permit for the remaining balance of the work. Adequate security or written consent from the surety must be provided for any extension of time before approval of the extension is granted or becomes effective. If the extension is denied, the city will make a demand on the bond and complete the work. (2001 Code § 81-2-220)

**11-2-17: SUSPENDED OR ABANDONED WORK:**

Every land disturbance permit issued by the city engineer under the provisions of this title expires by limitation and becomes null and void if the land disturbance permit holder suspends or abandons the construction or work authorized by such land disturbance permit, at any time after the work is commenced, for a period of thirty (30) days or longer. After construction or work under a land disturbance permit has been suspended or abandoned for a period of thirty (30) days or longer, a new or renewed permit must be obtained prior to recommencing work. (2001 Code § 81-2-230)

**11-2-18: RENEWAL OF EXPIRED LAND DISTURBANCE PERMIT:**

If a land disturbance permit has expired, a new land disturbance permit shall be obtained before any work can be recommenced. If no changes have been made or will be made to the original plans and specifications for such work, and any suspension or abandonment has not exceeded one year, the fee for the new land disturbance permit will be one-half (1/2) the amount ordinarily required for a new land disturbance permit. If changes have been made or will be made in the original plans or specifications for the land disturbance activity, or the suspension or abandonment has exceeded one year, the fee for a new permit shall be required for a new permit for the proposed land disturbance activity. (2001 Code § 81-2-240)

**11-2-19: SUSPENSION OR REVOCATION OF PERMIT:**

The city may, in writing, suspend or revoke a permit when the permit is issued in error, or on the basis of incorrect information supplied, or when work conducted thereunder is in violation of the terms of the permit or the provisions of this title or other applicable city ordinances, rules, regulations, standards and specifications, or pertinent laws. (2001 Code § 81-2-250)

**11-2-20: NO TRANSFER OR ASSIGNMENT OF PERMIT:**

Land disturbance permits shall not be transferable or assignable and work shall not be performed under a land disturbance permit in any place other than that specified in the permit. Nothing herein shall prevent a permit holder from subcontracting the work to be performed under a land disturbance permit; provided, however, the permit holder shall be and remain responsible and liable for the performance of the work and land disturbance activities under the permit and for all bonding and other requirements of this title and the applicable permit. (2001 Code § 81-2-260)

**11-2-21: VALIDITY OF PERMIT:**

The issuance of a land disturbance permit shall not be construed to be a permit for violation of any of the provisions of this title or any other city ordinances, rules, regulations, standards or specifications or other pertinent laws. Permits presuming to give such authority shall be deemed invalid. (2001 Code § 81-2-270)

**11-2-22: ADDITIONAL PERMITS:**

The issuance of a land disturbance permit shall not relieve the owner, applicant, permit holder, or developer from obtaining any and all other permits or approvals required by the city or any other applicable agency having jurisdiction over the work or property affected by the proposed land disturbance activity. (2001 Code § 81-2-280)

**11-2-23: EMERGENCIES:**

The provisions of this title shall not apply to any land disturbance activity which is conducted during a period of emergency or disaster, as declared and defined by the city, and which is directly connected with or related to the relief of conditions caused by such emergency or disaster. (2001 Code § 81-2-290)

## Chapter 3

# LAND DISTURBANCE REGULATIONS

- 11-3-1: COMPLIANCE WITH PERMIT:**
- 11-3-2: PROTECTIVE DEVICES:**
- 11-3-3: MAINTENANCE OF SITE:**
- 11-3-4: ACCESS AND HAUL ROUTES:**
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- 11-3-16: FLOW OF WATER FROM ONE LOT TO ANOTHER; LIMITED USE:**
- 11-3-17: LANDSCAPING OF CERTAIN LOTS FOR EROSION CONTROL:**
- 11-3-18: EROSION CONTROL AND REVEGETATION:**
- 11-3-19: WET WEATHER PLAN:**
- 11-3-20: LAND DISTURBANCE DESIGN AND CONSTRUCTION STANDARDS:**
- 11-3-21: LOT IMPERVIOUS SURFACE AREA DRAINAGE:**
- 11-3-22: RELATIONSHIP TO CONTAMINATED SOILS PROVISIONS:**

### **11-3-1: COMPLIANCE WITH PERMIT:**

The land disturbance permit holder and contractor and their agents shall carry out the proposed land disturbance activities in accordance with the approved plans and specifications, the conditions of the land disturbance permit, and the requirements of this title and all other applicable ordinances, rules, regulations and standards of the city. (2001 Code § 81-3-010)

### **11-3-2: PROTECTIVE DEVICES:**

The land disturbance permit holder and contractor and their agents shall maintain all required protective devices and temporary drainage during the progress of the land disturbance activities and shall be responsible for the observance of the hours of work, mud tracking, dust control, methods of hauling, and other applicable regulations. (2001 Code § 81-3-020)

