



PROVO MUNICIPAL COUNCIL

Work Meeting

2:00 PM, Tuesday, June 04, 2019

Room 310, City Conference Room

351 W. Center Street, Provo, UT 84601

Agenda

Roll Call

Prayer

Redevelopment Agency

1. A discussion regarding a resolution authorizing the Chief Executive Officer to enter into a lease agreement with Blue Sky Development to allow them to utilize parking spaces for a pending mixed-use project at 105 East Center Street. (19-070)

Business

2. A discussion regarding an update to Provo City Code Title 10 making amendment to the Sewer and Water Chapters of the Title. (19-072)
3. A discussion regarding the repeal of Provo City Code Section 2.60.040 (19-071)
4. A discussion regarding an appropriation for a temporary apparatus facility during the relocation of Fire Station #2 (19-073)

Budget Committee

5. A discussion regarding Fire Department budget requests. (19-004)
6. A discussion regarding the Provo City Citizens' Budget. (19-004)

Policy Items Referred from the Planning Commission

7. A discussion on a code amendment request to Section 14.38.085(7) to clarify limitations on signage within the North University Riverbottoms Design Corridor. City-wide application. (PLOT20190026)

Closed Meeting

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or

reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with § 52-4-204 and 52-4-205 et. seq., Utah Code.

Adjournment

Informal discussion may be held in the Council Conference Room between 4:30 PM and 5:30 PM.

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.org or using their contact information listed at: <http://provo.org/government/city-council/meet-the-council>

Materials and Agenda: agendas.provo.org

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To send comments to the Council or weigh in on current issues, visit OpenCityHall.provo.org.

The next scheduled Council Meeting will be held on 6/18/2019 12:00:00 PM at 6/18/2019 12:00:00 PM in the Council Chambers, 351 West Center Street, Provo, unless otherwise noticed. The Work Meeting start time is to be determined (typically between 12:00 and 4:00 PM) and will be noticed at least 24 hours prior to the meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aides and services) during this meeting are invited to notify the Provo Council Office at 351 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email evanderwerken@provo.org at least three working days prior to the meeting. The meeting room in Provo City Center is fully accessible via the south parking garage access to the elevator. Council meetings are broadcast live and available for on demand viewing at youtube.com/user/ProvoCityCouncil.

Notice of Telephonic Communications

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

Notice of Compliance with Public Noticing Regulations

This meeting was noticed in compliance with Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

Network for public internet access: *Provo Guest*, password: *provoguest*

Set ____ of 3 originals

LEASE AGREEMENT

This is a legal and binding contract. Before signing, read the entire document, including the general printed provisions and attachments. If you have any questions before signing, consult your attorney and/or accountant.

THIS LEASE AGREEMENT (hereinafter the "Lease") is made and entered into as of the 21st day of February 2018 by and between Provo City Redevelopment Agency Center, LLC whose address is 351 West Center Street, Provo UT 84601 (hereinafter "Landlord") and 105 Partners, LLC, whose address is 5532 W Parkway West Highland Utah, 84003 ("hereinafter "Tenant").

W I T N E S S E T H:

In consideration of the rents, covenants and agreements hereinafter set forth, Landlord and Tenant mutually agree as follows:

ARTICLE I: PREMISES

Landlord hereby leases and demises to Tenant and Tenant hereby leases from Landlord that certain real property located in Utah County, State of Utah and more particularly described fifty five (55) parking stalls to be located in the _____ level of parking garage (shown in exhibit A) attached to the Wells Fargo Lifestyle Center Building located at 86 North University Avenue Provo, Utah 84601 as further described in Exhibit A (hereinafter the "Parking Stalls"), together with all buildings and other improvements now or hereafter located thereon and affixed thereto (hereinafter collectively "Improvements"), and any and all privileges, easements, and appurtenances belonging thereto or granted herein. The Parking Stalls and the Improvements are hereinafter collectively referred to as the "Premises". Landlord also grants to Tenant that right ingress and egress to the Parking Stalls in and through the parking garage and all its common areas.

ARTICLE II: TERM COMMENCEMENT

2.1 Term of Lease. This Lease shall be for a term of fiftytwoy-four-- (5024) years commencing within fifteen (15) days of the Tenant receiving a certificate of occupancy from Provo City on the building to be built by Tenant at 105 East Center Street, Provo, (hereinafter the "Commencement Date"). This Lease shall terminate ninty-nintwenty-foure (5024) years from such Commencement Date unless sooner terminated pursuant to the terms, covenants and conditions of this Lease or pursuant to law.

2.1.1. Conditions. This Lease shall be contingent upon Tenant obtaining construction financing sufficient to develop and construct a six story building on the adjacent property commonly known as RedSky-Blue Sky (the "Project").

2.2 Delivery of Possession. Possession of the Premises shall be delivered and transferred to Tenant on the Commencement Date.

The allocated spaces shall be noted on Exhibit A of this Lease Agreement

2.3 Lease Year. The term "Lease Year" as used in this Lease shall mean a period of twelve (12) full consecutive calendar months. The first Lease Year commences on the Commencement Date.

ARTICLE III: RENT

3.1 Payment of Annual Base Rent. Beginning on the Commencement Date, Tenant shall pay to Landlord "Annual Base Rent", which shall be due and payable on the Commencement Date of each Lease Year.

3.2 Annual Base Rent. The "Annual Base Rent" payable each Lease Year shall be as follows:
(a) \$1 per stall or \$660 per year for years one through two (1-2);
(b) \$5 per stall or \$3,300 per year for years three through five (3-5);
(c) \$10 per stall or \$6,600 per year for years six through ten (6-10),
(d) \$30 per stall or \$19,800 per year for years eleven through twenty five (11-25);
~~(e) \$50 per stall or \$33,000 per year for years twenty-six through fifty (26-50).~~

ARTICLE IV: LATE CHARGES AND INTEREST

If Tenant fails to pay any Annual Base Rent when such Annual Base Rent is due and payable in accordance with Article III of this Lease or if Tenant fails to pay any additional amounts or charges of any character which are payable under this Lease, Landlord, at Landlord's election, may assess and collect a late fee charge equal to five percent (5%) of each payment of rent not received within thirty (30) days from the date such rent payment is due. The due date by which Annual payments must be received in the office of the Landlord, before the 5% late penalty is assessed, shall be fourteen (14) days following the Payment of Annual Base Rent.

Furthermore, and in addition to any late charges payable pursuant to the provisions of this Article, to the extent that any payment of Annual Base Rent or any other amount payable to Landlord by Tenant pursuant to any provision of this Lease is more than thirty (30) days past due, Tenant shall pay Landlord interest at the rate of eighteen percent (18%) per annum on all such past due amounts.

ARTICLE V: SECURITY DEPOSIT

On the Commencement Date, Tenant shall deposit with Landlord the sum of **\$5,000** (hereinafter the "Security Deposit"). The Security Deposit shall be held by Landlord for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the term of this Lease. If Tenant defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of Annual Base Rent, and any costs, expenses, and charges payable under the provisions of this Lease, Landlord may, but shall not be obligated to use, apply or retain all or a part of the Security Deposit for the payment of any amount which Landlord may spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant

shall, within ten (10) days after written demand, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount; and Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep the Security Deposit separate from Landlord's general funds, and Tenant shall not be entitled to interest on the Security Deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by Tenant, the Security Deposit or any balance thereof shall be returned to Tenant or, at Landlord's option, to the last permitted assignee of Tenant's interest under this Lease within thirty (30) days of the expiration of the term of this Lease and after Tenant or Tenant's permitted assignee has vacated the Premises or within fifteen (15) days of receipt of Tenant's new mailing address, whichever is later. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer the Security Deposit to Landlord's successor in interest whereupon Tenant agrees to release Landlord from liability for the return of the Security Deposit or any accounting therefore.

ARTICLE VI: QUIET ENJOYMENT

Landlord hereby covenants to Tenant that, subject to Tenant's compliance with the terms and provisions of this Lease, Tenant shall peaceably and quietly hold and enjoy the full possession and use of the Premises during the term of this Lease.

ARTICLE VII: TAXES, ASSESSMENTS AND OTHER CHARGES

Landlord shall pay all taxes and other assessments that may be charged to or associated with the Premises.

ARTICLE VIII: UTILITIES

Landlord shall pay for all utility costs, charges and assessments charged to or associated with the Premises

ARTICLE IX: INSURANCE

9.1 Tenant's Insurance Coverage. Tenant shall, at all times during the term of this Lease, and at Tenant's own cost and expense, procure and continue in force Comprehensive liability insurance with limits of not less than \$500,000.00 per person and \$500,000.00 per occurrence insuring against any and all liability of the insured with respect to the Premises or arising out of the maintenance, use or occupancy thereof, and property damage liability insurance with a limit of not less than \$500,000.00 per accident or occurrence.

9.2 Landlords Insurance Coverage: Landlord shall at all times during the term of this lease, and at Landlords own cost and expense, procure and continue in force insurance covering any buildings and all improvements on the Premises, including Tenant's leasehold improvements and personal property in or upon the Premises in an amount not less than one hundred percent (100%) of full replacement cost, providing protection against any peril generally included within the classification "Fire and Extended Coverage", together with insurance against sprinkler damage, vandalism and malicious mischief and a standard inflation guard endorsement.

9.3 Waiver of Subrogation. To the extent permitted under the insurance policies obtained by Landlord, if any, and Tenant, Landlord and Tenant each hereby waive any and all right of recovery against the other or against the officers, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of such loss or damage.

9.4 Landlord Named As Additional Insured. Tenant shall require Landlord to be an additional named insured

ARTICLE X: USE OF PREMISES

10.1 Use. The Premises shall be used and occupied by Tenant solely for 68 stalls of parking space and for no other purpose without the prior written consent of Landlord, which consent may be withheld by Landlord in Landlord's sole discretion. The 68 parking stalls shall be designated by the Landlord and Tenant (as shown in exhibit A), and marked accordingly as reserved exclusively for Tenant's use. Parking outside of the designated spaces shall be prohibited. Landlord shall not be responsible or liable to police the Tenant's parking space.

10.2 Prohibited Uses.

(a) Tenant shall not do or permit anything to be done in or about the Premises, nor bring or keep anything therein which will cause a cancellation of any insurance policy covering the Premises, nor shall Tenant sell or permit to be kept, used or sold in or about the Premises any articles which may be prohibited by a standard form policy of fire insurance unless Tenant provides additional insurance coverage extending protection to cover all risks associated with these articles.

(b) Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or which may hereafter be enacted, promulgated or created. Tenant shall, at Tenant's sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar body now or hereafter constituted relating to or affecting the use or occupancy of the Premises, including structural changes that relate to or affect the use

(c) Tenant shall comply with all requirements of any recorded restrictive covenants or bylaws of any association affecting the Premises. Tenant acknowledges receipt of a copy of the Declaration of Covenants, Conditions and Restrictions and a copy of the Bylaws of the Condominium Owners' Association affecting the Premises.

(d) Tenant shall not permit smoking on the Premises at any time.

ARTICLE XI: MAINTENANCE AND REPAIRS

11.1 Landlord's Maintenance and Repairs. During the Term of the Lease, Landlord, at Landlord's expense, shall keep the Premises in good order and condition and shall maintain and shall make any and all repairs and replacements to the interior surfaces of the Premises (including, but not limited to, paving, curbing, parking stall paint markings, traffic signs, and traffic paint signs, , window coverings, and wall coverings), all windows and glass which are part of the Premises, all light fixtures, and all doors to the Premises.. Landlord shall, at all times, and at Landlord's expense, keep the Premises in a neat, clean, and sanitary condition and shall comply with all valid federal, state, county and city laws and ordinances and all rules and regulations of any duly constituted authority, present or future, affecting or respecting the use or occupancy of the Premises by Tenant. Subject to the provisions of Article XIV below, Landlord shall, during the Term of this Lease, maintain and make necessary structural repairs to the Premises

11.2 Tenant's Maintenance and Repairs. Tenant, at 's expense, shall repair any damage to the Premises caused by Tenant, or Tenant's employees, agents, contractors, invitees, licensees, customers, or clients.

ARTICLE XII: HAZARDOUS SUBSTANCES

12.1 Environmental Compliance. Tenant (a) shall at all times comply with, or cause to be complied with, any "Environmental Law" (hereinafter defined) governing the Premises or the use thereof by Tenant or any of Tenant's employees, agents, contractors, invitees, licensees, customers, or clients, (b) shall not use, store, generate, treat, transport, or dispose of, or permit any of Tenant's employees, agents, contractors, invitees, licensees, customers, or clients to use, store, generate, treat, transport, or dispose of, any "Hazardous Substance" (hereinafter defined) on the Premises without first obtaining Lessor's written approval, (c) shall promptly and completely respond to, and clean up, in accordance with applicable laws and regulations, any Release (as hereinafter defined) occurring on the Premises as a direct result of actions of Tenant or Tenant's employees or authorized agents; and (d) shall pay all costs incurred as a result of any failure by Tenant to comply with any Environmental Law, which failure results in a Release or other change in the environmental state, condition, and quality of the Premises necessitating action under applicable Environmental Laws, including with limitation the costs of any Environmental Cleanup Work (hereinafter defined) and the preparation of any closure or other required plans (all of the foregoing obligations of Tenant under this Section 12.1 are hereinafter collectively "Tenant's Environmental Obligations"). Landlord hereby releases and indemnifies Tenant from and against any and all claims, damages, or liabilities (including, without limitation, attorneys' fees and reasonable investigative and discovery costs) resulting from the environmental condition or quality of the Premises prior to the Commencement date or from actions of Landlord or its agents or employees. The provisions of this Article XII shall survive the expiration or other termination of this Lease.

12.2 Definitions. As used in this Lease (a) "Hazardous Substance" shall mean (1) any "hazardous waste", "hazardous substance", and any other hazardous, radioactive, reactive, flammable, infectious, solid wastes, toxic or dangerous substances or materials, or related materials, as defined in, regulated by, or which form the basis of liability now or hereafter under any Environmental Law; (2) asbestos, (3) polychlorinated biphenyls (PCBs); (4) petroleum products or materials; (5) underground storage tanks, whether empty or filled or partially filled with any substance; (6) flammable explosives, (7) any substance the presence of which on the Premises is or becomes prohibited by Environmental Law; (8)

urea formaldehyde foam insulation; and (9) any substance which under Environmental Law requires special handling or notification in its use, collection, storage, treatment or disposal; (b) "Environmental Cleanup Work" shall mean an obligation to perform work, cleanup, removal, repair, remediation, construction, alteration, demolition, renovation or installation in or in connection with the Premises in order to comply with any Environmental Law; (c) "Environmental Law" shall mean any federal, state or local law, regulation, ordinance or order, whether currently existing or hereafter enacted, concerning the environmental state, condition or quality of the Premises or use, generation, transport, treatment, removal, or recovery of Hazardous Substances, including building materials, and including, but not limited to, the following: (1) the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), as amended, and all regulations promulgated thereunder; (2) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq.), as amended, and all regulations promulgated thereunder; (3) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), as amended, and all regulations promulgated thereunder; (4) the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.), as amended, and all regulations promulgated thereunder; (5) the Clean Air Act (42 U.S.C. Section 7401, et seq.), as amended, and all regulations promulgated thereunder; (6) the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), as amended, and all regulations promulgated thereunder; and (7) the Occupational Safety and Health Act (29 U.S.C. Section 651, et seq.), as amended, and all regulations promulgated thereunder; and (d) "Release" means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, presence, dumping, migration on or from the Premises or adjacent property, or disposing of Hazardous Substances into the environment.

ARTICLE XIII: FIXTURES AND ALTERATIONS

13.1 Alterations. Tenant shall not make any physical alteration in the Premises or any of the fixtures located therein or install or cause to be installed any trade fixtures, exterior signs, floor coverings, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the Improvements front without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. Tenant shall present to Landlord plans and specifications for the installation of any improvements or fixtures at the time approval is sought from Landlord. Any physical change and all rearrangements which are made by Tenant with the approval of Landlord shall be made at Tenant's expense. Such alterations, decorations, additions and improvements shall not be removed from the Premises during the term of this Lease without the prior written consent of Landlord. Upon expiration of this Lease all such alterations, decorations, additions and improvements shall at once become the property of Landlord. Notwithstanding the foregoing, Tenant may number and designate Parking Stalls as reserved for Tenants exclusive use to reasonably restrict parking in the Parking Stalls to Tenant and Tenants' invitees.

ARTICLE XIV: DAMAGE OR DESTRUCTION

14.1 Landlord to Repair Improvements. Subject to the provisions of Sections 11.1; 14.2 and 14.3, if during the term of this Lease any of the Improvements are damaged or destroyed by fire or other casualty, Landlord shall repair or restore the Improvements. The work of repair or restoration, which shall be completed with due diligence, shall be commenced within a reasonable time after the damage or loss occurs. To the extent that such damage or destruction interferes with Tenant's ability to use the Premises, as determined by Landlord, rent shall be abated after the damage or destruction of the Improvements until the repair or restoration of the Improvements has been completed.