### **11-3-3: MAINTENANCE OF SITE:**

The land disturbance permit holder and contractor and their agents shall be responsible for the maintenance of the site and the removal of all debris during the term of the permit. (2001 Code § 81-3-030)

#### **11-3-4: ACCESS AND HAUL ROUTES:**

Temporary construction entrance and exit routes shall be provided by the permit holder in accordance with the approved plans and permit access at key points to the site or project to eliminate the problem of tracking mud and debris from the construction site onto private or public streets. (2001 Code § 81-3-040)

#### **11-3-5: CONSENT OF ADJACENT PROPERTY OWNERS:**

Whenever any land disturbance activity requires entry onto adjacent property for any reason, the land disturbance permit applicant shall obtain the written consent of the adjacent property owner or their authorized representative and shall file a copy of such consent with the city engineer before a land disturbance permit may be issued. (2001 Code § 81-3-050)

#### **11-3-6: CUTS AND FILLS:**

- A. Height: Except as otherwise provided herein, no finished fill slope shall exceed a vertical height of twenty five feet (25'). The city engineer may approve a fill slope in excess of twenty five feet (25') as deemed appropriate in his or her sole discretion based upon the circumstances and conditions of the proposed site and fill. Any fill slope proposed in excess of twenty five feet (25') shall be supported by documentation and a report prepared and signed by a professional engineering geologist and soils engineer attesting to the appropriateness, safety and stability of the proposed fill slope. Such documentation and report shall be prepared at the applicant's expense and shall address the need for and design of necessary measures to provide for the safety and stability of the proposed slope in accordance with the LDDCS.
- B. Slope: Except as otherwise provided herein, no cut or fill shall exceed a slope of two horizontal to one vertical (2:1). The city engineer may approve a cut or fill slope in excess of two horizontal to one vertical (2:1) as deemed appropriate in his or her sole discretion based upon the circumstances and conditions of the proposed site and the cut or fill in accordance with the LDDCS. Any cut or fill slope proposed in excess of two horizontal to one vertical (2:1) shall be supported by documentation and a report prepared and signed by a professional engineering geologist and soils engineer attesting to the appropriateness, safety and stability of the proposed cut or fill slope. Such documentation and report shall be prepared at the applicant's expense and shall address the need for and design of necessary measures to provide for the safety and stability of the proposed cut or fill slope.
- C. Unstable Material: The city engineer may require any cut or fill to be constructed with an exposed surface flatter than two horizontal to one vertical (2:1) when, in the city engineer's opinion, under the particular conditions, such flatter surface is deemed necessary for stability or safety.
- D. Fill Slope Limits: Toes of fill slopes shall not be made nearer to a property boundary line than one-half (1/2) of the height of the fill, or twenty feet (20'), whichever is less. Fill slopes shall not be divided horizontally by property lines. Fill slopes occurring on a side or rear lot line shall be made a part of the downhill lot.

- E. Intervening Terraces: When intervening terraces are used, terraces shall be paved using materials as approved by the city and shall have a minimum width of six feet (6'). Terraces shall be extensively landscaped in accordance with an approved landscaping plan. Terraces shall be spaced at vertical intervals of twenty five feet (25'); provided, however, for slopes less than forty feet (40') in vertical height, terraces shall be approximately at mid height. For slopes flatter than two horizontal to one vertical (2:1), or where soil conditions require, additional intervening terraces may be required.
- F. Compaction: All fills shall be placed, compacted, inspected and tested in accordance with the provisions of this title and the land disturbance design and construction standards. If the strict enforcement of the compaction provisions of this subsection is determined by the city engineer to be unnecessary because of the proposed or probable use of the land, the city engineer may waive the requirements. The requirements of this subsection shall not be waived when structures are to be supported by the fill, the fills are being placed in areas to be designated as hillside, or where the fills are necessary as a safety measure to aid in preventing the saturation, settling, slipping or erosion of the fill.
- G. Fills Toeing Out On Natural Slopes: Except as otherwise provided herein, no fills toeing out on natural slopes, which are steeper than two horizontal to one vertical (2:1) shall be permitted. The city engineer may approve such fills toeing out on natural slopes which are steeper than two horizontal to one vertical (2:1) as deemed appropriate in his or her sole discretion based upon the circumstances and conditions of the proposed site and fill. Any fill slope proposed to toe out on natural slopes which are steeper than two horizontal to one vertical (2:1) shall be supported by documentation and a report prepared and signed by a professional engineering geologist and soils engineer attesting to the appropriateness, safety and stability of the proposed fill. Such documentation and report shall be prepared at the applicant's expense and shall address the need for and design of necessary measures to provide for the safety and stability of the proposed fill.
- H. Combined Cut And Fill Slopes: Combined cut and fill slopes shall meet the requirements of this section insofar as steepness, height and terracing are concerned, except that, where the slope exceeds twenty five feet (25') in height, the required drainage bench shall be placed at the top of the cut slope.
- I. Setback: Fill placed on or above the top of an existing or proposed cut or natural slope steeper than three horizontal to one vertical (3:1) shall be set back from the top of the slope a minimum distance as required by the international building code, as adopted by the city, or such greater distance as approved by the city engineer based upon submitted reports and documentation for the project.
- J. Existing Fills: All existing manmade fills on any and all sites shall be properly evaluated by a soils engineer. If deficiencies exist, recommendations and design criteria for corrective measures shall be included within the soils engineering report.
- K. Measure Of Settlement: The city engineer or the building official may require the determination of the settlement characteristics of any fills to establish that any movements have substantially ceased. In such cases, a system of bench marks shall be installed by a civil engineer or land surveyor at critical points on the fill, and accurate measurements of both horizontal and vertical movements shall be taken and evaluated by the soils engineer for a period of time sufficient to define the settlement behavior. The evaluation period shall be monitored in accordance with the approved geotechnical report for the project.