14.2 Landlord's Option to Terminate Lease. Notwithstanding anything to the contrary in this Article XIV, in the event that any of the Improvements are damaged or destroyed by fire or other casualty, Landlord shall have the right to terminate this Lease, which termination shall be deemed to be effective as of the date of such casualty, upon the occurrence of any of the following events:

- (a) Insurance proceeds payable with respect to such damage or destruction are not sufficient to pay for the repair and/or restoration of the Improvements;
- (b) Repair and restoration of the Improvements cannot be completed within sixty (60) days after the occurrence of the casualty causing such damage or destruction;
- (c) More than thirty percent (30%) of the Improvements have been damaged or destroyed by such casualty.

Landlord's option to terminate the Lease pursuant to the provisions of this Section 14.2 must be exercised within thirty (30) days of the date of the casualty causing such damage or destruction by written notice from Landlord to Tenant. In the event that Landlord elects to terminate the Lease pursuant to this Section 14.2, Tenant shall immediately surrender possession of the Premises to Landlord and shall assign to landlord (or if the same has already been received by Tenant, pay to Landlord) all of Tenant's right, title, and interest in and to the insurance proceeds payable with respect to the Premises.

14.3 Tenant's Option to Terminate Lease. If no default by Tenant under this Lease has occurred and is then continuing and if no event has occurred and is then continuing which, with the giving of notice or lapse of time, or both, would become such a default, Tenant shall, if the Improvements are damaged or destroyed by fire or other casualty and repair or restoration of the Improvements cannot be completed within sixty (60) days following the occurrence of the casualty causing such damage or destruction, have the option of terminating this Lease by written notice to Landlord, which termination shall be deemed to be effective as of the date of the casualty. Tenant's option to terminate the Lease pursuant to the provisions of this Section 14.3 must be exercised within thirty (30) days of the date of the casualty causing such damage or destruction. In the event that Tenant elects to terminate this Lease pursuant to this Section 14.3, Tenant shall immediately surrender possession of the Premises to Landlord and shall assign to landlord (or if the same has already been received by Tenant, pay to Landlord) all of Tenant's right, title, and interest in and to the insurance proceeds payable with respect to the Premises.

ARTICLE XV: CONDEMNATION

If all or any part of the Premises is taken or appropriated for public or quasi-public use by right of eminent domain with or without litigation or transferred by agreement in connection with such public or quasi-public use, Landlord and Tenant shall each have the right within thirty (30) days of receipt of notice of taking, to terminate this Lease as of the date possession is taken by the condemning authority; provided, however, that before Tenant may terminate this Lease by reason of taking or appropriation, such taking or appropriation shall be of such an extent and nature as to substantially handicap, impede or impair Tenant's use of the Premises. No award for any partial or entire taking shall be apportioned, and Tenant hereby assigns to Landlord any award which may be made in such taking or condemnation, together with any and all rights of Tenant now or hereafter arising in or to the award or any portion thereof; provided, however, that nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any award made to Tenant for the taking of personal property and fixtures belonging to Tenant, for the interruption of or damage to Tenant's business and for Tenant's unamortized cost of leasehold improvements. In the event of a partial taking which does not result in a termination of this Lease, rent shall be abated in the proportion which the part of the Premises so made unusable bears to the rented area of the Premises immediately prior to the taking. No temporary taking of the Premises or Tenant's right therein or under this Lease shall terminate this Lease or give Tenant any right to any abatement of rent thereunder; and any award made to Tenant by reason of any such temporary taking shall belong entirely to Tenant, and Landlord shall not be entitled to any portion thereof.

ARTICLE XVI: ASSIGNMENT AND SUBLETTING

16.1 Assignment Permissible. Tenant may not assign, convey or transfer this Lease or any interest therein, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, ~~except in the case where Tenant sells the Project, Tenant may assign this Lease to the new owner of the Project ("Assignee") without consent of the Landlord.~~ Tenant will take all necessary care and consideration to ensure that the Assignee is a well-qualified party and is financially capable of fully performing under the terms and conditions of this Lease. It is understood that Tenant may, without violating the terms of this agreement, sublease the Parking Stalls to commercial tenants in the Project.

16.2 Effect of Assignment, Sublet, or Transfer. In the event that the Tenant assign or subleases some or all of the Parking Stalls to its tenant in the Project, but Tenant remains the owner of the Project, Tenant shall not be relieved of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, assignment or subletting. Notwithstanding the foregoing, if Tenant assigns all its rights under the Lease as part of the sale or conveyance of the Project to a new owner, Tenant, upon such assignment, transfer, or conveyance, shall no longer be obligated or liable under this Lease.

ARTICLE XVII: SUBORDINATION, ATTORNMENT AND ESTOPPEL CERTIFICATES

17.1 Subordination. This Lease at Landlord's option shall be subject and subordinate to the lien of any mortgages or deeds of trust in any amount or amounts whatsoever now or hereafter placed on or against the Premises, the Improvements, or on or against Landlord's interest or estate therein, without the

necessity of the execution and delivery of any further instruments on the part of Tenant to effectuate such subordination. Notwithstanding anything to the contrary in this Article XVII, this Lease shall remain in full force and effect for the full term hereof, including any extensions, so long as Tenant is not in default hereunder.

17.2 Subordination Agreements. Tenant shall execute and deliver upon demand without charge therefore, such further instruments evidencing such subordination of this Lease to the lien of any such mortgages or deeds of trust as may be required by Landlord.

17.3 Attornment. In the event of any foreclosure or the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises or the Building, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease, provided said purchaser expressly agrees in writing to be bound by the terms of this Lease.

17.4 Estoppel Certificates. Tenant shall, from time to time and within ten (10) days from receipt of prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing (a) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect and the date to which the rent and other charges are paid in advance, if any, (b) certifying that the Lease and any modifications of this Lease constitute the entire agreement between Landlord and Tenant with respect to the Premises and, except as set forth in this Lease and any modification of this Lease, Tenant does not claim any right, title, or interest in or to the Premises or any part thereof, (c) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults, if any are claimed, and (d) certifying such other matters with respect to the Lease and/or the Premises as Landlord may reasonably request.

17.5 Failure to Deliver Certificate. If Tenant fails to deliver such statement within the time period referred to in Section 17.4 above, it shall be deemed conclusive upon Tenant that the (a) this Lease is unmodified and in full force and effect, (b) this Lease constitutes the entire agreement between Landlord and Tenant with respect to the Premises and, except as set forth in this Lease, Tenant does not claim any right, title, or interest in or to the Premises, or any part thereof, (c) there are no uncured defaults in Landlord's performance of Landlord's obligations under this Lease, and (d) not more than one month's Annual Base Rent has been paid in advance.

17.6 Transfer of Landlord's Interest. In the event of a sale or conveyance by Landlord of Landlord's interest in the Premises other than a transfer for security purposes only, Landlord shall be relieved from and after the date specified in any such notice of transfer of all obligations and liabilities to Tenant which accrue after such sale or conveyance on the part of Landlord, provided that any funds in the possession of Landlord at the time of transfer in which Tenant has an interest shall be delivered to the successor Landlord. This Lease shall not be affected by any such sale or transfer and Tenant shall attorn to the purchaser or other transferee provided that all of Landlord's obligations accruing hereunder from and after such sale or transfer are assumed in writing by such purchaser or transferee.

ARTICLE XVIII: DEFAULT AND REMEDIES

18.1 Default. The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant:

(a) Any failure by Tenant to pay the Annual Base Rent, or any other monetary sums required to be paid under this Lease, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant;

(b) Any material false statement made by Tenant to Landlord or its agents in any document delivered to Landlord in connection with the negotiation of this Lease.

(c) The abandonment or vacation of the Premises by Tenant;

(d) A failure by Tenant to observe and perform any other term, covenant or condition of this Lease to be observed or performed, by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of the default is such that the default cannot reasonably be cured within the thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within the thirty (30) day period commence action to cure the default and thereafter diligently prosecute the same to completion;

(e) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

18.2 Nonexclusive Remedies. In the event of any such material default or breach by Tenant, Landlord shall have, in addition to any other remedies provided in this Lease, the following nonexclusive remedies:

(a) At Landlord's option and without waiving any default by Tenant, Landlord shall have the right to continue this Lease in full force and effect and to collect all Annual Base Rent, and any other amounts to be paid by Tenant under this Lease as and when due. During any period that Tenant is in default, Landlord shall have the right, pursuant to legal proceedings or pursuant to any notice provided for by law, to enter and take possession of the Premises, without terminating this Lease, for the purpose of reletting the Premises or any part thereof and making any alterations and repairs that may be necessary or desirable in connection with such reletting. Any such reletting or relettings may be for such term or terms (including periods that exceed the balance of the term of this Lease), and upon such other terms, covenants and conditions as Landlord may in Landlord's sole discretion deem advisable. Upon each and any such reletting, the rent or rents received by Landlord from such reletting shall be applied as follows: (1) to the payment of any indebtedness (other than rent) due hereunder from Tenant to Landlord; (2) to the payment of costs and expenses of such reletting, including brokerage fees, reasonable attorney's fees, court costs, and costs of any alterations or repairs; (3) to the payment of any Annual Base Rent and any other

amounts due and unpaid hereunder; and (4) the residue, if any, shall be held by Landlord and applied in payment of future Annual Base Rent and any other amounts as they become due and payable hereunder. If the rent or rents received during any month and applied as provided above shall be insufficient to cover all such amounts including the Annual Base Rent and any other amounts to be paid by Tenant pursuant to this Lease for such month, Tenant shall pay to Landlord any deficiency; such deficiencies shall be calculated and paid Annual. No entry or taking possession of the Premises by Landlord shall be construed as an election by Landlord to terminate this Lease, unless Landlord gives written notice of such election to Tenant or unless such termination shall be decreed by a court of competent jurisdiction. Notwithstanding any reletting by Landlord without termination, Landlord may at any time thereafter terminate this Lease for such previous default by giving written notice thereof to Tenant.

(b) Terminate Tenant's right to possession by notice to Tenant, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including without limitation the following: (1) all unpaid rent which has been earned at the time of such termination plus (2) the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (3) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or in addition to or in lieu of the foregoing such damages as may be permitted from time to time under applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in Landlord's sole discretion deems reasonable and necessary.

ARTICLE XIX: INDEMNITY

Tenant shall indemnify and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of Tenant, or any of Tenant's agents, contractors, employees, licensees or invitees and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Tenant shall not, however, be liable for damage or injury occasioned by the negligence or intentional acts of Landlord and Landlord's designated agents or employees. Tenant's obligations under this Article XX shall survive the expiration or other termination of this Lease.

ARTICLE XX: SURRENDER

21.1 Surrender. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, together with the Improvements and all other property affixed to the Premises, excluding Tenant's fixtures, in good order and condition, ordinary wear and tear excepted. Tenant shall, prior to the expiration or other termination of this Lease remove all personal property belonging to Tenant and failing to do so, Landlord may cause all of said personal property to be removed at the cost and expense of Tenant. Tenant's obligation to observe and perform this covenant shall survive the expiration or other termination of this Lease. In the alternative, Landlord may, at Landlord's option,

treat any and all items not removed by Tenant on or before the date of expiration or of the termination of this Lease as having been relinquished by Tenant and such items shall become the property of Landlord with the same force and effect as if Tenant had never owned or otherwise had any interest in such items.

ARTICLE XXI: MISCELLANEOUS

23.1 Signs. Tenant's parking space shall be designated on the actual stall by the Tenant.

23.2 Parking Spaces. Tenant shall be entitled to the use of only the reserved parking spaces so designated in Exhibit "A".

23.3 Entire Agreement. This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and this Lease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. All prior or contemporaneous oral agreements between and among Landlord and Tenant and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Lease.

23.4 Severability. If any term or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

23.5 Costs of Suit. If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorney's fees whether or not such action is prosecuted to judgment.

23.6 Time and Remedies. Time is of the essence of this Lease and every provision hereof. All rights and remedies of the parties shall be cumulative and nonexclusive of any other remedy at law or in equity.

23.7 Binding Effect, Successors and Choice of Law. All time provisions of this Lease are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate Section of this Lease. Subject to any provisions restricting assignment or subletting by Tenant as set forth in Article XVI, all of the terms hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of Utah.

23.8 Waiver. No term, covenant or condition of this Lease shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any term, covenant or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the

same or any other term, covenant or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any term, covenant or condition unless otherwise expressly agreed to by Landlord in writing.

23.9 Holding Over. If Tenant remains in possession of all or any part of the Premises after the expiration of the term of this Lease, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term, and in such case, rent and other sums due hereunder shall be payable at one hundred fifty percent (150%) of the Annual Base Rent in effect immediately prior to such holdover period.

23.10 Recording. No copy of this Lease will be recorded on behalf of either party, but in lieu thereof, Landlord and Tenant agree that each will, upon the request of the other, execute, in recordable form, a "short form" of the Lease, which "short form" shall contain a description of the Premises, the term of the Lease, the parties to the Lease. The "short form" of the Lease shall not modify the terms of the Lease or be used in interpreting the Lease and in the event of any inconsistency between this Lease and the "short form" of the Lease, the terms and conditions of this Lease shall control.

23.11 Reasonable Consent. Except as limited elsewhere in this Lease, wherever in this Lease Landlord or Tenant is required to give consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld. In the event of failure to give any such consent, the other party shall be entitled to specific performance at law and shall have such other remedies as are reserved to such party under this Lease.

23.12 Notice. Any notice required to be given under this Lease shall be given in writing and shall be delivered in person or by registered or certified mail, postage prepaid, and addressed to the addresses for Landlord and Tenant set forth above. Such notice shall be deemed delivered when personally delivered or upon deposit of the notice in the United States mail in the manner provided above.

23.13 No Partnership. Landlord does not, as a result of entering into this Lease, in any way or for any purpose become a partner of Tenant in the conduct of Tenant's business, or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

Exhibits: This lease agreement has four exhibits attached and made a part thereof.

Exhibit A – Designation of the Parking Stalls under this Lease Agreement
Exhibit B- Annual Base Rental Schedule

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

**LANDLORD: PROVO CITY REDEVELOPMENT AGENCY
CENTER, LLC**

BY: _____

TENANT: 105 PARTNERS, LLC

BY: _____

EXHIBIT A
(PARKING STALLS MAP)

1 RESOLUTION 2019-.

2
3 A RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO
4 ENTER INTO A LEASE AGREEMENT WITH BLUE SKY DEVELOPMENT
5 TO ALLOW THEM TO UTILIZE PARKING SPACES FOR A PENDING
6 MIXED-USE PROJECT AT 105 EAST CENTER STREET. (19-070)
7

8 WHEREAS, Blue Sky Development has a pending mixed-use project for development at
9 105 East Center Street in Provo and is interested in leasing 55 of the stalls currently owned by
10 the Redevelopment Agency in the Wells Fargo Tower; and,
11

12 WHEREAS, the RDA and Blue Sky Development have negotiated a proposed agreement
13 on the terms of the lease; and,
14

15 WHEREAS, on June 4, 2019, the Governing Body met to ascertain the facts regarding
16 this matter and receive public comment, which facts and comments are found in the public
17 record of the Council's consideration; and
18

19 WHEREAS, after considering the facts presented to the Governing Body of the RDA, the
20 Governing Body of the Redevelopment Agency finds (i) the RDA should enter into a lease
21 agreement for the parking stalls according to the terms described in Exhibit A, and (ii) the lease
22 of the stalls by Blue Sky Development reasonably furthers the health, safety and general welfare
23 of the citizens of Provo City.
24

25
26 NOW, THEREFORE, be it resolved by the Redevelopment Agency of Provo City Board
27 of Directors, as follows:
28

29 PART I:
30

- 31 1. The Chief Executive Officer is authorized to enter into a lease of parking stalls
32 to Blue Sky Development according to the terms in Exhibit A.
- 33 2. The Chief Executive Officer of the Agency or designee is authorized to sign
34 any paperwork necessary to effectuate the deal and to make minor changes to
35 the language and wording of the documents provided such changes do not
36 involve the structure of the deal.
37

38 PART II:
39

40 This resolution shall take effect immediately.
41

42 END OF RESOLUTION.



Provo City (*Redevelopment Agency*)

Staff Memorandum

Blue Sky Development Parking Agreement

May 7, 2019

Department Head David Walter 6167 Presenter David Walter 6167 Required Time for Presentation 15 Minutes Is This Time Sensitive No Case File # (if applicable)	Purpose of Proposal • Resolution approving a draft parking license agreement with Blue Sky Development and authorizing the Chief Executive Officer of the Redevelopment Agency to sign the agreement when finalized Action Requested • Adopt Resolution Relevant City Policies • Business and Economic Vitality • Support Economic Development • Downtown Revitalization Budget Impact • Provo Redevelopment Agency will receive lease payments from Blue Sky totaling \$295,020 over the term of the lease. Description of this item • Staff has been working with McKay Christensen on a proposed mixed-use development at the corner of Center Street and 100 East. The ground floor will be commercial and the remaining floors will be residential with a mix of studio, one- and two-bedroom apartments. Mr. Christensen intends to provide all the necessary parking for his project in a parking structure at the center of the complex. However, the cost to provide parking onsite for his commercial uses is proving to be cost prohibitive. • Mr. Christensen is requesting he be allowed to utilized a
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portion of the 204 parking spaces allocated to the Redevelopment Agency in the Wells Fargo parking structure. As you will recall, the Redevelopment Agency approved 63 East using 40 of those spaces for the residents of 63 East.

- Mr. Christensen is requesting the use of 55 stalls and is willing to pay rent under the following terms:
 - (a) \$1 per stall or \$660 per year for years one through two (1-2);
 - (b) \$5 per stall or \$3,300 per year for years three through five (3-5);
 - (c) \$10 per stall or \$6,600 per year for years six through ten (6-10),
 - (d) \$30 per stall or \$19,800 per year for years eleven through twenty-four (11-24)
- The current parking facility agreement expires in 2044. The agreement is a draft since we have not yet received approval from the court appointed trustee for the parking structure to submit the agreement and obtain approval for the parking agreement. We have reached out to the law firm that represented the trustee but both that attorney and his associate are no longer working with the firm. Staff is working to find the representative of the trustee and will finalize the agreement as soon as possible. We are presenting this tonight to give assurances to Mr. Christensen's lenders that he will have the requisite parking for his commercial uses.
- Staff recommends approving the attached resolution approving a draft parking license agreement with Blue Sky Development and authorizing the Chief Executive Officer of the Redevelopment Agency to sign the agreement when finalized.

Attachments:
Resolution
Draft Agreement

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: JMCKNIGHT
Department: Public Works
Requested Meeting Date: 06-04-2019

SUBJECT: A discussion regarding an update to Provo City Code Title 10 making amendment to the Sewer and Water Chapters of the Title. (19-072)

RECOMMENDATION: Ordinance changes to Title 10 of City Code

BACKGROUND: Changes to Title 10 - Water Resources Chapters 10.02 (Water Service - General Provisions), 10.03 (Sewer Service - General Provisions), and 10.04 (Pre-treatment Program). These changes update the code to create consistency with the development guidelines and comply with State and Federal regulations.

FISCAL IMPACT: None

PRESENTER'S NAME: Dave Decker

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
Updates Title 10 of City Code

CITYVIEW OR ISSUE FILE NUMBER: 19-072

CHAPTER 10.02

Water Service - General Provisions.

- 10.02.005. Supervision
- 10.02.010. Spring Protection Zone.
- 10.02.020. Protection of Water Transmission Line.
- 10.02.030. Water ~~Main Line Extensions.~~Development Standards
- 10.02.040. Temporary Water Main Connections.
- 10.02.050. Reimbursement for Water Main Line Extensions.
- 10.02.060. Maintenance of Water Mains and Service Connections.
- ~~10.02.070. Service Line Connections.~~
- 10.02.080. Separate Service Lines Required.
- ~~10.02.090. Abandoned Service Lines.~~
- ~~10.02.100. Water Meter - When Required.~~
- ~~10.02.110. Water Meter - Location.~~
- ~~10.02.120. Water Meter Installation.~~
- ~~10.02.125. Temporary Water Service During Construction.~~
- 10.02.130. Use of Unmetered Water.
- 10.02.140. Tampering with Meter or Meter Box.
- 10.02.150. Turning On After Being Turned Off Prohibited.
- 10.02.160. Wasting Water.
- ~~10.02.170. Cost of Pumping Water.~~
- 10.02.180. Use and Regulation of Fire Hydrants and Valves.
- 10.02.190. Shutting Off Water - City Liability.
- 10.02.200. Director to Have Free Access.
- ~~10.02.210. Fire Service Lines.~~
- 10.02.220. Scarcity of Water - Mayor's Proclamation.
- 10.02.230. Water Service Outside of City Limits.
- 10.02.240. Water User Fees.
- 10.02.250. Water Connection Fees.
- 10.02.260. Credit for Abandoned Water Service Connections.
- 10.02.270. Cross Connection Control and Backflow Prevention.

10.02.005. SUPERVISION.

Water services shall be under the supervision and control of the Water Resources Division Director (Director) ~~or designee of the Department of Public Works.~~ -(Am 2007-13)

10.02.010. SPRING PROTECTION ZONE.

Concentrated sources of pollution shall not be allowed within spring protection zones. Spring protection zones include all land within one thousand five hundred (1,500) feet of a spring collection area which is at an elevation equal to, or higher than, the spring collection area as well as all land within one hundred (100) feet of a spring collection area which is at an elevation lower than the spring collection area. Concentrated sources of pollution include, but are not limited to, septic tanks, drain fields, garbage dumps, pit-privies, corrals, etc. Specially constructed sewer lines maybe permitted within spring protection zones at the discretion of the Director. Such sewer lines may be permitted no less than ~~nt~~ three hundred (300) feet from a spring on all lands equal to or above the spring elevation, or, on land below the spring elevation, such sewer lines may be permitted no less than thirty (30) feet from the spring. The provisions of this Section shall be superseded by State or Federal regulations which may be adopted from time to time.

46 **10.02.020. PROTECTION OF WATER TRANSMISSION LINE.**

47 No person shall establish, construct, or maintain any structure ~~including field drains, septic tanks, pit privies,~~
48 nearer than ~~fifty-twenty~~ (5250) feet to any Provo City water transmission main eighteen (18) inch and larger,
49 ~~twenty-four (24) inch, thirty (30) inch, thirty-six (36) inch, or forty-eight (48) inch water transmission main~~
50 without first procuring written permission for the same from the Director.

51 **10.02.030. WATER DEVELOPMENT STANDARDS-MAIN LINE EXTENSIONS.**

52 (1) All water lines and appurtenances in Provo shall be installed per Utah Administrative Code R309-500
53 through R309-550, Provo Development Standards as listed in Section 15.03.020 and those referenced in
54 other applicable sections city, state, and federal code. A developer of a project which requires the extension
55 of water main lines shall pay the cost of such an extension. A developer who pays the cost of a water main line
56 extension may have the right of reimbursement described in this Chapter.

57 (2) All subdivisions shall have a complete water distribution system installed before such subdivisions are
58 accepted by the City. The design and construction of such a water distribution system shall be approved by
59 the Director and the City Engineer before such system is installed. The subdivider shall install the water
60 distribution system at the subdivider's own expense for all water mains which are eight (8) inches in
61 diameter or less. The system shall include a feeder from the nearest adequately supplied point in the City
62 water distribution system. In case a larger diameter than eight (8) inches is recommended by the Director,
63 the City will pay the difference in cost between an eight (8) inch diameter main and the larger diameter main
64 actually installed.

65 (3) When any street is to be paved from curb to curb with a permanent type of pavement, a six (6) inch or
66 larger water main shall be installed in that street prior to the paving of the street. The cost of installation of
67 such water main shall be borne by the property to be benefited by the water main.

68 (4) No person shall construct or cause to be constructed any water main line extension without first having
69 plans for said main line extension approved by the Director and the City Engineer.

70 (5) If a person installs a water main line extension to serve a parcel of property, said main line extension shall
71 extend completely across the parcel of property being developed. (Am 2006-49)

72 **10.02.040. TEMPORARY WATER MAIN CONNECTIONS.**

73 Temporary water main connections are not allowed.

74 When water service is required by an owner of real property on which there now exists or is planned for
75 immediate construction a dwelling, other structure or improvement requiring domestic water service, and
76 there is no water main adjacent to the property, the Department may grant permission to the applicant to
77 have a service connection and meter set at the nearest existing water main. The applicant must agree in
78 writing to the following conditions: To pay all costs of installation and maintenance of a pipeline from the
79 service connection and meter to the property and assume all responsibility, liability for, and the payment of
80 all costs and damages growing out of the installation, operation or failure of the pipeline. The connection and
81 pipeline shall be installed and used as a temporary arrangement only. No water shall be conveyed through it
82 for the use of any residence or property other than the property for which it was originally intended to serve
83 under the agreement. On written demand of the Department the applicant must bear the applicant's
84 proportionate share of the costs of such main extension and at the applicant's expense shall install a regular
85 domestic water service, and shall discontinue the use of the temporary service connection and pipeline. (Am
86 2006-49)

87 **10.02.050. REIMBURSEMENT FOR WATER MAIN LINE EXTENSIONS.**

88 Any person who incurs the expense of installing a main line or trunk line in a street or easement which is
89 adjacent to the property of another may receive reimbursement of part of that expense as follows:

90 (1) The party installing the line shall enter into a written reimbursement agreement with the City before the
91 line is completed.

(2) If within ten (10) years from the date of the reimbursement agreement, a party connects to the line described above, the party who installed the water line shall at the time of the connection receive a reimbursement from the City in the amount ~~described in Subsection (3) of this Section~~ shown in the Consolidated Fee Schedule. The amount of money to be paid by the connecting party shall be the amount described in Consolidated Fee Schedule ~~Subsection (3) of this Section~~. The money paid by a connecting party pursuant to this Section is separate from and in addition to the payment of water connection fees. In no event shall the right of reimbursement exceed the amount actually collected by the City from the connecting party.

~~(3) The reimbursement payment for a water line shall be at the rate of eighteen dollars (\$18.00) per foot of frontage or nine dollars (\$9.00) for each side of adjacent property to the street or easement in which the water main line is located. In addition Provo City shall collect an additional one dollar (\$1.00) per foot or fifty cents (\$0.50) each side for administrative expenses.~~

~~(4) This Section shall have retroactive application to water main lines or trunk lines constructed in the past as well as those constructed hereafter.~~

~~(5)~~ If Provo City installs at City expense a water mainline, Provo City may receive reimbursement from connecting parties pursuant to this Section as though the City were a private party. The agreement described in Subsection (1) of this Section shall not be required for reimbursement to the City.

~~(6)~~ The provisions of this Section shall apply to new main line extensions benefitting property not previously serviced, and shall not apply to instances of water main line replacement where water service has previously been provided.

~~(7)~~ The reimbursement payment described ~~in Subsection (3) of this Section~~ herein shall be paid at the time the building permit is issued. The rate of reimbursement ~~per front foot~~ shall be the rate which is in effect at the time the payment is made. (Am 1989-60, Am 1994-52, Am 2006-49)

10.02.060. MAINTENANCE OF WATER MAINS AND SERVICE CONNECTIONS.

The obligations of the City and users of City water with respect to the maintenance of water mains and the service connections therefrom shall be as follows:

(1) All water mains and the service connections therefrom, including all piping inside the meter box, which are located on public property shall be maintained by the City, except that the City will not maintain a service connection at any point between the meter box and the facility it serves. All such service connections shall be kept in good repair and free from leaks by the owner of the property serviced. Said service connections shall be maintained in such a condition as to be able to withstand normal maintenance to the meter, yoke, and service connection between the meter and the ~~C~~city's water main.

(2) Water mains and the service connections therefrom which are located on private property shall be maintained by the owner thereof and not by the City, ~~provided, however, that w~~Water mains which are in an approved easement on private property ~~but and~~ are part of the City water distribution system shall be maintained by the City. ~~Repairs to said lines shall be at the expense of the owner and shall be performed by the owner when reasonably requested by the City. Prior to installation of private water mains, the Owner shall enter into a Private Utility Maintenance Agreement with the City.~~ Water service to or through mains or service connections on private property may be discontinued if the owner of said lines fails or refuses to repair the same when reasonably requested by the City.

(3) The City shall maintain all water meters including those on private property. The City shall have the right to enter onto private property to inspect, repair or replace water meters.

10.02.070. SERVICE LINE CONNECTIONS.

~~(1) No service line connections shall be made to Provo City's water distribution system or to main water lines on private property without authorization of the department. The party making the connection shall be required to obtain a permit for the same and to pay the fees associated with that permit as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

(2) Water Service connections including the main line tap, service line, meter box, yoke, ring and lid, may be installed by a qualified and licensed plumber or a pre-qualified utility contractor at the expense of the owner. The owner may elect to have the City install the water service connection. (Am 2006-15, Am 2006-49)

10.02.080. SEPARATE SERVICE LINES REQUIRED.

(1) Service lines must be so arranged that the supply to each separate house or premises may be controlled by a separate valve, placed within and near the line of the street curb.

(2) Where water is now supplied through one service, to ~~one (1) or more than one more~~ houses or ~~persons~~ multiple owners, the Director may, either refuse to furnish water until separate services are provided, or may continue to supply on condition that a financially responsible person shall pay for all water used through the service.

10.02.090. ABANDONED SERVICE LINES.

Whenever a water service line is abandoned in favor of a different service line, the old service line shall be disconnected from the main line and the old service tap shall be plugged at the main line. The cost of all such work shall be the responsibility of the owner of the property being serviced by the new water service line. Any work described in this Section shall be inspected by Provo City before backfilling.

10.02.100. WATER METER - WHEN REQUIRED.

Whenever a new service line is installed connecting any premises to an unmetered private line which is supplied water from the water mains of Provo City, or whenever a service pipe is connected directly to the water system of said City, a water meter must be installed.

10.02.110. WATER METER - LOCATION.

All water meters shall be installed in easily accessible locations selected by the Director.

10.02.120. WATER METER INSTALLATION.

Water meters shall be furnished and installed by Provo City. Water meters shall not be installed until newly installed main lines have been pressure tested, disinfected, and approved and service lines, including meter boxes and appurtenances, have been inspected and approved. No meters shall be installed until all applicable fees have been paid including water connection fees and main line extension fees as appropriate.

10.02.125. TEMPORARY WATER SERVICE DURING CONSTRUCTION.

Where a water service line and meter box is reasonably available, temporary water meters may be furnished and installed by the City for use during a construction project. The City shall charge a one (1) time fee for the installation of the temporary water meter at the time the building permit is issued. The fee charged shall be set by the Director, in an amount designed to recover labor and material costs associated with installation of the temporary meter and the value of the estimated water to be used at the construction site. (Enacted 1995-14)

10.02.130. USE OF UNMETERED WATER.

Use of unmetered water through any service line, main line, or fire hydrant is prohibited unless authorized by the ~~department~~ Director. Use of a "jumper" in place of a meter to convey water through a service line is at all times prohibited.

10.02.140. TAMPERING WITH METER OR METER BOX.

(1) It shall be unlawful for any person to tamper with, modify, or deface in any manner a water meter or meter box.

(2) Modifications or connections to piping inside the meter box are prohibited, specifically sprinkler system connections inside the meter box or at any point on the service line between the meter and the distribution main are prohibited. Any such connections shall be removed at the expense of the owner of the property being served.

10.02.150. TURNING ON AFTER BEING TURNED OFF PROHIBITED.

It shall be unlawful for any person after the water has been turned off from such person's premises because of non-payment of rates or other violation of the rules and regulations pertaining to the water supply, to turn on or allow the water to be turned on, or use or allow the water to be used, without permission from the Director. (Am 2006-49)

10.02.160. WASTING WATER.

It shall be unlawful for any water user to waste water, or to allow it to be wasted by imperfect stops, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants, faucets or stops, or through basins, water closets, urinals, sinks or other apparatus, or to use the water for purposes other than those for which the user has paid or to use water in violation of the rules and regulations for controlling the water supply and the provisions of this Title. (Am 2006-49)

10.02.170. ~~COST OF PUMPING WATER.~~

~~Individual home booster pumps are not allowed as indicated in R309-540-5(4)(c). Whenever it becomes necessary to pump water to a home owner whose property is within or without the City limits, the cost of the pump or pumps and the installation thereof, together with the cost of operation, shall be borne by the home owner, and all water shall be metered at the City outlet below the pressure pump. No pumps shall be installed unless the pumps shall have a capacity to create a pressure of twenty (20) pounds or more per square inch at the highest meter where the water shall be delivered.~~

10.02.180. USE AND REGULATION OF FIRE HYDRANTS AND VALVES.

It shall be unlawful for any person, without obtaining prior permission from the department, to turn on, turn off, operate or tamper with any fire hydrant or any valve constituting a part of the City water system for any purpose whatsoever. In addition to the criminal punishment hereinafter provided, any person violating this provision shall be liable for all ensuing damages to valves and to private property.

10.02.190. SHUTTING OFF WATER - CITY LIABILITY.

Provo City reserves the right at any time, without notice, to shut off the water from its mains for the purpose of making repairs or extensions or for other purposes, and no claim shall be made against the City, by reason of any breakage whatsoever, or for any damage that may result from the shutting off of water for repairing, laying or relaying mains, hydrants, or other connections, or for any other reason whatsoever.

10.02.200. DIRECTOR TO HAVE FREE ACCESS.

Free access shall at all ordinary hours be allowed to the Director, or other authorized persons, to all places supplied with water from the City water system, to examine the apparatus, the amount of water used, the manner of its use, and to make all necessary shutoffs for vacancy, delinquency and violations of this Title.

10.02.210. FIRE SERVICE LINES.

~~Private fire service lines designed to provide fire protection to a building or buildings shall be constructed according to Provo City specification at the expense of the owner of the building being serviced. Maintenance associated with such fire service lines shall also be at the expense of said owner. Water service lines and meters may be connected to fire service lines when approved by the Director where said metered service lines are intended to provide metered water to the same building being service by the fire service line.~~

220 **10.02.220. SCARCITY OF WATER - MAYOR'S PROCLAMATION.**

221 (1) In the event of scarcity of water, whenever it shall, in the judgment of the Municipal Council be necessary,
222 the Mayor shall by proclamation limit the use of water for other than domestic purposes, to such extent as
223 may be required for the public good.