L. Buttress Fills: All buttress fills shall be designed in accordance with the land disturbance design and construction standards and the recommendations and design criteria, including the subdrain system, submitted by the soils engineer or engineering geologist with the approval of the city engineer. (2001 Code § 81-3-060)

#### **11-3-7: EROSION CONTROL AND DRAINAGE DEVICES:**

BMPs, such as, but not limited to, intervening terraces, diverter terraces, vee channels, runoff computations, drainage dispersal walls, subdrains and site drainage, are to be provided and designed as indicated in the LDDCS. (2001 Code § 81-3-070)

#### **11-3-8: AREAS SUBJECT TO SLIDES AND UNSTABLE SOIL:**

A detailed evaluation shall be completed for all areas subject to slides or unstable soils by a soils engineer and/or engineering geologist, including design criteria for corrective measures. Exploratory work and/or reports may be required by the city engineer for such conditions in accordance with permit requirements set forth in chapter 2 of this title. (2001 Code § 81-3-080)

#### **11-3-9: PLANTING AND IRRIGATION OF CUT AND FILL SLOPES:**

All manufactured cut and fill slopes shall be planted and maintained until established. Temporary irrigation may be required in accordance with the provisions of this title and the LDDCS. The permit holder is responsible for operating and maintaining the irrigation system. (2001 Code § 81-3-090)

#### **11-3-10: IDENTIFICATION OF BUILDING ENVELOPE WITHIN HILLSIDE ORDINANCE DISTRICT:**

The permit holder shall indicate on the site plan or subdivision plat required for the site or project, the maximum building envelope, or area of ultimate land/vegetation disturbance, including designation of the building envelope's distance from the lot or site boundary lines, which will be caused by the proposed structure and its appurtenances. Prior to the beginning of any type of land disturbance or construction on a given lot, the contractor performing the work is responsible for identifying the building envelope in the field by marking of the building envelope perimeter. The building official may require markers to be surveyed when deemed necessary or appropriate. No land disturbance activity shall commence on the lot prior to inspection by the city building and safety division of the building envelope marking. (2001 Code § 81-3-100)

#### **11-3-11: PROPERTY LINE AND CORNER MARKERS:**

The permit holder shall ensure that property lines and corner survey markers are installed for the site or project. These markers are to include rebar placed at the back corners of each lot and markers placed on the curb for locating the side property lines. If curb and gutter do not exist, the front markers are to be placed in the road pavement. (2001 Code § 81-3-110)

#### **11-3-12: SLOPE PROTECTION EASEMENTS:**

The permit holder shall provide slope protection easements for all slopes constructed as part of the project. Slope protection easements shall be provided either through indicating them on the final plat or by separate recordable easement acceptable to the city. (2001 Code § 81-3-112)

### **11-3-13: LOTS GRADED TOWARD STREET FOR DRAINAGE:**

Except as otherwise provided herein, stormwater runoff from individual lots shall be directed toward the streets. Exceptions may be granted by the city engineer, when deemed appropriate and necessary, in accordance with the provisions of this section. Aesthetic reasons, such as the creation of view lots, shall not constitute sufficient reason for granting an exception. If the permit holder finds that draining stormwater toward the street is unobtainable, for a portion or all of the lot, the permit holder shall demonstrate to the city engineer that there are no other avenues for drainage of the stormwater. In such cases, the permit holder shall prepare a drainage plan which indicates how the stormwater will be disposed of from the lot, to either a city owned storm drain, a natural stream or channel, a manmade channel, other city approved facility or retained on site. The permit holder is responsible for obtaining the necessary approvals and permits for the discharge or retention of stormwater flows. The city engineer will determine if such alternate drainage is both necessary and appropriate. (2001 Code § 81-3-130)