224 (2) It shall be unlawful for any person, ~~family, servant~~ or agent to violate any proclamation made by the
225 Mayor in performance of this Section, and if any violation thereof shall occur, then in addition to any other
226 penalty therefor the water supply to the premises upon which such violation occurs shall be shut off, and if
227 shut off on that account, it shall not be turned on again until the payment of the uniform turn-on fee. (Am
228 2006-49)

229 **10.02.230. WATER SERVICE OUTSIDE OF CITY LIMITS.**

230 (1) Where there is a surplus of water, the City may at its discretion, sell such surplus to users outside of the
231 City at a ~~rate specified in the Consolidated Fee Schedule adopted by the Municipal Council.~~~~price and on such~~
232 ~~terms as may, from time to time, be established by the Municipal Council.~~ All main lines must be installed by
233 the applicant, the type, and construction to be approved by the Director. Individual connections from the
234 main lines will be made in accordance with ~~the provisions of this chapter~~ all applicable City standards.

235 (2) The furnishing of such surplus water to users outside the City shall not constitute a vested right in such
236 water, and the Director may at any time, in the Director's sole discretion, terminate such service.

237 (3) As a condition to providing any water service outside of the City limits, the non-city resident or business
238 customer shall consent to any action to annex the property being served into Provo City. Failure of the
239 customer to consent to annexation shall be sufficient grounds to terminate water service. (Am 2006-49)

240 (43) Main line extension fees and water connection fees charged for the connection of property outside the
241 city limits shall be the same as those within the city limits as shown on the Consolidated Fee Schedule
242 adopted by the Municipal Council. (Am 1988-56, Am 1992-70, Am 1994-42, Am 1994-88, Am 2005-51, Am
243 2006-15, Am 2006-16)

245 **10.02.240. WATER USER FEES.**

246 (1) Water user fees shall be charged as shown on the Consolidated Fee Schedule adopted by the Municipal
247 Council.

248 ~~(2) All monthly water service rates charged customers outside the corporate limits of Provo City shall be at~~
249 ~~double the rate above provided for services within the corporate limits of Provo City.~~

250 ~~(3) Main line extension fees and water connection fees charged for the connection of property outside the city~~
251 ~~limits shall be the same as those within the city limits as shown on the Consolidated Fee Schedule adopted by~~
252 ~~the Municipal Council. (Am 1988-56, Am 1992-70, Am 1994-42, Am 1994-88, Am 2005-51, Am 2006-15, Am~~
253 ~~2006-16)~~

254 **10.02.250. WATER CONNECTION FEES.**

255 (1) ~~When the City furnishes all materials and provides all labor associated with the service connection,~~
256 ~~including main line tap, service line to nearest property line, meter, yolk, meter box, ring and lid, the charges~~
257 ~~shall be as~~ Connection fees for water are shown on the Consolidated Fee Schedule adopted by the Municipal
258 Council and are due prior to permits for site work being issued.

259 (2) Meter installations ~~eight (8) inches and~~ larger than eight (8) inches shall be installed for the actual cost of
260 labor, equipment, and materials including appropriate overhead charges as set by the Director. The estimated
261 cost for each installation shall be deposited in cash with the City ~~in advance~~ at the time the permit is issued
262 and any difference in cost shall be reimbursed to or collected from the customer at the completion of the
263 installation.

~~(3) When the main line tap, service line, yolk, meter box, ring, and lid is installed by others and the City furnishes and installs the meter only, charges shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

~~(4) The charges described in Subsections (1) and (3) above shall be paid when a building permit is issued. (Am 1994-42, Am 1994-88, Am 1997-43, Am 1999-64, Am 2005-09, Am 2006-15)~~

10.02.260. CREDIT FOR ABANDONED WATER SERVICE CONNECTIONS.

If one (1) or more water service connections is abandoned in favor of a different or larger service connection a credit shall be given equal to the difference between the impact fee-availability charge for the new or larger service(s) and the impact fee-availability charge for the old or smaller service(s) ~~as described in Section 10.02.250, Provo City Code as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~ In no case shall the credit given be greater than the availability charge-impact fee for the new or larger service(s) line. (Am 1994-10)

10.02.270. CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION.

(1) It shall be unlawful at any place supplied with water from the Provo City Water Distribution System to do any of the following:

(a) to install or use any physical connection or arrangement of piping or fixtures which may allow any fluid or substance not suitable for human consumption to come in contact with potable water in the Provo City Water Distribution System;

(b) to install any connection, arrangement, or fixtures without using a backflow prevention device or assembly designed to prevent a violation of Subsection (1)(a) of this Section. Any such device or assembly must be approved for installation by the Provo City Division of Water Resources with respect to each application; or

(c) to install any backflow prevention device or assembly described in Subsection (1)(b) of this Section which is not installed as required in the Utah Plumbing Code.

(2) Officers and employees of Provo City shall have the right to enter any place which is supplied with water from the Provo City Water Distribution System and conduct a hazard survey or any other examination or test reasonably necessary to the enforcement of this Section.

(3) Any user of water from the Provo City Water Distribution System, and not Provo City, shall pay all costs of installation and testing of backflow prevention devices or assemblies.

(4) Backflow prevention devices or assemblies required by this Section shall be tested not less than once each year by a technician certified by the Drinking Water Board of the State of Utah. Test results shall be furnished to the Provo City Division of Water Resources.

(5) Water service may be discontinued to any user who is found to be in violation of this Chapter and who fails to take corrective action within ten (10) days after violation notification, except that water service may be discontinued immediately if an immediate threat to the water supply exists.

(6) Any person who violates the provisions of this Section shall be civilly liable to Provo City, and to third persons other than Provo City, for all damage proximately caused by said violation. (Enacted 1991-05, Am 2010-13)

CHAPTER 10.03

Sewer Service - General Provisions.

- 10.03.010. Responsibilities of Director.
- 10.03.020. Duties and Powers of the Director.
- 10.03.030. Sewer ~~Main Line Extensions~~Development Standards.
- 10.03.040. Reimbursement For Sewer Main Line Extensions.
- 10.03.050. Maintenance of Sewer Mains.
- 10.03.060. Installation and Maintenance of Sewer Laterals.
- ~~10.03.070. Abandonment of Sewer Laterals.~~
- 10.03.080. Mandatory Hookup to Sewers.
- 10.03.090. Privies, Cesspools, and Septic Tanks.
- 10.03.100. Wastes from Septic Tanks and Cesspools.
- 10.03.110. Discharge of Storm Water.
- 10.03.120. Waters and Wastes Prohibited in Public Sewers.
- 10.03.130. Grease, Oil and Sand Interceptors.
- 10.03.140. Maintenance of Grease, Oil and Sand Interceptors.
- 10.03.150. Preliminary Treatment Facilities.
- 10.03.160. Maintenance of Preliminary Treatment Facilities.
- 10.03.170. Control Manhole for Sampling and Measurement of Wastes.
- 10.03.180. Standards for Measurements, Tests and Analyses.
- 10.03.190. Acceptance of Industrial Waste Under Special Agreement.
- 10.03.200. Right of Entry for Inspection.
- 10.03.210. Sewer Connection.
- 10.03.220. Credits for Existing Sewer Laterals.
- 10.03.230. Sewer User Fees.
- 10.03.240. Metering Where Water Not Supplied By City.
- 10.03.250. Metering Where Water Not Discharged to Sewer.
- 10.03.260. Sewer Service Outside of City Limits.

10.03.010. RESPONSIBILITIES OF DIRECTOR.

The sewer system shall be under the supervision and control of the Water Resource Division Director-~~(Director)~~ or ~~designee of the Department of Public Works~~. (Am 1998-56, Am 2005-51)

10.03.020. DUTIES AND POWERS OF THE DIRECTOR.

The Director shall in performance of official duties have authority to examine any building in which plumbing is installed. When upon examination, any plumbing or connection thereto in any building or other structure, shall be adjudged by the Director to be dangerous to life or health ~~or when the Utah County Health Department shall make such a determination~~, the Director shall immediately notify the owner, or person in charge of such building or structure, or the owner's agent, or the occupant thereof to have the same repaired or replaced within ten (10) days thereafter. (Am 2006-49)

10.03.030. SEWER ~~MAIN LINE EXTENSIONS~~DEVELOPMENT STANDARDS.

(1) All sewer lines and appurtenances in Provo shall be installed per Utah Administrative Code R317-3, Provo Development Standards as listed in Section 15.03.020 and those referenced in other applicable sections city, state, and federal code.~~A developer of a project which requires the extension of sewer main lines shall pay the cost of such extension. A developer who pays the cost of a water main extension shall have the right of reimbursement as described in this Chapter.~~

~~(2) All subdivisions shall have a complete sewer collection system installed before such subdivisions are accepted by the City. The design and construction of such a sewer collection system shall be approved by the Director and the City Engineer before such a subdivision system is installed. The subdivider shall install the sewer collection system at the subdivider's own expense for all sewer mains within the subdivision. The sewer system shall include a connection to the nearest adequate point in the City sewer collection system. In case a larger diameter than eight (8) inches is recommended by the Director, the City will pay the difference in cost between an eight (8) inch diameter main and the larger diameter main required by the City.~~

~~(3) When any street is to be paved from curb to curb with a permanent type of pavement, an eight (8) inch or larger sewer main shall be installed in that street prior to the paving of the street. The cost of the installation of such a sewer main shall be borne by the property owner with frontage on said sewer main.~~

~~(4) No person shall construct, nor cause to be constructed, any sewer main in Provo City without first having plans for said sewer main approved by the Director and the City Engineer.~~

~~(5) If a person installs a sewer main line extension to serve a parcel of property, said main line extension shall extend completely across the parcel of property being developed. (Am 2006-49)~~

10.03.040. REIMBURSEMENT FOR SEWER MAIN LINE EXTENSIONS.

Any person who incurs the expense of installing a sewer main line or trunk line in a street or easement which is adjacent to the property of another may receive reimbursement of part of that expense as follows:

(1) The party installing the sewer line shall enter into a written reimbursement agreement with the City before the line is completed.

(2) If within ten (10) years from the date of the reimbursement agreement, a party connects to the sewer line described above, the party who installed the sewer line shall at the time of the connection receive a reimbursement from the City in the amount ~~described in Subsection (3) of this Section~~ shown in the Consolidated Fee Schedule. The amount of money to be paid by the connecting party shall be the amount described in ~~Subsection (3) of this Section~~ the Consolidated Fee Schedule. The money paid by a connecting party pursuant to this Section is separate from and in addition to the payment of sewer connection fees. In no event shall the right of reimbursement exceed the amount actually collected by the City from the connecting party.

~~(3) The reimbursement payment for a sewer line shall be at the rate of twenty dollars (\$20.00) per foot of frontage or ten dollars (\$10.00) for each side of adjacent property to the street or easement in which the sewer main line is located. In addition Provo City shall collect an additional one dollar (\$1.00) per foot or fifty cents (\$0.50) each side for administrative expenses.~~

~~(4) This Section shall have retroactive application to sewer main lines or trunk lines constructed in the past as well as those constructed hereafter.~~

~~(35) If Provo City installs at City expense a main line, Provo City may receive reimbursement from connecting parties pursuant to this Section as though the City were a private party. The agreement described in Subsection (1) of this Section shall not be required for reimbursement to the City.~~

~~(64) The reimbursement payment described herein in Subsection (3) of this Section shall be paid at the time the building permit is issued. The rate of reimbursement per front foot shall be that rate which is in effect at the time of payment. (Am 1988-59, Am 1989-60, Am 1994-52, Am 2006-49)~~

10.03.050. MAINTENANCE OF SEWER MAINS.

(1) Provo City shall be responsible for the maintenance of all sewer mains which are on public property or in approved easements.

(2) In the case of private developments such as apartment complexes, mobile home parks, planned unit developments, commercial developments, etc., where sewer main lines exist in streets, parking lots, etc., not dedicated for public use, the property owners shall be responsible for sewer lateral and main line maintenance, and shall keep such laterals and main lines free from the intrusion of groundwater. Prior to installation of private sewer mains, the owner shall enter into a Private Utility Maintenance Agreement with the City. The City may lend technical assistance in locating the source of any groundwater infiltration.

92 **10.03.060. INSTALLATION AND MAINTENANCE OF SEWER LATERALS.**

93 (1) It shall be the duty of any person connecting a private sewer to the City's sewer mains to bear the responsibility
94 and cost for installation of the lateral from the private system to the City main including the payment of applicable
95 fees and/or inspection charges and to pay all costs in connection with maintenance thereof including the maintenance
96 of any lateral sewer line and any connecting device attaching the lateral line to the City main, except as noted in (2)
97 below. All such private laterals must be maintained in a watertight condition.

98 (2) City will notify residents of the requirements to maintain the sewer lateral per State regulations.

99 (3) Depending on availability and at the Director's discretion, City crews may assist residents with evaluation of the
100 lateral lines. If City crews return repeatedly to evaluate or repair a lateral, the resident will be charged for this service.

101 (4) When the City identifies the existence of a common sewer lateral (CSL), the Director may issue orders to all
102 affected property owners to separately connect to an available public sewer, or in the alternative, to record with
103 Provo City, a document, approved by the Director, identifying the existence of the CSL and adequately specifying the
104 maintenance responsibilities for property owners.

105 In the event that a lateral is not watertight and is allowing groundwater to enter City mains, the City will cause the
106 lateral to be repaired to a watertight condition and will pay the cost thereof. Should this repair necessitate excavation
107 outside the street right-of-way, the City will back fill and compact the excavation and replace concrete curb and gutter
108 and sidewalk as necessary. The property owner will assume all responsibility and cost of the replacement of lawn,
109 shrubs, and other landscaping affected by such excavation.

110 (3) In no case shall this Chapter be construed to hold the City responsible for the maintenance of sewer laterals
111 associated with damaged pipes, plugs, roots, etc., where groundwater intrusion into the lateral is not apparent. All
112 such repairs and maintenance shall be the sole responsibility of the property owner.

113 **~~10.03.070. ABANDONMENT OF SEWER LATERALS.~~**

114 ~~Whenever an existing sewer lateral(s) is abandoned in favor of a new lateral, the abandoned lateral shall be~~
115 ~~disconnected at the main line and the lateral tap into the main line shall be plugged. All costs associated with labor~~
116 ~~and material for such work shall be the responsibility of the property owner causing the lateral to be abandoned.~~

117 **10.03.080. MANDATORY HOOKUP TO SEWERS.**

118 (1) Pursuant to the authorization set forth in Section 10-8-38, Utah Code, as amended, and for the purposes therein
119 set forth, any building used for human occupancy located on a lot where the property line is within three hundred
120 (300) feet of an available and suitable sewer line shall be connected to the City sewer line at the expense of the owner
121 or occupant thereof.

122 (2) Any sewer connections made pursuant to this section shall be subject to all fees described in this Title and as
123 shown on the Consolidated Fee Schedule adopted by the Municipal Council.

124 (3) Connection to the sewer shall be within three (3) years after construction of the sewer line adjacent to the
125 property. Any property not connected to the City sewer thereafter shall be a public nuisance and subject to the
126 powers made available to the City to abate nuisances. (Am 2010-05)

127 **10.03.090. PRIVIES, CESSPOOLS AND SEPTIC TANKS.**

128 (1) Privies, cesspools, and septic tanks shall not be constructed within the corporate limits of Provo City to service
129 property which has access to a sewer main or which would have access to a sewer main subject to the construction of
130 a sewer main line extension.

131 (2) Should the Director determine that a sewer main line extension is unreasonable the Director may allow the
132 temporary use of a septic tank, provided that the septic system does not threaten water quality in wells and water
133 lines and meets all conditions relative to the use of septic tanks as established by the Utah County Health Department
134 can be met. (Am 2006-49)

10.03.100. WASTES FROM SEPTIC TANKS AND CESSPOOLS.

It shall be unlawful for any person, firm, or corporation to discharge the waste material collected and gathered in cleaning cesspools or septic tanks at any place within the corporate limits of the City except at the Water Reclamation Plant of Provo City. (Am 1995-12)

10.03.110. DISCHARGE OF STORM WATER.

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage water to any sanitary sewer. (Am 1995-12)

10.03.120. WATERS AND WASTES PROHIBITED IN PUBLIC SEWERS.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the pollutants described in Section 10.04.040, Provo City Code, General Discharge Prohibitions. (Am 1993-04, Am 1995-12)

10.03.130. GREASE, OIL AND SAND INTERCEPTORS.

(1) Grease, oil, and sand interceptors shall be provided when, ~~in the opinion of the Director, they are~~ necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be ~~of a type and capacity approved by the Director~~ designed and constructed per city standards. ~~Interceptors and~~ shall be located as to be readily and easily accessible for cleaning and inspection, but shall not be allowed on City property or right-of-way.

(2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. ~~They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas tight and watertight..~~

10.03.140. MAINTENANCE OF GREASE, OIL AND SAND INTERCEPTORS.

Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at the owner's expense, in continuously efficient operation at all times. The owner shall regularly inspect interceptors and shall provide inspection records upon City request. The City ~~will~~ may periodically inspect records or interceptors to determine compliance. If the interceptor is found to be in noncompliance, the owner shall properly clean the interceptor within the time period designated by the inspector. If the owner encounters unforeseen delays in cleaning the interceptor, the owner shall contact the inspector for an extension which may be granted for good cause. (Am 1995-12)

10.03.150. PRELIMINARY TREATMENT FACILITIES.

(1) Users whose facilities produce potential discharges in quantities or concentrations which are prohibited under Sections 10.04.040 or 10.04.070, Provo City Code must provide preliminary treatment facilities designed to bring such discharges into compliance with said Sections.

(2) Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted to the City for ~~the approval of the Director and of the water pollution control committee of the State of Utah,~~ and no construction of such facilities shall be commenced until said approvals are obtained in writing. (Am 1995-12)

10.03.160. MAINTENANCE OF PRELIMINARY TREATMENT FACILITIES.

Where preliminary treatment facilities are provided for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the owner's expense. The owner shall regularly inspect interceptors and shall provide inspection records upon City request. (Am 1995-12)

174 **10.03.170. CONTROL MANHOLE FOR SAMPLING AND MEASUREMENT OF WASTES.**

175 ~~When required by the Director~~†The owner of any property served by a building sewer carrying industrial wastes ~~or~~
176 ~~where an interceptor is installed~~ shall install a suitable control manhole in the building sewer to facilitate observation,
177 sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and
178 shall be constructed in accordance with approved plans ~~approved by the Director~~. The manhole shall be installed by
179 the owner at the owner's expense, and shall be maintained so as to be safe and accessible at all times. (Am 1995-12)

180 **10.03.180. STANDARDS FOR MEASUREMENTS, TESTS AND ANALYSES.**

181 All measurements, tests and analyses of wastewater characteristics shall be determined in accordance with Standard
182 Methods or 40 CFR 136 for the examination of pollutants, and shall be determined at the control manhole provided
183 for in Section 10.03.170, Provo City Code, or on suitable samples taken at said control manhole and tested in an
184 appropriately certified laboratory. In the event that no special manhole has been required, the control manhole shall
185 be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer ~~in~~
186 is connected. (Am 1995-12)

187 **10.03.190. ACCEPTANCE OF INDUSTRIAL WASTE UNDER SPECIAL AGREEMENT.**

188 No statement contained in this Chapter shall be construed as providing any special agreement or arrangement
189 between the City and any industrial concern whereby an industrial waste of unusual strength or character may be
190 accepted by the City for treatment, subject to payment therefor by the industrial concern.

191 **10.03.200. RIGHT OF ENTRY FOR INSPECTION.**

192 The Director and other duly authorized employees of the City bearing proper credentials and identification shall be
193 permitted to enter on all properties for the purposes of inspection, observation, measurement, sampling and testing,
194 in accordance with the provisions of this Title.

195 **10.03.210. SEWER CONNECTION.**

196 The connecting party shall bear all costs, including labor and materials associated with a sewer lateral connection.
197 (Am 1991-60, Am 1994-42, 1997-43, Am 2005-09)

198 **10.03.220. CREDITS FOR EXISTING SEWER LATERALS.**

199 When the use of a property serviced by an existing sewer lateral is changed in favor of another use, a credit may be
200 given equal to the difference between the ~~impact fee~~~~sewer connection fee~~ for the new use and the ~~sewer~~
201 ~~connection~~impact fee for the existing use. In no case shall the credit given be greater than the ~~connection~~impact fee
202 for the new use. (Am 1994-10)

203 **10.03.230. SEWER USER FEES.**

204 (1) The schedule of charges to be imposed for regular monthly service rendered to the users of the sewer system of
205 Provo City shall be based, insofar as possible, upon the amount of culinary water consumed by such use. The Director
206 ~~of Water Resources Department~~ may, under abnormal circumstances, make adjustments as needed to ensure
207 equitable service charges. The Director may make such adjustments where excessive quantities of culinary water are
208 metered which are consumed on the premises and which do not enter the sewage system. The consumer will have the
209 burden of proving such inequities by showing that the quantity metered exceeds by at least twenty percent (20%) the
210 total flow to the sewer system in order to merit consideration by the Director. Reductions shall be based on the cost
211 ~~per one hundred (100) cubic feet as~~ listed ~~below~~ on the adjusted meter rate. This provision shall apply to all of the
212 following provisions:

213 (2) Service charges. All sewer accounts shall be charged a monthly minimum charge, plus a usage fee ~~per one hundred~~
214 ~~(100) cubic feet of water or sewer meter reading~~ as shown on the Consolidated Fee Schedule adopted by the
215 Municipal Council. During the winter months of each year, an average monthly water consumption shall be
216 determined by the Director for single-family residential and other approved customers, and this average monthly

water consumption shall be the basis for sewer billing for the next twelve (12) month period. Any accounts whose summer time or other unusual usage is shown to include more than twenty percent (20%) of the metered water which does not enter the sewer system as determined by the Director, may have their discharge to the sewer established by their winter time usage or some other means approved by the Director.

(3) Metering of sewer lines. Metering of sewer lines will be allowed subject to the following requirements:

(a) The user will furnish and install the meter per the City's standards and specification at the user's expense.

(b) When the City requires or approves the installation of a meter on a user's sewage flow, the charges for sewer service will be based upon the sewer meter rather than upon the water meter readings.

(c) Sewer meters shall be maintained by the City at the users' expense.

(4) Surcharges.

(a) Any person receiving City sewer service who causes a concentration of Biochemical Oxygen Demand (BOD) exceeding an average of three hundred (300) mg/liter to be discharged into the City sewer system shall pay a surcharge as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(b) Any person receiving City sewer service who causes a concentration of Suspended Solids (SS) exceeding an average of three hundred fifty (350) mg/liter to be discharged into the City sewer system shall pay a surcharge as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(c) Any person receiving sewer service who causes a concentration of oil or grease (O&G) exceeding one hundred (100) mg/liter to be discharged into the sewer system shall pay a surcharge as shown on the Consolidated Fee Schedule adopted by the Municipal Council. In addition, sewer service may be discontinued at any location from which concentrations of more than one thousand (1000) mg/liter of oil or grease.

(d) The ~~City or~~ owner shall test concentration levels not less than once each ninety (90) days and provide information to the City. The most recent test result shall be the basis for calculating surcharges. A reasonable number of additional tests for concentration levels shall be prepared at the request of a sewer service customer. For such additional tests the customer shall pay a fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council for each test which shows a concentration which subjects the customer to a surcharge.

(5) New connections. New connections which do not have sufficient data to establish the monthly discharge to the sewer shall be assessed monthly charges as shown on the Consolidated Fee Schedule adopted by the Municipal Council until such data is available:

(6) Stopped meters. Usage for the previous year during the same period shall be used to establish billings with adjustments for previous months' usage where the meters have been stopped.

(7) Sewage treatment plant charges for hauled-in waste. Trucked-in waste shall not be permitted in the Provo City Water Reclamation Plant without the completion of a waste manifest describing the source and nature of the waste being discharged and its approval by the control authority. Charges for hauled in sewage shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(8) Charges to buildings not connected to available sewer. Pursuant to Section 10.03.080, Provo City Code, any buildings used for human occupancy which are within three hundred (300) feet of an available and suitable sanitary sewer and are not connected to said sewer shall be charged at the rate shown on the Consolidated Fee Schedule adopted by the Municipal Council until such time that they are connected, after which the applicable user rate charge shall apply. (Am 1993-05, Am 1994-10, Am 1995-12, Am 1998-59, Am 1998-66, Am 1999-64, Am 2006-15)

10.03.240. METERING WHERE WATER NOT SUPPLIED BY CITY.

Any person or firm using water which is not furnished to them from the Provo City water system and which water is discharged by said person or firm into Provo City sewer system, shall, at their own expense, and under the supervision of the Director, install a meter either on their water supply or in the sewer line and shall be charged for service in accordance with the charges set forth in this Title.

10.03.250. METERING WHERE WATER NOT DISCHARGED TO SEWER.

Any person, or firm, using Provo City culinary water, a part of which does not go into Provo City sewer system may, at their own expense, and under the supervision of the Director, install a meter on their sewer line or design and

264 construct their water system in such a way that a complete separation is made between the part of the system that
265 empties into the sewer and that which does not go into the sewer, and install separate water meters on each part of
266 the water system. Such users shall be charged for sewer service as set forth in this Title.

267 **10.03.260. SEWER SERVICE OUTSIDE OF CITY LIMITS.**

268 (1) The City may at its discretion, provide sewer service to users outside of the City at a price and on such terms as
269 shall be shown on the Consolidated Fee Schedule adopted by the Municipal Council. All main lines shall be installed by
270 the applicant, the type, and construction to be approved by the Director. Individual connections from the main lines
271 will be made in accordance with the provisions of the Provo City Code.

272 (2) The furnishing of sewer service to users outside the City shall not constitute a vested right to such service, and the
273 Director may at any time, in the Director's sole discretion, terminate such service.

274 (3) As a condition to providing any sewer service outside of the City limits, the non-City resident or business customer
275 shall consent to any action to annex the property being served into Provo City. Failure of the customer to consent to
276 annexation shall be sufficient grounds to terminate sewer service.

277 (4) Monthly service rates charged customers outside the corporate limits of Provo City shall be as shown on the
278 Consolidated Fee Schedule adopted by the Municipal Council.

279 (5) Main line extension fees and sewer connection fees charged for the connection of property outside the City limits
280 shall be the same as those within the City limits. (Enacted 1993-46, Am 2006-15, Am 2006-49)
281

Provo City Code, Chapter 10.04; with EPA Streamlining Changes
(~~November 12, 2013, Clifton Swain~~)(March 7, 2019 edits made by Skyler Tulley)

Chapter 10.04. Pre-treatment Program.

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10.04.010. Purpose and Policy-

- A. —(1)—This ~~Chapter~~ Chapter sets forth uniform requirements for ~~direct and indirect contributors~~ Users into of the wastewater collection and treatment system Publicly Owned Treatment Works (POTW) for Provo City and enables ~~Provo~~ the City to comply with all applicable State and Federal laws, ~~including required by~~ the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et seq.) ~~of 1977~~ and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations (CFR), Part 403) ~~and the Utah Administrative Code R317-8-8.~~
- A. —(2)—The objectives of this Chapter are:
- (1) —(a)—To prevent the introduction of pollutants into ~~the municipality wastewater system~~ the POTW which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) —(b)—To prevent the introduction of pollutants into the ~~municipal wastewater system~~ POTW which will pass through the ~~POTW system~~, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the ~~system~~ POTW;
 - (3) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (4) —(c)—To promote reuse and recycling of wastewater and sludge from the POTW ~~improve the opportunity to recycle and reclaim wastewater and sludges from the system; and;~~
 - (5) —(d)—To provide fees for the equitable distribution of the cost of operation, maintenance, and improvement ~~of the POTW municipal wastewater system; and-~~
 - (6) To enable Provo City to comply with its Utah Pollutant Discharge Elimination System (UPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.
- B. —(3)—This ~~Chapter~~ Chapter ~~provides for the regulation of~~ shall apply to all direct and indirect contributors Users to of the municipal wastewater system-POTW. This Chapter authorizes the through the issuance of individual wastewater discharge permits; Provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting. to certain users who could cause pass through and/or interference, through enforcement of general requirements and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- C. —(4)—This ~~Chapter~~ Chapter shall apply to Provo City residents and to persons outside the City who are, by contract or agreement with the City, ~~user~~ Users of the City POTW.
- D. —(5)—~~Except as otherwise provided herein, the Director of the City Water Resource Department shall administer, implement, and enforce the provisions of this Chapter. (Am 1991-41, Am 1993-33, Am 1995-12)~~ It is the purpose of this Chapter to provide for the recovery of costs from Users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's Consolidated Fee Schedule.

10.04.020. Administration

Except as otherwise provided herein, the Provo City Industrial Pretreatment Coordinator shall administer, implement, and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the Provo City Industrial Pretreatment Coordinator may be delegated by the Provo City Water Resource Director to a duly qualified Provo City employee.

10.04.030. Abbreviations

The following abbreviations, when used in this Chapter, shall have the designated meanings:

BMP	Best Management Practice
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
CWA	Clean Water Act
EPA	Environmental Protection Agency
FOG	Fats, Oils and Grease
FOGS	Fats, Oils, Grease and Sand
gpd	Gallons Per Day
IU	Industrial User
mg/l	Milligrams per liter
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
TSS	Total Suspended Solids
UPDES	Utah Pollutant Discharge Elimination System
U.S.C.	United States Code

The City may, for administrative purposes, use such other abbreviations as may be necessary or convenient in a Pretreatment Policy and Procedures Manual.

10.04.040. Definitions:

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Chapter, shall have the meanings hereinafter designated:

- A. "Act" The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- B. "Approval Authority" The State of Utah, Department of Environmental Quality, Division of Water Quality (DWQ) or its successor agency.
- C. "Authorized or Duly Authorized Representative of the User"
 - (1) If the User is a corporation:
 - (a) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with

- environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) —"Approval Authority" The State of Utah Division of Water Quality Utah Pollution Discharge Elimination System (UPDES) and Pretreatment Program as administered by the Director or the Director's designee.
- (2) —"Authorized Representative of Industrial User" An authorized representative of an Industrial user may be:
- (2) —(a) A principal executive officer of at least the level of vice-president, if the Industrial user is a corporation;
- (2) —(b) A general partner or proprietor if the Industrial user is a partnership or proprietorship, respectively;
- (2) —(c) If the User is a partnership or sole proprietorship: a general partner or propriety, respectively.
- (3) If the User is a Federal, State, or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Provo City's Industrial Pretreatment Coordinator.
- D. "Best Management Practices" or "BMPs" Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 10.04.050 (A) and (B). BMPs may also include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.
- E. "Biochemical Oxygen Demand (BOD)" The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (e.g., mg/l). A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
- F. "Building sewer" A sewer conveying waste-water from the premises of a User to the POTW.
- G. "Categorical Pretreatment Standards" or "Categorical Standard" or "National Categorical Pretreatment Standards" Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317) that apply to a specific category or Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- H. "Categorical Industrial User" An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

- I. "City" Provo City, or the Municipal Council for legislative purposes, or the Mayor or the Mayor's designated representative for administrative purposes.
- J. "Non-contact ~~contract~~ cooling water" is wWater discharged from any use such as conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- K. "Control Authority" The City of Provo. A POTW with an approved Pretreatment Program or the approval authority in the absence of a POTW Pretreatment Program.
- L. "Daily Maximum" The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- M. "Daily Maximum Limit" The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- N. "Director" The Director of the Provo City Water Resource Division of the Public Works Department or authorized designee.
- O. "Environmental Protection Agency, or EPA" The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- P. "Existing Source" Any source of discharge that is not a "New Source."
- Q. "Grab sample" A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- R. "Hazardous Waste" as defined in 40 CFR 261.3 and this reference is incorporated herein and made a part hereof.
- S. "Indirect Discharge or Discharge" The introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.
- T. "Instantaneous Limit" The maximum or minimum concentration (or load) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete, grab, or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- U. "Interference" A discharge that, alone or in conjunction with a discharge or discharges from other sources, both:
(1) inhibition or disruption of the POTW treatment processes or operations or its sludge processes, use or disposal; and
(2) therefore, is a cause of a violation of Provo City's UPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act: the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.
- V. "Local Limits" Specific discharge limits developed to protect the POTW in accordance with 40 CFR 403.5 and enforced by Provo City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 10.04.050 (A) and (B) of this Chapter. The development documents are kept on file at the Provo City Industrial Pretreatment Coordinator's office and can be reviewed if requested.

Comment [D1]: Non-contact

- 287 W. "Medical Waste" Isolation wastes, infectious agent, human blood and blood products,
288 pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially
289 contaminated laboratory wastes, and dialysis wastes.
- 290 X. "Monthly Average" The sum of all "daily discharges" measured during a calendar month
291 divided by the number of "daily discharges" measured during that month.
- 292 Y. "National Prohibitive Discharge Standard or Prohibitive Discharge Standard" Absolute
293 prohibitions against the discharges of certain substances; these prohibitions appear in
294 Section 10.04.050 of this Chapter.
- 295 Z. "North American Industry Classification System (NAICS)" The 2002 industry classification
296 system, used by the United States Census Bureau and other Federal agencies to classify
297 various sectors of the economy, issued by the Executive Office of the President, Office of
298 Management and Budget.
- 299 AA. "New source"
- 300 (1) Any building, structure, facility, or installation from which there is (or may be) a discharge
301 of pollutants, the construction of which commenced after the publication of proposed
302 Pretreatment Standards under Section 307(c) of the Act which will be applicable to such
303 source if such Standards are thereafter promulgated in accordance with that Section,
304 provided that:
- 305 (a) The building, structure, facility, or installation is constructed at a site at which no
306 other source is located: or
- 307 (b) The building, structure, facility, or installation totally replaces the process or
308 production equipment that causes the discharge of pollutants at an Existing Source; or
- 309 (c) The production or wastewater generating processes of the building, structure, facility,
310 or installation are substantially independent of an Existing Source at the same site. In
311 determining whether these are substantially independent, factors such as the extent
312 to which the new facility is integrated with the existing plant, and the extent to which
313 the new facility is engaged in the same general type of activity as the Existing Source,
314 should be considered.
- 315 (2) Construction on a site at which an Existing Source is located results in a modification
316 rather than a New Source if the construction does not create a new building, structure,
317 facility, or installation meeting the criterial of (1)(b) or (c) of this Section but otherwise
318 alters, replaces, or adds to existing process or production equipment.
- 319 (3) Construction of a New Source as defined under this paragraph has commenced if the
320 owner or operator has:
- 321 (a) Begun, or caused to begin, as part of a continuous onsite construction program
322 1. Any placement, assembly, or installation of facilities or equipment; or
323 2. Significant site preparation work including clearing, excavation, or removal of
324 existing buildings, structures, or facilities which is necessary for the
325 placement, assembly, or installation of new source facilities or equipment; or
- 326 (b) Entered into a binding contractual obligation for the purchase of facilities or
327 equipment which are intended to be used in its operation within a reasonable time.
328 Options to purchase or contracts which can be terminated or modified without
329 substantial loss, and contracts for feasibility, engineering, and design studies do not
330 constitute a contractual obligation under this paragraph.
- 331 BB. "Utah Pollution Discharge Elimination System or UPDES Permit" A permit issued by the
332 Utah Approval Authority which is designed to control all discharges of pollutants that enter
333 the waters of the State from all point sources of pollution, pursuant to Section 402 of the
334 Act (33 U.S.C. 1342).