### **11-3-14: LOTS WHICH CANNOT BE GRADED TOWARD STREET:**

- A. Approval Required: Lots that cannot be drained toward the street may be allowed to drain a portion of their stormwater runoff toward the rear of the yard, after review and approval by the city engineer. Prior to obtaining this approval, the permit holder shall prepare a drainage plan, which indicates how the stormwater will be disposed of from the lot, to either a city owned storm drain, a natural stream or channel, or manmade channel, or other city approved facility or retained on site. Such disposal is to be protected by a drainage easement dedicated for this purpose, and the facilities shall be subject to the bonding provisions set forth in chapter 4 of this title.
- B. Swales: Swales located in rear and side yards shall be of materials as approved by the city that will prevent erosion, and shall be a permanent feature of the lot and shall be shown in a drainage easement on the site plan or final plat for the project. An actual design drawing of the swale system shall be prepared and be included as part of the grading and drainage plan for the project. If slopes exist between lots, sufficient space shall be allowed to include a swale at the top of the slope and one at the bottom, all within dedicated storm drainage easements. Where stormwater is transferred from a lot of higher elevation to a lower lot in elevation, sufficient energy dissipation shall be constructed to reduce the water velocity to an acceptable level. Engineering calculations are to be submitted to the engineering department certifying the proposed design of the energy dissipation facilities as set forth in the LDDCS.
- C. Notice: Swales shall be constructed and in place before building permits are issued on subdivision lots. The developer shall notify the homebuilders and homeowners shall be notified of these drainage swale easements and the need to maintain them both during and after construction. Homeowners are to be notified by the developer of the installation of these side and rear yard swales through an acceptable instrument to the city. A notice of these drainage swale easements shall also be recorded on the subdivision plat for the project. After completion of the swales, the homeowners shall be responsible for maintenance of swales.
- D. Bonding: In the event these types of swales are used for the project, the developer shall provide sufficient bonding of these swales as part of the city's regular public improvement bonding, to ensure these facilities will be constructed.

E. Underground Facilities: The developer may select the option of designing and constructing underground drainage facilities to replace aboveground drainage swales if these facilities meet certain city requirements. These requirements include the design being approved by the engineering department, inclusion of these facilities within city approved drainage easements, maintenance of the system by a homeowners' association, and other requirements as may be deemed necessary by the city. (2001 Code § 81-3-140)

#### **11-3-15: MATERIALS FOR SIDE AND REAR YARD DRAINAGE:**

Side and rear yard swales and drainage facilities shall be designed into projects as an integral component of the stormwater system of the project which needs to transfer stormwater runoff from the rear and side yards to the street, or to other rear yard stormwater facilities. These swales or drain facilities shall be designed and constructed in such a way that they become a permanent feature of the side and/or rear yard and shall be constructed of a material as approved by the city which prevents erosion. Inspections of these swales or drain facilities shall be conducted during the subdivision construction phase of the project and during lot level development. Developers are to provide recorded drainage easements wide enough to provide for the possible slight field relocation of rear and side yard drainage swales, or other drainage facilities. At a minimum, the drainage easement shall be for the width of the swale plus two feet (2'). (2001 Code § 81-3-150)

#### **11-3-16: FLOW OF WATER FROM ONE LOT TO ANOTHER; LIMITED USE:**

In the case where stormwater flow is allowed to flow from a higher lot to a lower lot, in elevation, sufficient energy dissipation shall be designed and constructed to reduce the water velocity to an acceptable level to prevent erosion. The design and construction of these energy dissipation structures shall be approved by the engineering department in conjunction with the review and approval of the drainage plan for the project. (2001 Code § 81-3-160)

#### **11-3-17: LANDSCAPING OF CERTAIN LOTS FOR EROSION CONTROL:**

The city reserves the right to require that the lots be revegetated or stabilized prior to issuance of building permits or that lots be fully landscaped prior to the issuance of a certificate of occupancy, as part of the requirements of the project. The purpose of this requirement is to ensure that, for certain areas in the city which have soils susceptible to severe erosion, that erosion is controlled. The criteria to be used by the city are the size of the lot and sizes of adjacent lots, elevation differences between lots, and the type of soils in the project, along with other factors. A landscaping plan shall be submitted to the engineering department for approval prior to commencement of landscaping improvements required hereunder. (2001 Code § 81-3-170)

#### **11-3-18: EROSION CONTROL AND REVEGETATION:**

The developer is to indicate erosion control and revegetation BMPs to be used for the project on the project drawings and as part of the project descriptions included with the application in accordance with the city LDDCS. Erosion and sedimentation control measures will be inspected upon completion, during construction of the subdivision, and once the subdivision construction is complete. The engineering department will be responsible for these inspections. Once the subdivision level construction is complete and improvement work begins on individual lots, erosion and sedimentation control BMPs will be inspected prior to any disturbance, during construction and once lot level construction is complete. The building division will be responsible for these inspections. (2001 Code § 81-3-180)