- CC. "Pass Through" A discharge which exits the POTW into Waters of the State of Utah in the quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Provo City's UPDES permit including an increase in the magnitude or duration of a violation.
- DD. "Person" Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- EE. "pH" A measure of the acidity or basicity of a solution, expressed in standard units.
- FF. "Pollution" The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- GG. "Pollutant" Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- HH. "Pretreatment or Treatment" The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- II. "Pretreatment Requirements" Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- JJ. "Publicly Owned Treatment Works (POTW)" A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned by Provo City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of liquid nature and any conveyances, which convey wastewater to a treatment plant. It also includes sewers, pipes, and other conveyances if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.
- KK. "Pretreatment Standards or Standards" Pretreatment Standards shall mean any regulation containing pollutant discharge limit promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act, which applies to Industrial Users, which includes but is not limited to prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.
- LL. "POTW Treatment Plant" That portion of the POTW designed to provide treatment to wastewater.
- MM. "Septic tank/cesspool" Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks. A tank or pond in which organic matter in wastewater is decomposed by anaerobic bacteria and water is allowed to separate causing solids to concentrate into a sludge.
- NN. "Significant Industrial User" Except as provided in paragraphs (3) of this Section, Significant Industrial User is:
- (1) Any Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:

- (a) Discharges an average of twenty-five thousand (25,000) gpd of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
- (b) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (c) Is designated as such by Provo City on the basis that it has reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or Requirement.
- (3) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, Provo City, may at any time, on its own initiative or in response to a petition received from and Industrial User, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such Users should not be considered a Significant Industrial User.
- OO. "Slug Load" or "Slug Discharge" Any discharge at a flow rate or concentration, which could cause a violation of the General Discharge Prohibitions standards in Section 10.04.050 of this Chapter. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, Local Limits, or Permit conditions.
- PP. "State" State of Utah.
- QQ. "Storm Water" Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- RR. "Total Suspended Solids or Suspended Solids" The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- SS. "User or Industrial User" a source of indirect discharge.
- TT. "Waste Holding Tank" A container designed to temporarily hold sanitary or process wastewater until it can be hauled to a POTW, and has received slight biological decomposition. Containers consist of portable chemical toilets, recreational vehicles/trailer tanks, and other tanks that totally contain all waste without allowing any release to the environment.
- UU. "Wastewater" The liquid and water-carried industrial or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the POTW.
- VV. "Water of the State" All streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits or private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition.
- ~~—— "Best Management Practices" or "BMPs" Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.~~

"Biochemical Oxygen Demand (BOD)" The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/liter)).

_____"Building sewer" A sewer conveying waste water from the premises of a user to the POTW.

_____"Categorical standards" Industrial waste discharge standards developed by the United States EPA that are applied to control the effluent from any industry that discharges to a POTW.

"City" Provo City, or the Municipal Council for legislative purposes, or the Mayor or the Mayor's designated representative for administrative purposes.

_____"Non-contact cooling water" Water discharged from any use such as conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

_____"Control authority" The term "control authority" shall refer to the "Approval Authority," defined hereinabove; or Provo's Director of the Water Resource Department that administers and implements the Pretreatment program.

_____"Direct discharge" The discharge of treated or untreated wastewater directly to the waters of the State of Utah.

_____"Director" The Director of the Provo City Water Resource Department.

_____"Environmental Protection Agency, or EPA" The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

_____"Grab sample" A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and without consideration of time.

_____"Indirect discharge" The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

_____"Industrial user" A source of Indirect Discharge which does not constitute a "discharge or pollutants" under regulations issued pursuant to Section 402, of the Act. (33 U.S.C. 1342). For purposes of this Chapter, an "industrial user" is a source of non-domestic wastes from industrial processes.

_____"Interference" The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the City's UPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

_____"National Categorical Pretreatment Standard or Pretreatment Standard" Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

_____"National Prohibitive Discharge Standard or Prohibitive Discharge Standard" Any regulation developed under the authority of 307(b) or the Act and 40 CFR, Section 403.5.

_____"North American Industry Classification System (NAICS)" The 2002 industry classification system, used by the United States Census Bureau and other Federal agencies to classify various sectors of the economy, issued by the Executive Office of the President, Office of Management and Budget.

_____"New source" Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed

Comment [D2]: Non-contact

Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section.

—————"Utah Pollution Discharge Elimination System or UPDES Permit" A permit issued by the Utah Approval Authority which is designed to control all discharges of pollutants that enter the waters of the State from all point sources of pollution, pursuant to section 402 of the Act (33 U.S.C. 1342).

—————"Pass through" A discharge which exits the POTW into waters of the State of Utah in the quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's UPDES permit.

—————"Person" Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

—————"pH" The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

—————"Pollution" The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

—————"Pollutant" Any substance not normally associated with domestic wastewater including but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

—————"Pretreatment or treatment" The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).

—————"Pretreatment requirements" Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

—————"Publicly owned treatment works (POTW)" A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1291) which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

—————"POTW Treatment Plant" That portion of the POTW designed to provide treatment to wastewater.

—————"Septic tank/cesspool" A tank or pond in which organic matter in wastewater is decomposed by anaerobic bacteria and water is allowed to separate causing solids to concentrate into a sludge.

—————"Significant industrial user" Any industrial user of the City's wastewater disposal system who is subject to National Categorical Pretreatment Standards or who

—————(a) has a discharge of process wastewater flow to the POTW of twenty five thousand (25,000) gallons or more per average work day, or

—————(b) has a flow greater than five percent (5%) of the flow in the City's wastewater treatment system, or

—————(c) discharges toxic pollutants as defined pursuant to Section 307 of the Act of the (State) Statutes and rules or

—————(d) is found by the City, (State Control Agency) or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing

industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or the air emissions generated by the system, or

_____ (e) has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. This definition shall include domestic waste haulers.

_____ "Slug discharge" A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

_____ "State" State of Utah.

_____ "Storm water" Any flow occurring during or following any form of natural precipitation and resulting therefrom.

_____ "Suspended solids" The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

_____ "Toxic pollutant" Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(a) or other Acts.

_____ "User" Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

_____ "Waste holding tank" A container designed to temporarily hold sanitary or process wastewater until it can be hauled to a POTW, and has received slight biological decomposition. Containers consist of portable chemical toilets, recreational vehicles/trailer tanks, and other tanks that totally contain all waste without allowing any release to the environment.

_____ "Wastewater" The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with may be present, whether treated or untreated, which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

_____ "Water of the State" All streams, lakes, ponds, wetlands, marshes, water courses, water ways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

_____ "Wastewater Contribution Permit" As set forth in Section 10.04.150, Provo City Code. (Am 1991-41, Am 1995-12, Am 2005-17, Am 2006-49)

10.04.030. Abbreviations.

_____ The following abbreviations shall have the designated meanings:

_____ BMP	Best Management Practice
_____ BOD	Biochemical Oxygen Demand.
_____ CFR	Code of Federal Regulations.
_____ EPA	Environmental Protection Agency.
_____ l	Liter.
_____ mg	Milligrams.
_____ mg/liter	Milligrams per liter.
_____ POTW	Publicly Owned Treatment Works.
_____ SIC	Standard Industrial Classification.
_____ SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
_____ TSS	Total Suspended Solids
_____ UPDES	Utah Pollutant Discharge Elimination System.
_____ USC	United States Code.

~~TSS~~ ~~Total Suspended Solids.~~
~~The City may, for administrative purposes, use such other abbreviations as may be necessary or convenient in a Pre-treatment Policy and Procedures Manual. (Am 1991-41, Am 1995-12)~~

10.04.0540. ~~General Discharge Prohibitions~~ Prohibited Discharge Standards.

- A. ~~—(1) General Prohibitions. No user~~ User shall introduce ~~contribute~~ or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions and specific prohibitions (listed in 10.04.050 (B)) apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutant, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21; At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, per-chlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire hazard or a hazard to the system.
 - (2) Any wastewater having a pH less than 5.5 or more than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structure, equipment, and/or personnel of the POTW;
 - (3) Solid or viscous pollutants in amounts which will cause obstruction of the flow in the POTW resulting in Interference;
 - (4) Solids shall not be discharged that are greater than one-quarter inch(es) (1/4") in any dimension;
 - (5) Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;
 - (6) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceed 40 degrees C (104 degrees F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
 - (7) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
 - (8) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (9) Any trucked or hauled pollutants, except at discharge points designated by the POTW, see Section 10.04.050 (D) of this ordinance;
 - (10) Any wastewater which causes a hazard to human life or creates a public nuisance;
 - (11) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

619 (12) Wastewater which imparts color which cannot be removed by the treatment process,
620 such as, but not limited to, dye waste and vegetable tanning solutions, which
621 consequently imparts color to the treatment plant's effluent, thereby violating the City of
622 Provo's NPDES permit;

623 (13) Sludges, screening, or other residue from pretreatment of industrial wastes;

624 (14) Medical Wastes, except as specifically authorized by Provo City's Industrial Pretreatment
625 Coordinator in an individual wastewater discharge permit;

626 (15) Bulk, expired, outdated or concentrated prescription or non-prescription drugs;

627 (16) Hazardous waste pharmaceuticals or Drug Enforcement Administration (DEA) controlled
628 substances to the POTW by a healthcare facility or reverse distributor pursuant to 40 CFR
629 Section 266.505 shall be prohibited;

630 (17) Wastewater causing, alone or in conjunction with other sources, the treatment plant's
631 effluent to fail toxicity test;

632 (18) Any substance which may cause the POTW's effluent or any other product of the POTW
633 such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to
634 interfere with the reclamation process. In no case, shall a substance discharged to the
635 POTW cause the POTW to be in non- compliance with sludge use or disposal criteria,
636 guidelines or regulations developed under 40 CFR part 503; any criteria, guidelines, or
637 regulations affecting sludge use or disposal developed pursuant to the Solid Waste
638 Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria
639 applicable to the sludge management method being used;:-

640 (19) Any substance which will cause the POTW to violate its UPDES Permit or 40 CFR part 503
641 regulations.

642 C. Pollutants, substances, or wastewater prohibited by this Section shall not be processed or
643 stored in such a manner that they could be discharged to the POTW.

644 D. Hauled Wastewater

645 (1) Hauled domestic waste may be introduced into the POTW only at locations designated by
646 the Provo City Industrial Pretreatment Coordinator, and at times established by the Provo
647 City Industrial Pretreatment Coordinator. Such waste shall not violate Sections 10.04.050
648 through 10.04.080 of this ordinance or any other requirements established by Provo City.

649 (2) Domestic waste haulers must provide a trucked-in waste certification form for every load.
650 This form shall include, at a minimum, the name and address of the waste hauler
651 company, driver name, names and address of sources of waste, volume, characteristics of
652 waste and signature of driver stating they agree to follow rules, allowing the waste to be
653 dumped.

654 (3) Provo City does not accept pit toilets (outhouses) and/or commercial (i.e. Industrial,
655 automotive, car wash, or oil/grease) sump materials.

656 (4) The discharge of hauled domestic waste is subject to all other requirements of this
657 ordinance.

658 When the Director determines that a user(s) is contributing to the POTW, any of the above
659 enumerated substances in such amounts as to interfere with the operation of the POTW,
660 the Director shall:

661 _____ (a) Advise the user(s) of the impact of the contribution on the POTW; and
662 _____ (b) Develop effluent limitations(s) for such user to correct the interference with the
663 POTW. (Am 1991-41, Am 1993-05, Am 1993-33, Am 1995-12, Am 1999-65, Am 2005-17)
664 contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or
665 performance of the POTW. These general prohibitions apply to all such Users of a POTW whether or not
666 the user is subject to National Categorical Pretreatment Standards or any other National, State, or local

Pretreatment Standards or Requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, gases or other pollutants which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, per chlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous pollutants in amounts which may cause obstruction to the wastewater flow resulting in interference with the operation of the POTW wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (½") in any dimension, animal entrails or tissues, paunch manure, bones, hair, hides or fleshings, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than five and five-tenths (5.5) or greater than eleven (11.0), unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structure, equipment, and/or personnel of the POTW.

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injury or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in Federal, State or Local Pretreatment Standards. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under 40 CFR part 503; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate its UPDES Permit or 40 CFR part 503 regulations.

(h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater containing Biochemical Oxygen Demand (BOD) concentrations in excess of seven hundred fifty (750) mg/liter, Total Suspended Solids (TSS) concentrations in excess of one thousand eight hundred seventy five (1875) mg/liter, or Oil and Grease concentrations in excess of four hundred fifty (450) mg/liter.

~~————— (j) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable State or Federal regulations.~~
~~————— (k) Any wastewater which causes a hazard to human life or creates a public nuisance.~~
~~————— (l) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty (40) degrees Centigrade (one hundred four (104) degrees Fahrenheit).~~
~~————— (m) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.~~
~~————— (n) Pollutants which result in the presence of toxic gases vapor or fumes within the POTW in a quantity that may cause worker health and safety problems.~~
~~————— (o) Any trucked or hauled pollutants, except at discharge points designated by the POTW.~~
~~————— (2) When the Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Director shall:~~
~~————— (a) Advise the user(s) of the impact of the contribution on the POTW; and~~
~~————— (b) Develop effluent limitations(s) for such user to correct the interference with the POTW. (Am 1991-41, Am 1993-05, Am 1993-33, Am 1995-12, Am 1999-65, Am 2005-17)~~

10.04.0560. Federal National Categorical Pretreatment Standards-

- A. ~~———— Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this Chapter. The Director shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12. (Am 1991-41, Am 1995-12)~~ National Categorical Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial Users in specific industrial subcategories have been established by EPA in 40 CFR Chapter I, Subchapter N, Parts 405-471 and are hereby incorporated.
- B. Users subject to categorical standards must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.
- C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Provo City's Industrial Pretreatment Coordinator shall impose an alternate limit in accordance with 40 CFR 403.6(e).

10.04.070. State Pretreatment Requirements

State of Utah Pretreatment Standards contained in the Utah Administrative Code R317-8-8 are hereby incorporated. Any User subject to a state pretreatment standard is required to comply with the applicable standard.

10.04.060. Modification of Federal Categorical Pretreatment Standards-

~~———— Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95 percent (95%) of the samples taken when measured according to the procedures set forth in Section~~

403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) — "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained. (Am 1991-41)

10.04.0870. Specific Pollutant Limitations. Local Limits

- A. The Provo City Industrial Pretreatment Coordinator is authorized to establish Local Limits pursuant to 40 CFR 403.5 (c).
- B. Local limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. Provo City Industrial Pretreatment Coordinator may impose mass limitations in addition to the concentration-based limitations as stated in part (D) of this Section. The development documents for local limits are kept at Provo City's Water Reclamation Facility and can be reviewed if requested.
- C. The Provo City Industrial Pretreatment Coordinator may develop Best Management Practices (BMPs), by Chapter or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 10.04.050.
- D. No User shall discharge wastewater containing pollutants in excess of the specific local limits as established by the District from time to time. The local limits are developed and implement per the requirements of 40 CFR 403. The development documents can be found at the Provo City Water Reclamation Facility.

— No person shall discharge waste water containing pollutants that will interfere with the operation and performance of the Water Reclamation Plant. The daily maximum concentration of specific pollutants allowed by dischargers will be as follows:

— Arsenic	0.69 mg/liter
— Cyanide	0.89 mg/liter
— Cadmium	0.29 mg/liter
— Phenols	1.04 mg/liter
— Chromium(Total)	3.11 mg/liter
— BOD	750 mg/liter
— Copper	2.14 mg/liter
— TSS	1875 mg/liter
— Lead	0.87 mg/liter
— Oil-Grease	450 mg/liter
— Mercury	0.051 mg/liter
— pH	5.5 – 11.0
— Molybdenum	0.95 mg/liter
— BTEX	0.75 mg/liter
— Nickel	3.91 mg/liter
— Benzene	0.05 mg/liter
— Selenium	0.35 mg/liter
— TTO	2.0 mg/liter
— Silver	0.80 mg/liter
— Zinc	6.53 mg/liter

(Am 1988-59, Am 1991-41, Am 1995-12, Am 1999-64, Am 2005-17)

10.04.080. State Requirements.

~~State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Chapter. (Am 1991-41)~~

10.04.090. City's Right of Revision-

The City reserves the right to establish, by this Chapter ~~or individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Chapter. In addition, the Provo City Director of Public Works is authorized to temporarily or permanently revoke or suspend issuance of any type of permit at any time in order to protect the POTW from Pass Through or Interference in order to maintain compliance with any UPDES permit requirement or pretreatment program requirement. The Director shall also have the right to deny new or increased contributions or to set additional conditions on such contributions to protect the POTW, including limits that may be more stringent than the approved local limits. more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 10.04.010, Provo City Code. (Am 1991-41).~~ These limitations or requirements may include Best Management Practices (BMPs), by ordinance Chapter or in individual wastewater discharge permits.

10.04.100. ~~Excessive Discharge~~Dilution-

~~No user~~User shall ever increase the use of process water, or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with ~~the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State,~~ a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement.

10.04.110. Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Chapter and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the Prohibitions set out in Section 10.04.050 of this Chapter within the time limitations specified by the EPA, the State, or the Provo City Industrial Pretreatment Coordinator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the Users expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Provo City Industrial Pretreatment Coordinator for review, and shall be acceptable to Provo City Industrial Pretreatment Coordinator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Provo City under the provisions of this Chapter.

10.04.120. Additional Pretreatment Measures

- A. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Provo City Industrial Pretreatment Coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interceptor units shall be of a type and capacity approved by the Provo City Industrial Pretreatment Coordinator, and shall be so located to be easily accessible for cleaning and inspection.
- B. Where installed, all grease, oil, and sand interceptors shall be cleaned and maintained in continuous efficient operation at all times by and at the sole expense of the User. It shall be unlawful to use any kind of emulsifier in any grease trap, interceptor, or drain in any building or at any location, unless approved in writing by the Provo City Industrial Pretreatment Coordinator.

- C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- D. Sampling manholes shall be located in an area to allow for ease of cleaning, sampling and inspection by the User and the City. If located in a parking area parking shall not be allowed on the sampling manhole.

~~(Am 1991-41, Am 2005-17)~~

10.04.1130. Accidental Discharge/Slug Discharge Control Plans and Slug Discharges.

~~———— (1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or users own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. The City shall evaluate, at least once each year whether each significant industrial user should be required to prepare a plan to control spills and slug discharges. When a plan is required, no industrial user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this Chapter. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting the potential for a Slug Discharge. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. The Provo City Industrial Pretreatment Coordinator shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Provo City Industrial Pretreatment Coordinator will evaluate an SIU for a slug discharge control plan within the first year of determining that an IU is and SIU. If the Provo City Industrial Pretreatment Coordinator determines that the SIU does not require the need to develop a slug discharge control plan, then the SIU will be evaluated every two years, thereafter, for the need to develop a slug discharge control plan. The Provo City Industrial Pretreatment Coordinator may require any Industrial User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:~~

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Provo City Industrial Pretreatment Coordinator of any accidental or Slug Discharge, as required by Section 10.04.310 of this Chapter; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

~~———— (2) Written Notice. Within five (5) days following an accidental discharge; the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kill, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.~~

906 ——— (3) Notice to Employees. A notice shall be permanently posted on the user's bulletin board or
907 other prominent place advising employees whom to call in the event of a dangerous discharge.
908 Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur
909 are advised of the emergency notification procedure.

910 ——— (4) The POTW may require a user to institute and implement an accidental or slug discharge control plan
911 when the following conditions exist:

912 ——— (a) A volume more than twice the maximum normal daily discharge volume.

913 ——— (b) A concentration of pollutants of concern which causes the user to violate instantaneous, daily
914 or monthly maximum discharge limitations:

915 ——— (c) An adverse effect on wastewater facilities.

916 ——— (d) A condition which may violate conditions in 40 CFR 403.

917 ——— (e) A need for control to prevent potential POTW problems by chemicals stored or discharged.

918 ——— (f) Practices by the user which may be or are actually a potential of concern.

919 ——— (g) Potential to cause harm based upon knowledge of previous slug impacts, local limits violation,
920 sampling, inspections, or other non-routine discharge events.

921 ——— (5) If an industrial user is required to develop and implement a slug control plan, it shall contain, at a
922 minimum, the following elements:

923 ——— (a) A description of discharge practices, including non-routine batch discharges.

924 ——— (b) A description of stored chemicals.

925 ——— (c) Procedures for immediately notifying the POTW of slug discharges, including any discharge
926 that would violate a specific prohibition, with procedures for follow-up written notification within five (5) days.

927 ——— (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection
928 and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of
929 plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic
930 organic pollutants (including solvents), and/or measures for emergency response. (Am 1991-41, Am 1995-12)

931 932 10.04.120. Purpose.

933 ——— It is the purpose of this chapter to provide for the recovery of costs from Users of the City's
934 wastewater disposal system for the implementation of the program established herein. The applicable
935 charges or fees shall be set forth in the City's Consolidated Fee Schedule. (Am 1991-41)

936 937 10.04.130. Charges and Fees.

938 — (1) The City may adopt charges and fees as shown on the Consolidated Fee Schedule
939 adopted by the Municipal Council, which may include:

940 — (a) fees for reimbursement of costs of setting up and operating the City's Pretreatment
941 Program;

942 — (b) fees for sampling, monitoring, inspections, reinspections and surveillance
943 procedures, including laboratory analysis;

944 — (c) fees for reviewing accidental discharge procedures and construction;

945 — (d) fees for permit applications;

946 — (e) fees for filing appeals;

947 — (f) fees for consistent removal (by the City) of pollutants otherwise subject to Federal
948 Pretreatment Standards; or

949 — (g) other fees as the City may deem necessary to carry out the requirements contained
950 herein.

951 — (2) These fees related solely to the matters covered by this Chapter and are separate from
952 all other fees chargeable by the City. (Am 1991-41, Am 2006-15, Am 2006-16)

953 954 10.04.140. Wastewater Analysis

955 When requested by the Provo City Industrial Pretreatment Coordinator, a User must submit information
956 on the nature and characteristics of its wastewater within thirty (30) days of the request. The Provo City

Industrial Pretreatment Coordinator is authorized to prepare a form for this purpose and may periodically require Users to update this information. If the User changes or adds a process the User is required to update the information provided to the Provo City Industrial Pretreatment Coordinator thirty (30) days prior to the process being changed or added.

~~10.04.140. Wastewater Dischargers.~~

~~It shall be unlawful to discharge without a City permit to any natural outlet within Provo City, or in any area under the jurisdiction of said City, and/or to the POTW any wastewater except as authorized by the Director in accordance with the provisions of this Chapter. (Am 1991-41, Am 1995-12)~~

~~10.04.150.~~ Individual Wastewater Contribution Permits Requirement.

- A. No Significant Industrial User shall discharge wastewater into the POTW without first completing a BMR and, if required by the Provo City Industrial Pretreatment Coordinator, obtaining an individual wastewater discharge permit from the Provo City Industrial Pretreatment Coordinator, except that a Significant Industrial User that has filed a timely application pursuant to Section 10.04.160 of this Chapter may continue to discharge for the time period specified therein.
- B. The Provo City Industrial Pretreatment Coordinator may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this Chapter.
- C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharger permittee to the sanctions set out in Sections 10.04.440 through 10.04.560 of this Chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards and Requirements or with any other requirements of Federal, State, and local Law.

10.04.160. Individual Wastewater Discharge Permitting: Existing Connections

Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Chapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Provo City Industrial Pretreatment Coordinator for an individual wastewater discharge permit in accordance with Section 10.04.180 of this Chapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this Chapter except in accordance with an individual wastewater discharge permit issued by the Provo City Industrial Pretreatment Coordinator.

10.04.170. Individual Wastewater Discharge Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 10.04.180 of this Chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

10.04.180. Individual Wastewater Discharge Permit Application Contents

- A. ~~—(1) General Permits. All significant users proposing to connect to or to contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW.~~
- A. ~~—(2) Permit Application. All UserUsers~~ required to obtain a Wastewater Contribution Permit ~~shall complete and file with them~~ must submit a permit application with Provo City.

- ~~Anan~~ application in the form prescribed by the City, and accompanied by a permit fee as adopted by the Municipal Council. All permittees-Proposed that will be continuing to discharge are required to complete and submit an application-new users shall apply_ at least 90 days prior to connecting or to contributing to the POTW-thirty (30) days prior to the permit expiring. The Provo City Industrial Pretreatment Coordinator may require an Industrial User to submit all or some of the following information as part of a permit application: In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
- (1) Identifying Information.
 - (a) The name and address of the facility, including the name of the operator and owner.
 - (b) Contact information for the authorized representative and the duly authorized representative for the facility, and
 - (c) The description of activities, facilities, and plant production processes on the premises;
 - (2) Environmental permits. A list of any environmental control permits held by or for the facility.
 - (3) Environmental permits. A list of any environmental control permits held by or for the facility.Description of Operations.
 - (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - (b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (d) Type and amount of raw materials processed (average and maximum per day);
 - (e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - (4) Time and duration of discharges;
 - (5) The location for monitoring all wastes covered by the permit;
 - (6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 10.04.060 (C), and 40 CFR 403.6(e).
 - (7) Measurement of Pollutants.
 - (a) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (b) The results of sampling and analysis identifying the nature and concentrations, and/or mass, where required by the Standard or by the Provo City Industrial Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 10.04.350 of this Chapter. Where the

Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Provo City Industrial Pretreatment Coordinator or the applicable Standards to determine compliance with the Standard.

(e) Sampling must be performed in accordance with procedures set out in Section 10.04.360 of this Chapter.

(8) Any other information as may be deemed necessary by the Provo City Industrial Pretreatment Coordinator to evaluate the permit application.

B. Incomplete or inaccurate applications will not be process and will be returned to the User for revision.

C. Based on information provided by the permittee, in Section 10.04.180 (A), all Users required to obtain an individual wastewater contribution permit, Provo City will within thirty (30) days determine if additional information is needed, a permit is not necessary or if a permit will be required to be issued before the IU discharge is allowed to the POTW.

D. Should any of the information requested or supplied be considered by the User to be of confidential nature, the User should request confidential status in accordance with Section 10.04.420 of this Chapter. Information regarding sampling and analysis of the discharge is not considered confidential information.

10.04.190. Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative, see Section 10.04.040 (C), of the User and contain the certification statement in Section 10.04.390.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Provo City Industrial Pretreatment Coordinator prior to or together with any reports to be signed by an Authorized Representative.

10.04.200. Individual Wastewater Discharge Permit Duration

An individual wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Provo City Industrial Wastewater Coordinator. The User shall apply for permit re-issuance a minimum of thirty (30) days prior to the expiration of the User's existing permit. The User shall be informed or any proposed changes in the User's permit at least thirty (30) days prior to the effective date of change.

10.04.210. Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Provo City Industrial Pretreatment Coordinator to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits must contain:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date, see Section 10.04.200;

- (2) A statement that the wastewater discharge permits is nontransferable without prior notification and approval from Provo City and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
- (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (5) A statement of applicable administrative, civil, and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
- (6) Requirements to control Slug Discharges, if determined by the Provo City Industrial Pretreatment Coordinator to be necessary;
- (7) Requirements to report immediately to the Provo City Industrial Pretreatment Coordinator any slug discharge or any changes at its facility affecting potential for a slug discharge; and
- (8) Requirements to notify the Provo City Industrial Pretreatment Coordinator of changes to the industrial users discharge thirty (30) days prior to the change. The Provo City Industrial Pretreatment Coordinator may deny or conditionally approve the change prior to the user making the change at the facility that may impact the discharge at the facility to the POTW.
- B. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (7) Other conditions as deemed appropriate by the Provo City Industrial Pretreatment Coordinator to ensure compliance with this Chapter, and State and Federal laws, rules, and regulations; and
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto.
- C. Individual Wastewater Discharge Permit Transfer
Individual wastewater discharge permit may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Provo City Industrial Pretreatment Coordinator and the Provo City Industrial Pretreatment Coordinator approves

the individual wastewater discharge permit transfer. The notice to the Provo City Industrial Pretreatment Coordinator must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and process;
- (2) Identifies the specific date on which the transfer is to occur;
- (3) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit; and
- (4) The conditions of the permit will not change.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

10.04.220. Permit Modification

A. The Provo City Industrial Pretreatment Coordinator may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or addition to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat the Provo City's POTW, Provo City personnel, the treatment of sludge, beneficial sludge use, or the receiving waters;
- (5) Violations of any terms or conditions of the individual wastewater discharge permit;
- (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revisions of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13; or
- (8) To correct typographical or other errors in the individual wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 10.04.210 (C).

_____ (a) name, address, and location, (if different from the address);

_____ (b) SIC number according to the Standard Industrial Classification Manual, Office of Management and Budget, 1972, as amended;

~~(c) Environmental permits. A list of any environmental control permits held by or for the facility.~~

~~(ed) wastewater constituents and characteristics including but not limited to those mentioned in this Chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act and contained in 40 CFR, Part 136, as amended;~~

_____ (de) time and duration of contribution;

_____ (ef) average daily and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

_____ (fg) site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

_____ (gh) description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

_____ (hi) the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards;

_____ (ij) if additional pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc);

(ii) No increment referred to in paragraph (1) shall exceed six (6) months.

(iii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, as a minimum whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.

_____ (jk) each product produced by type, amount, process or processes and rate of production;

_____ (kl) type and amount of raw materials processed (average and maximum per day);

_____ (lm) number and type of employees, and hours of operation of plan and proposed or actual hours of operation of pretreatment system; and

_____ (mn) any other information as may be deemed by the City to be necessary to evaluate the permit application. The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Contribution Permit subject to terms and conditions provided herein.

_____ (3) Permit Modification. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Contribution Permit the user shall apply for a Wastewater Contribution Permit within one hundred eighty (180) days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the user with an existing Wastewater Contribution Permit shall submit to the Director within one hundred eighty (180) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by Subsections (2)(h) and (2)(i) of this Section.

10.04.230. Individual Wastewater Discharge Permit Revocation

- A. Provo City's Industrial Pretreatment Coordinator may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) Failure to notify the Provo City's Industrial Pretreatment Coordinator of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the Provo City Industrial Pretreatment Coordinator of changed conditions pursuant to Section 10.04.300 of this Chapter;
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (4) Falsifying self-monitoring reports;
 - (5) Falsifying certification statements;
 - (6) Tampering with monitoring equipment;
 - (7) Refusal to allow the Provo City Industrial Pretreatment Coordinator timely access to the facility premises and/or records;
 - (8) Failure to meet effluent limitations;

- (9) Failure to pay any fees, fines, or surcharges;
(10) Failure to pay sewer charges;
(11) Failure to meet compliance schedules;
(12) Failure to complete a wastewater survey or the wastewater discharge permit application or reapplication;
(13) Failure to provide advanced notice of the transfer of business ownership of a permitted facility;
(14) Failure to timely submit required reports and forms;
(15) Violation of any Pretreatment Standard Requirement, or any terms of the wastewater discharge permit or this Chapter; or
(16) After inspection, monitoring or analysis, it is determined that a discharge is in violation of the permit or applicable State, Federal or local Law.

B. Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

————— (4) Permit Conditions. Wastewater discharge permits shall be expressly subject to all provisions of this Chapter, general pretreatment standards, categorical pretreatment standards, local limits, State and local law, and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:

————— (a) the unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

————— (b) limits on the monthly average and daily and instantaneous maximum wastewater constituents characteristics;

————— (c) limits on monthly average and daily and instantaneous maximum rate and time of discharge or requirements for flow regulations and equalization;

————— (d) requirements for installation and maintenance of inspection and sampling facilities;

————— (e) specifications for monitoring programs which may include sampling locations, equipment, frequency of sampling, number, types and standards for tests, and reporting schedule; or Best Management Practices

————— (f) compliance schedules;

————— (g) requirements for submission of technical reports of discharge reports;

————— (h) requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;

————— (i) requirements for notification of the City or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

————— (j) requirements for notification of slug discharges as per Section 10.04.230, Provo City Code; and

————— (k) requirements to control slug discharges, if determined by the POTW to be necessary

(l) Best Management Practices, where required

(k) (m) other conditions as deemed appropriate by the City to ensure compliance with this Chapter. (Am 1991-41, Am 1995-12, Am 2006-49)

10.04.24160. Permit Duration and Transfer: Individual Wastewater Discharge Permit Reissuance

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 10.04.180 of this Chapter, a minimum of thirty (30) days prior to the expiration of the User's existing individual wastewater discharge permit.