**11-3-19: WET WEATHER PLAN:**

The city engineer may require that land disturbance activities and erosion control or revegetation plans be modified, if unforeseen delays occur due to weather generated problems not considered at the time the land disturbance permit was issued, including submission and approval of a wet weather plan. (2001 Code § 81-3-190)

**11-3-20: LAND DISTURBANCE DESIGN AND CONSTRUCTION STANDARDS:**

All land disturbance activities shall be conducted in accordance with the land disturbance design and construction standards, the hillside overlay district ordinance, the development processing manual, road and bridge design and construction standards, storm drainage and flood control design and construction standards, culinary water design and construction standards, and all other applicable ordinances, rules, regulations, standards and specifications of the city. (2001 Code § 81-3-200)

**11-3-21: LOT IMPERVIOUS SURFACE AREA DRAINAGE:**

All impervious surface areas on lots, including roofs and their drains, driveway pads and other such areas, are to be drained toward the street unless otherwise approved by the city engineer. (2001 Code § 81-3-210)

**11-3-22: RELATIONSHIP TO CONTAMINATED SOILS PROVISIONS:**

Title 5 of this code contains substantive environmental compliance requirements applicable to all subjects otherwise regulated by this code. Specifically, title 5, chapter 2 of this code applies to all land disturbance and land development applications filed with the city. Persons considering filing applications for land disturbance or land development should consult title 5, chapter 2 of this code, in addition to the applicable provisions of this title and titles 9, 10, 13 and 14 of this code. (2001 Code § 81-3-211)

## **Chapter 4**

# **FINANCIAL SECURITY**

### **11-4-1: REVEGETATION AND RESTORATION AGREEMENT AND FINANCIAL SECURITY:**

### **11-4-2: FINANCIAL SECURITY FOR REVEGETATION:**

### **11-4-3: FINANCIAL SECURITY FOR SITE RESTORATION:**

### **11-4-1: REVEGETATION AND RESTORATION AGREEMENT AND FINANCIAL SECURITY:**

Prior to issuance of a land disturbance permit, the applicant and city shall be required to enter into a revegetation and restoration agreement, in a form acceptable to the city, addressing revegetation and restoration requirements and providing financial security to ensure completion of the revegetation and restoration of the site. The applicant shall be required to complete all land disturbance activities, revegetation and restoration in accordance with the terms and conditions of the land disturbance permit, the approved plans, the revegetation and restoration agreement, and all applicable ordinances, resolutions, standards and specifications. (2001 Code § 81-4-010; amd. Ord. 14-07, 3-12-2014)

### **11-4-2: FINANCIAL SECURITY FOR REVEGETATION:**

Prior to issuance of a land disturbance permit for any land disturbance activity, including, without limitation, a clearing and grubbing limited land disturbance permit, the applicant shall be required to provide financial security to ensure installation and completion of all revegetation required by the land disturbance regulations. The financial security shall be equal to one hundred percent (100%) of the engineer's estimated cost to install and complete the required revegetation. Except as otherwise provided in this section, the financial security shall be administered and processed in accordance with the financial assurance provisions set forth in title 8 of this code. (2001 Code § 81-4-020; amd. Ord. 14-07, 3-12-2014)

### **11-4-3: FINANCIAL SECURITY FOR SITE RESTORATION:**

Prior to issuance of a land disturbance permit, except a clearing and grubbing limited land disturbance permit, the applicant shall be required to provide security to ensure completion of all restoration required by the land disturbance regulations. The financial security shall also include revegetation and shall be equal to ten percent (10%) of the city engineer's estimated cost of installing and constructing the public improvements for which the land disturbance permit is issued. The applicant or city may prepare a site restoration plan addressing, at a minimum, the following items: a) mass regrading of the site to restore preexisting or similar grading and topography; b) removal of incomplete facilities, such as pipes, asphalt, concrete, landscaping and appurtenances for which future use by others is determined by the city engineer to be unlikely; c) capping, backfilling, regrading and other work to protect in place incomplete facilities sufficient to preserve them for future master planned projects; d) filling and backfilling of trenches and other excavations; e) removal of hazardous conditions created by land disturbance activities; f) surveys, professional consultation and testing made necessary by incomplete land disturbance activities; g) preparation of as built drawings; and h) the estimated cost of each. If a site restoration plan prepared by the applicant or city is approved by the city engineer, the financial security for restoration shall be one hundred percent (100%) of the city engineer's estimated cost of the restoration improvements supported by the site restoration plan plus the cost of revegetation. Except as otherwise provided in this section, the financial security shall be administered and processed in accordance with the financial assurance provisions set forth in title 8 of this code. (2001 Code § 81-4-030; amd. Ord. 14-07, 3-12-2014)

## **Chapter 5**

### **INSPECTION**

- 11-5-1: PERMIT HOLDER SUPERVISION AND INSPECTION:**
- 11-5-2: CITY INSPECTIONS:**
- 11-5-3: ADDITIONAL INSPECTIONS OR TESTING:**
- 11-5-4: INSPECTION REQUESTS:**
- 11-5-5: DUTY TO KEEP WORK ACCESSIBLE AND EXPOSED:**
- 11-5-6: ENTRY ONTO PREMISES:**
- 11-5-7: CERTIFICATION OR APPROVAL:**
- 11-5-8: TRANSFER OF RESPONSIBILITY FOR CERTIFICATION:**
- 11-5-9: FINAL INSPECTION:**
- 11-5-10: BUILDING PERMITS:**
- 11-5-11: VALIDITY OF INSPECTION:**

#### **11-5-1: PERMIT HOLDER SUPERVISION AND INSPECTION:**

The land disturbance permit holder shall provide, at the permit holder's sole cost and expense, all required supervision, inspection and safety precautions before, during and after all land disturbance activities in accordance with the LDDCS and other applicable city ordinances, rules, regulations, standards and specifications regarding such activities. The land disturbance permit holder shall be required, at the permit holder's sole cost and expense, to design, inspect and certify all land disturbance activities at such intervals and in accordance with such design, inspection and certification standards and requirements provided in the land disturbance design and construction standards and other applicable city ordinances, rules, regulations, standards and specifications. Certain land disturbance activities may require continuous or constant inspection and supervision by a civil engineer or other authorized inspector, as a condition of the land disturbance permit or when deemed necessary by the city engineer, in accordance with the terms and conditions of this title and the LDDCS. (2001 Code § 81-5-010)

#### **11-5-2: CITY INSPECTIONS:**

In addition to permit holder inspections and certifications, all land disturbance activities shall be subject to city inspection as specified and required in the LDDCS, the hillside overlay ordinance, and other applicable city ordinances, rules, regulations, standards and specifications. The city may also make or require other inspections of land disturbance activities to ascertain compliance of such work with the land disturbance permit and applicable city ordinances, rules, regulations, standards and specifications, when deemed necessary by the city engineer, in accordance with the terms and conditions of this title and the LDDCS. (2001 Code § 81-5-020)

#### **11-5-3: ADDITIONAL INSPECTIONS OR TESTING:**

The city engineer may require additional inspections and/or testing of land disturbance activities by an approved testing agency when deemed necessary by the city engineer in accordance with the terms and conditions of this title and the LDDCS. Any such additional inspections and/or testing shall be at the permit holder's expense. (2001 Code § 81-5-030)

**11-5-4: INSPECTION REQUESTS:**

When inspections are required to be conducted by the city, the permit holder, or authorized agent of the permit holder, shall notify the city engineer in writing or by telephone that such work is ready for inspection at least one business day before the inspection is desired. (2001 Code § 81-5-040)

**11-5-5: DUTY TO KEEP WORK ACCESSIBLE AND EXPOSED:**

The permit holder shall cause the land disturbance activities and work to be accessible and exposed for inspection by the applicable required inspector until such inspection has been conducted and approved or certified, as applicable. The city, its officers, agents and employees, shall not be liable for any expense incurred by the permit holder in removing or replacing any materials or improvements required to allow inspection. (2001 Code § 81-5-050)

**11-5-6: ENTRY ONTO PREMISES:**

The city, and its authorized representatives, shall have access to the premises described in the land disturbance permit for the purpose of inspecting the progress of the work. (2001 Code § 81-5-060)

**11-5-7: CERTIFICATION OR APPROVAL:**

Inspections and certifications required to be made by the permit holder's engineer shall be conducted and certification of the same submitted to the city prior to further construction or land disturbance activities. Inspections required to be made by the city shall be conducted and approved by the city prior to further construction or land disturbance activities. (2001 Code § 81-5-070)

**11-5-8: TRANSFER OF RESPONSIBILITY FOR CERTIFICATION:**

If the land disturbance permit holder changes the civil engineer, the soils engineer, the engineering geologist, the contractor, or the testing agency of record during the course of permitted work, the land disturbance permit holder shall file an assignment and assumption agreement of the new engineer, contractor or testing agency responsible for certification of the site or project. Such assignment and assumption agreement shall be filed with and approved by the city engineer. (2001 Code § 81-5-080)

**11-5-9: FINAL INSPECTION:**

Final inspection of the permitted land disturbance activities shall be conducted by the city. No final inspection of permitted land disturbance activities shall be scheduled or conducted until and unless all work has been completed in accordance with the land disturbance permit, the final approved plans and specifications, and all applicable city ordinances, rules, regulations, standards and specifications, including, but not limited to, installation of all drainage facilities and protection devices, all required revegetation, and all required erosion and sediment control measures. No final inspection shall be scheduled or conducted until the permit holder has submitted, and the city has approved, a postconstruction maintenance schedule for the revegetation, erosion control and other required improvements. (2001 Code § 81-5-090)

**11-5-10: BUILDING PERMITS:**

No building permit or other development approval shall be given for any property, parcel, site or project for which a land disturbance permit has been issued until final inspection and approval has been given under the land disturbance permit. (2001 Code § 81-5-100)

**11-5-11: VALIDITY OF INSPECTION:**

Any inspection approval or certification shall not be construed to be an approval of a violation of any of the provisions of this title or any other applicable law, ordinance, rule, regulation, standard or specification. Inspections presuming to give such authority shall be deemed invalid. (2001 Code § 81-5-110)

## **Chapter 6**

# **ENFORCEMENT**

**11-6-1: RESPONSIBLE OFFICIALS:**

**11-6-2: VIOLATIONS:**

**11-6-3: REMEDIES AND ENFORCEMENT POWERS:**

**11-6-4: NOTICE OF VIOLATION (OR CITATION):**

**11-6-5: SUSPENSION OR REVOCATION OF LAND DISTURBANCE PERMIT:**

**11-6-6: NOTICE OF SUSPENSION OR REVOCATION:**

**11-6-7: CESSATION OF WORK:**

**11-6-8: DECISION OF SUSPENSION OR REVOCATION (REP. BY ORD. 12-10, 4-25-2012, EFF. 7-1-2012):**

**11-6-9: RIGHT OF ENTRY:**

**11-6-10: LIABILITY:**

**11-6-11: RIGHT TO STOP WORK:**

**11-6-1: RESPONSIBLE OFFICIALS:**

This title is to be enforced pursuant to the provisions set forth herein as applicable. The city engineer and other enforcement authorities are responsible for the enforcement of the provisions of this title. (2001 Code § 81-6-010)

**11-6-2: VIOLATIONS:**

A. Violations Enumerated: No person shall fail, refuse or neglect to comply with the following:

1. Provisions of this title and land disturbance permits issued in accordance with this title;
2. Orders issued by the city engineer or the building official pursuant to the provisions of this title;
3. Conditions imposed on land disturbance permits pursuant to the provisions of this title; and
4. Rules and regulations of the office of the city engineer with respect to grading, which were in effect at the time the land disturbance permit was issued.

B. Continuing Violation: Each and every day, or portion thereof, during which any violation of any of the provisions of this title is committed, continued, or land disturbance permitted, shall be considered a separate offense. (2001 Code § 81-6-015)

**11-6-3: REMEDIES AND ENFORCEMENT POWERS:**

A. No Limitation: Nothing herein is intended to limit or prohibit the enforcement of this code or other applicable laws through civil or criminal process where the city has determined that enforcement of the procedures outlined in these sections will not result in effective redress, where there have been repeated violations of the provisions of this title, or where the severity of the violation warrants redress through civil or criminal action.

B. Sanctions Available: The following sanctions shall be available to redress violations of the provisions of this title:

1. Issuance of a notice of violation or citation;
2. Revocation or suspension of land disturbance permits, conditional use land disturbance permits or plan, or other approvals issued by city;
3. The placement of requirements for corrective action on land disturbance permits, licenses or other entitlements issued by city as a condition of the land disturbance permit, license or entitlement;
4. Requiring the responsible permit holder to post a bond, irrevocable letter of credit, or other adequate security to ensure compliance with the provisions of this title or other applicable laws;
5. Withholding of permits, certificates or other forms of authorization pertaining to any land where there exists an uncorrected violation of this title;
6. Issuance of a stop work order.

C. Penalty: Violation of any of the provisions of this title shall, upon conviction, be punishable as a class C B misdemeanor.

D. Other Remedies; Remedies Cumulative: The city shall have such other remedies as are and as may be from time to time provided by state law or city ordinance for the violation of any provision of this title. Remedies shall be cumulative.

E. Level Of Sanction Determined: At the time of issuance of a notice of violation, the enforcement authority will determine the appropriate level of sanction and will provide written notice to the responsible person of the proposed level of sanction and the reasons therefor as outlined herein.

F. Multiple Violations: Where multiple violations have occurred or are occurring, each violation of the provisions of this title or other applicable laws is subject to a separate sanction. The city may take into account the number and severity of violations in determining the type of action to take against the offending party. (2001 Code § 81-6-020)

#### **11-6-4: NOTICE OF VIOLATION (OR CITATION):**

- A. When a violation is discovered, and the responsible permit holder has not been issued a previous notice of violation for the same violation within the past twelve (12) months, the authorized enforcement official shall issue a notice of violation in order to notify the responsible person of the violation and to order that the violation be corrected. An emergency order may accompany the notice including a stop work order that orders the responsible person to immediately cease all work on the project until the violation is corrected. In the alternative, a citation may be issued (2001 Code § 81-6-030; amd. Ord. 12-10, 4-25-2012, eff. 7-1-2012)

#### **11-6-5: SUSPENSION OR REVOCATION OF LAND DISTURBANCE PERMIT:**

An authorized enforcement official may suspend or revoke a land disturbance permit and/or suspend any land disturbance activity, by following the procedures in ~~title 1, chapter 14, article C title 16~~ of this code, if:

- A. Conditions at the site vary from those shown on the approved plans;
- B. Construction does not conform to the approved plans, time schedules, or conditions of the land disturbance permit;
- C. The work does not comply with applicable ordinances, rules, regulations and standards;
- D. The site is left in a condition hazardous to the public or to the adjacent properties, and the land disturbance permit holder does not comply with reasonable requirements to correct said conditions;
- E. The land disturbance permit holder does not comply with reasonable requirements to safeguard the workers, the public, or other persons acting in a lawful manner;
- F. The land disturbance permit holder, in connection with the operations for which the land disturbance permit was issued, fails to operate equipment properly on public roads; allows material to encroach into, obstruct, or be deposited within a public road right of way or within a drainage channel in a manner not authorized by said land disturbance permit; or causes unauthorized obstruction or diversion of drainage channels;
- G. The land disturbance permit holder fails to have a qualified, city approved inspector working under the supervision of a civil engineer on the site during operations, when so required by the land disturbance permit, or fails to have the work under proper supervision;
- H. Emergency conditions exist on the site, which constitute a threat to health, safety or public welfare, whether or not caused by the actions of the land disturbance permit holder; or
- I. The land disturbance permit holder has been issued a notice of violation and has failed to correct the violation within the time specified. (2001 Code § 81-6-040; amd. Ord. 12-10, 4-25-2012, eff. 7-1-2012)

## **11-6-6: NOTICE OF SUSPENSION OR REVOCATION:**

- A. Prior to the suspension or revocation of a land disturbance permit, an authorized enforcement official shall give the land disturbance permit holder written notice of violation pursuant to ~~title 1, chapter 14, article G~~ ~~title 16~~ of this code indicating intention to suspend or revoke the land disturbance permit. With the consent of the land disturbance permit holder, the time periods called for in ~~title 1, chapter 14, article G~~ ~~title 16~~ of this code may be shortened or extended.
- B. Where an unacceptable level of risk to public health, safety and welfare would incur from any delay, the notification deadlines may be disregarded and an authorized enforcement official may act decisively to reduce or eliminate the hazard. In such a situation, the emergency order procedures of ~~title 1, chapter 14, article G~~ ~~title 16~~ of this code will be followed. Costs, including additional city staff time and equipment, shall be borne by the land disturbance permit holder. (2001 Code § 81-6-050; amd. Ord. 12-10, 4-25-2012, eff. 7-1-2012)

## **11-6-7: CESSATION OF WORK:**

Upon receipt of an emergency order under ~~title 1, chapter 14, article G~~ ~~title 16~~ of this code, the land disturbance permit holder is to cease all work in connection with the land disturbance permit, with the exception of work necessary to correct any condition cited in the notice of violation. The time necessary for completion of these emergency corrections will be determined by the city engineer. (2001 Code § 81-6-060; amd. Ord. 12-10, 4-25-2012, eff. 7-1-2012)

## **11-6-8: DECISION OF SUSPENSION OR REVOCATION:**

(2001 Code § 81-6-070; Rep. by Ord. 12-10, 4-25-2012, eff. 7-1-2012)

## **11-6-9: RIGHT OF ENTRY:**

In the administration and enforcement of this title, any duly authorized official or employee of the city shall have authority to enter upon the premises of the permitted site for the purposes of investigation and inspection; provided, however, that such right of entry shall be exercised at reasonable times. No land disturbance permit holder shall refuse to allow such inspection. In the case where the responsible person is not a land disturbance permit holder, the enforcement authority is to provide twenty four (24) hours' written notice of the intent to inspect, except in emergency situations or when consent has been obtained of the owner and/or occupant of the site to be inspected. The notice shall state that the property owner has the right to refuse entry and that, in the event such entry is refused, inspection may be made only upon issuance of a search warrant as allowed by law. (2001 Code § 81-6-080)

## **11-6-10: LIABILITY:**

Neither issuance of grading approval under the provisions of this title, nor compliance with the provisions of this title, or with any conditions imposed in a land disturbance permit issued under the provisions of this title, is to relieve any person from responsibility for damage to any person or property or impose any liability upon the city for damage to any person or property. (2001 Code § 81-6-100)

## **11-6-11: RIGHT TO STOP WORK:**

Nothing herein is to be construed as indicating that the city cannot immediately stop the work being performed if, in the opinion of the city engineer, the damage being done is of such a nature that it requires immediate cessation of the work. This could result in the bypassing of the normal processes of notices and increasing levels of enforcement, which will typically be followed. (2001 Code § 81-6-110)