10.04.250. Regulation of Waste Received from Other Jurisdictions

- 300 A. If another municipality, or User located within another municipality, contributes wastewater
301 to the POTW, the Provo City Industrial Pretreatment Coordinator shall enter into an
302 intermunicipal agreement with the contributing municipality.
- 303 B. Prior to entering into an agreement required by paragraph A, above, the Provo City
304 Industrial Pretreatment Coordinator shall request the following information from the
305 contributing municipality:
- 306 (1) A description of the quality and volume of wastewater discharged to the POTW by the
307 contributing municipality;
- 308 (2) An inventory of all Users located within the contributing municipality that are discharging
309 to the POTW; and
- 310 (3) Such information as the Provo City Industrial Pretreatment Coordinator may deem
311 necessary.
- 312 C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following
313 conditions:
- 314 (1) A requirement for the contributing municipality to adopt a sewer use Chapter which is as
315 least as stringent as this Chapter and Local Limits, including required Baseline Monitoring
316 Reports (BMRs) which are as least as stringent as those set out in Section 10.04.080 of this
317 Chapter. The requirement shall specify that such Chapter and limits must be revised as
318 necessary to reflect changes made to Provo City's Chapter or Local Limits;
- 319 (2) A requirement for the contributing municipality to submit a revised User inventory on at
320 least an annual basis;
- 321 (3) A provision specifying which pretreatment implementation activities, including individual
322 wastewater discharge permit issuance, inspection and sampling, and enforcement, will be
323 conducted by the contributing municipality; which of these activities will be conducted by
324 the Provo City Industrial Pretreatment Coordinator; and which of these activities will be
325 conducted jointly by the contributing municipality and the Provo City Industrial
326 Pretreatment Coordinator.
- 327 (4) A requirement for the contributing municipality to provide the Provo City Industrial
328 Pretreatment Coordinator with access to all information that the contributing municipality
329 obtains as part of its pretreatment activities;
- 330 (5) Limit on the nature, quality, and volume of the contributing municipality's wastewater at
331 the point where it discharges to the POTW;
- 332 (6) Requirements for monitoring the contributing municipality's discharge;
- 333 (7) A provision ensuring the Provo City Industrial Pretreatment Coordinator access to the
334 facilities of Users located within the contributing municipality's jurisdictional boundaries
335 for the purpose of inspection, sampling, and any other duties deemed necessary by the
336 Provo City Industrial Pretreatment Coordinator; and
- 337 (8) A provision specifying remedies available for breach of the terms of the intermunicipal
338 agreement.—— (1) Permits Duration. Permits shall be issued for a specified time period,
339 not to exceed five (5) years. A permit may be issued for a period less than a year or may
340 be stated to expire on a specific date. The user shall apply for permit re-issuance a
341 minimum of thirty (30) days prior to the expiration of the user's existing permit.
342 The user shall be informed of any proposed changes in the user's permit at least thirty (30) days
343 prior to the effective date of change. Any changes or new conditions in the permit shall
344 include a reasonable time schedule for compliance. A permit shall remain effective while
345 a new application is being reviewed by the City.

346 The terms and conditions of the permit may be subject to modification by the City during the term of
347 the permit as limitations or requirements are modified or other just cause exists. The user shall be

informed of any proposed changes in the user's permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. A permit shall remain effective while a new application is being reviewed by the City. Permit Transfer. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit and a copy of the existing permit shall be provided to the succeeding owner or user by the transferor before any transfer is made. (Am 1991-41, Am 1995-12, Am 2006-49)

~~(2) Permit Transfer. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit and a copy of the existing permit shall be provided to the succeeding owner or user by the transferor before any transfer is made. (Am 1991-41, Am 1995-12, Am 2006-49)~~

10.04.26170. Reporting Requirements for Permittee Baseline Monitoring Reports:-

- (A) ~~(1) Baseline Monitoring Report~~
- (A) ~~Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to [the Superintendent] a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to [the Superintendent] a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated production rates, flow, and quantity of pollutants to be discharged.~~
- (A) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Provo City Industrial Pretreatment Coordinator a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard shall submit, to the Provo City Industrial Pretreatment Coordinator, a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated production rates, flow, and quantity of pollutants to be discharged.
- (B) Users described above shall submit the information set forth below
- (1) All information required in Section 10.04.180(A)(1)(a), 10.04.180(A)(2), 10.04.180(A)(3), and 10.04.180(A)(6).
- (2) Measurement of pollutants.
- (a) The User shall provide the information required in Section 10.04.180(A)(7)(a-d).

- (b) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- (d) Sampling and analysis shall be performed in accordance with Section 10.04.350 and 10.04.360;
- (e) The Provo City Industrial Pretreatment Coordinator may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and
- (f) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 10.04.040 (C) and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required for the User to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 10.04.270 of this Chapter.
- (5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 10.04.390 of this Chapter and signed by an Authorized Representative as define in Section 10.04.040 (C).

10.04.270. Compliance Schedule Progress Reports

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Provo City Industrial Pretreatment Coordinator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

- 443 D. In no event shall more than nine (9) months elapse between such progress reports to the Provo
444 City Industrial Pretreatment Coordinator.

446 10.04.280. Reports on Compliance with Categorical Pretreatment Standard Deadline

447 Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment
448 Standards or, in the case of a New Source following commencement of the introduction of wastewater
449 into the POTW, any User subject to Pretreatment Standards and Requirements shall submit to the Provo
450 City Industrial Pretreatment Coordinator a report containing the information described in Section
451 10.04.180 (A)(6 and 7) and (B)(2) of this Chapter. For Users subject to categorical Pretreatment
452 Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure
453 of operation), this report shall include the User's actual production during the appropriate sampling
454 period. All compliance reports must be signed and certified in accordance with Section 10.04.390 of this
455 Chapter. All sampling will be done in conformance with Section 10.04.360.

456
457 10.04.290. Periodic Compliance Reports

- 458 A. All permitted Users must, at a frequency determined by the Provo City Industrial Pretreatment
459 Coordinator submit no less than twice per year, reports indicating the nature, concentration of
460 pollutants in the discharge which are limited by Pretreatment Standards and the measured or
461 estimated average and maximum daily flows for the reporting period. In cases where the
462 Pretreatment Standard requires compliance with a Best Management Practice (BMP) or
463 pollution prevention alternative, the User must submit documentation required by the Provo
464 City Industrial Pretreatment Coordinator or the Pretreatment Standard necessary to determine
465 the compliance status of the User.
- 466 B. All periodic compliance reports must be signed and certified in accordance with Section
467 10.04.390 of this Chapter.
- 468 C. All wastewater samples must be representative of the User's discharge. Wastewater monitoring
469 and flow measurement facilities shall be properly operated, kept clean, and maintained in good
470 working order at all times. The failure of a User to keep its monitoring facility in good working
471 order shall not be grounds for the User to claim that sample results are unrepresentative of its
472 discharge.
- 473 D. If a User subject to the reporting requirement in this Section monitors any regulated pollutant at
474 the appropriate sampling location more frequently than required by the Provo City Industrial
475 Pretreatment Coordinator, using the procedures prescribed in Section 10.04.360 of this Chapter,
476 the result of this monitoring shall be included in the report.
- 477 E. The User may not be required to submit reports as stated above if:
- 478 (1) The City performs all the required sampling and analyses,
479 (2) The User does not sample the discharge and
480 (3) The flow information is collected by the City.

481
482 10.04.300. Reports of Changed Conditions

- 483 B. Each User must notify the Provo City Industrial Pretreatment Coordinator of any changes to the
484 User's operation or system which might alter the nature, quality, or volume of its wastewater at
485 least thirty (30) days before the change, including changes that may affect slug discharges to the
486 POTW.
- 487 (1) The Provo City Industrial Pretreatment Coordinator may require the User to submit such
488 information as may be deemed necessary to evaluate the changed condition, including the
489 submission of a wastewater discharge permit application under Section 10.04.180 of this
490 Chapter.

(2) The Provo City Industrial Pretreatment Coordinator may issue an individual wastewater discharge permit under Section 10.04.240 of this Chapter or modify an existing wastewater discharge permit under Section 10.04.220 of this Chapter in response to changed conditions or anticipated changed conditions.

- C. The Provo City Industrial Pretreatment Coordinator may approve, deny or conditionally approve the change based on the affects the change may have on the POTW and/or the Pretreatment Program.

10.04.310. Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges or nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately notify in person or via phone conversation with the Provo City Industrial Pretreatment Coordinator of the incident. The notification shall include the location of the discharge, type of waste, concentration and volume, if know, and corrective actions taken by the User.
- B. Within five (5) days following such discharge, the User shall, unless waived by the Provo City Industrial Pretreatment Coordinator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant Industrial Users are required to notify the Provo City Industrial Pretreatment Coordinator immediately of any changes at its facility affecting the potential for a Slug Discharge.

10.04.320. Reports for Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Provo City Industrial Pretreatment Coordinator as the Provo City Industrial Pretreatment Coordinator may require.

10.04.330. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Provo City Industrial Pretreatment Coordinator within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Provo City Industrial Pretreatment Coordinator within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if Provo City performs sampling at the User's facility at least once a month, or if Provo City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or Provo City receives the results of this sampling, or if Provo City has performed the sampling and analysis in lieu of the Industrial User.

10.04.340 Notification of the Discharge of Hazardous Waste

- A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in

writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User:

- (1) An identification of the hazardous constituents contained in the wastes,
 - (2) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and
 - (3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
- B. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 10.04.300 of this ordinance. The notification requirements under this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Section 10.04.260, 10.04.280, and 10.04.290 of this ordinance.
- C. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.20(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261. 33(e), require a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- D. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Provo City Industrial Pretreatment Coordinator, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- E. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- F. This provision does not create the right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

10.04.350. Analytical Requirements

- A. All pollutant analyses, including sampling techniques, to be submitted as part of wastewater discharge permit application, report, permit or other requirement by this Chapter shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Provo City Industrial Pretreatment Coordinator or other parties approved by the EPA.

- 587 B. All sampling analysis shall be performed by a laboratory certified by the Utah Bureau of
588 Laboratory Improvements.

589
590 10.04.360. Sample Collection

591 Samples collected to satisfy reporting requirements must be based on data obtained through
592 appropriate sampling and analysis performed during the period covered by the report, based on data
593 that is representative of conditions occurring during the reporting period.

- 594 A. Except as indicated in Section B and C below, the User must collect wastewater using 24-hour
595 flow-proportional composite sampling techniques, unless time-proportional composite sampling
596 or grab sampling is authorized by the Provo City Industrial Pretreatment Coordinator. Where
597 time-proportional composite sampling or grab sampling is authorized by Provo City, the samples
598 must be representative of the discharge. Using protocols (including appropriate preservation)
599 specified in 40 CFR Part 146 and appropriate EPA guidance, multiple grab samples collected
600 during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total
601 phenols, and sulfides the samples may be composited in the laboratory or in the field; for
602 volatile organics and oil and grease, the samples may be composited in the laboratory.
603 Composite samples for other parameters unaffected by the compositing procedures as
604 documented in approved EPA methodologies may be authorized by Provo City, as appropriate.
605 In addition, grab samples may be required to show compliance with Instantaneous Limits.
606 B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile
607 organic compounds must be obtained using grab collection techniques.
608 C. For sampling required in support of a baseline monitoring and 90-day compliance reports
609 required in Section 10.04.260 and 10.04.280, a minimum of four (4) grab samples must be used
610 for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for
611 facilities for which historical sampling data do not exist; for facilities for which historical
612 sampling data are available, the Provo City Industrial Pretreatment Coordinator may authorize a
613 lower minimum. For the reports required by paragraphs Section 10.04.290, the Industrial User is
614 required to collect the number of grab samples necessary to assess and assure compliance by
615 with applicable Pretreatment Standards and Requirements.

616
617 10.04.370. Date of Receipt of Reports

618 Written reports will be deemed to have been submitted on the date postmarked. For reports, which are
619 not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of
620 receipt of the report shall govern.

621
622 10.04.380. Recordkeeping

- 623 A. Users subject to the reporting requirements of this Chapter shall retain, and make available for
624 inspection and copying:
625 (1) All records of information obtained pursuant to any monitoring activities required by this
626 Chapter,
627 (2) Any additional records of information obtained pursuant to monitoring activities
628 undertaken by the User independent of such requirements, and
629 (3) Documentation associated with Best Management Practices established under Section
630 10.04.080 (C).
631 B. Records shall include the date, exact place, method, and time of sampling, and the name of the
632 person(s) taking the sample; the dates analyses were performed; who performed the analyses;
633 the analytical techniques or methods used; and the results of such analyses.

- C. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or Provo City, or where the User has been specifically notified of a longer retention period by the Provo City Industrial Pretreatment Coordinator.

10.04.390. Certification Statements

Certification of Permit Applications, User Reports and Initial Monitoring Waiver - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 10.04.190; Users submitting baseline monitoring reports under Section 10.04.260(B)(5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 10.04.280; Users submitting periodic compliance reports required by Section 10.04.290 (A-D). The following certification statement must be signed by an Authorized Representative as defined in Section 10.04.040 (C):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment for knowing violations."

10.04.400. Right of Entry: Inspection and Sampling

The Provo City Industrial Pretreatment Coordinator shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Provo City Industrial Pretreatment Coordinator ready access to all parts of the premises for the purposes of inspection, sampling, record examination and copying, and/or the performance of any additional duties. Monitoring and inspections shall be conducted at a frequency as determined by Provo City and may be announced or unannounced.

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Provo City Industrial Pretreatment Coordinator shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Provo City Industrial Pretreatment Coordinator shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operation.
- C. The Provo City Industrial Pretreatment Coordinator may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually or as required per the manufacturer's requirements to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Provo City Industrial Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be born by the User.

- 681 E. Unreasonable delays in allowing the Provo City Industrial Pretreatment Coordinator access to
682 the User's premises shall be a violation of this Chapter.
- 683 F. Provo City may use a camera to photograph areas of the facility as necessary for carrying out the
684 duties of the IPP including, but not limited to, documentation of User's compliance status and
685 for reinforcement of written reports. The User shall be allowed to review copies of the
686 photographs for confidentiality claims.
- 687 G. The location of the monitoring facility shall provide ample room in or near the monitoring
688 facility to allow accurate sampling and preparation of samples and analysis and whether
689 constructed on public or private property, the monitoring facility should be provided in
690 accordance with the POTW's requirements and all applicable local construction standards and
691 specifications. Such facilities shall be constructed and maintained in a manner that enables the
692 Provo City Industrial Pretreatment Coordinator to perform independent monitoring activities.
- 693 H. All Significant Industrial Users will be inspected at least annually including review of facilities and
694 reports.

695
696 10.04.410. Search Warrants

697 If the Provo City Industrial Pretreatment Coordinator has been refused access to a building, structure, or
698 property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a
699 violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection
700 and sampling program of Provo City designed to verify compliance with this Chapter or any permit or
701 order issued hereunder, or to protect the overall public health, safety and welfare of the community,
702 the Provo City Industrial Pretreatment Coordinator may seek issuance of a search warrant from the
703 District Court for Utah County.

704
705 10.04.420. Confidential Information

706 Information and data on a User obtained from reports, surveys, wastewater discharge permit
707 applications, individual wastewater discharge permits, and monitoring programs, and from the Provo
708 City Industrial Pretreatment Coordinator inspection and sampling activities, shall be available to the
709 public without restriction, unless the User specifically requests, and is able to demonstrate to the
710 satisfaction of the Provo City Industrial Pretreatment Coordinator, that the release of such information
711 would divulge information, processes, or methods of production entitled to protection as trade secrets
712 under applicable State law. Any such request must be asserted at the time of submission of the
713 information or data. When requested and demonstrated by the User furnishing a report that such
714 information should be held confidential, the portions of a report which might disclose trade secrets or
715 secret processes shall not be made available for inspection by the public, but shall be made available
716 immediately upon request to governmental agencies for uses related to the NPDES program or
717 pretreatment program, and in enforcement proceedings involving the person furnishing the report.
718 Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall
719 not be recognized as confidential information and shall be available to the public without restriction.

720
721 10.04.430. Publication of Users in Significant Noncompliance

722 The Provo City Industrial Pretreatment Coordinator shall publish annually, in a newspaper of general
723 circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of
724 the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance
725 with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be
726 applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D),
727 or (H) of this Section) and shall mean:

- 728 A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six
729 percent (66%) or more of all the measurements taken for the same pollutant parameter taken
730 during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or
731 Requirement, including Instantaneous Limits as defined in Section 10.04.050 through 10.04.100.
- 732 B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent
733 (33%) or more of wastewater measurements taken for the same pollutant parameter during a
734 six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or
735 Requirement including Instantaneous Limits, as defined by Section 10.04.050 through
736 10.04.100. multiplied by the applicable TRC criteria (TRC=1.4 for BOD, TSS, fats, oils and grease,
737 and TRC=1.2 for all other pollutants except pH);
- 738 C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 10.04.050
739 through 10.04.100. (Daily Maximum, long-term averages, Instantaneous Limit, or narrative
740 standard) that the Provo City Industrial Pretreatment Coordinator determines has caused, alone
741 or in combination with other discharges, Interference or Pass Through, including endangering
742 the health of POTW personnel or the general public;
- 743 D. Any discharge of a pollutant that has caused imminent endangerment to the public or the
744 environment, or has resulted in the Provo City Industrial Pretreatment Coordinator's exercise of
745 its emergency authority to halt or prevent such a discharge;
- 746 E. Failure to meet, within ninety (90) days of the scheduled date, or compliance schedule
747 milestone contained in an individual wastewater discharge permit or enforcement order for
748 starting construction, completing construction, or attaining final compliance;
- 749 F. Failure to provide within thirty (30) days after the due date, any required reports, including
750 baseline monitoring reports, reports on compliance with categorical Pretreatment Standard
751 deadlines, periodic self-monitoring reports, and reports on compliance with compliance
752 schedules;
- 753 G. Failure to accurately report noncompliance; or
- 754 H. Any other violation(s), which may include a violation of Best Management Practices, which the
755 Provo City Industrial Pretreatment Coordinator determines will adversely affect the operation or
756 implementation of the local pretreatment program.

757
758 10.04.440. Notification of Violation

759 When the Provo City Industrial Pretreatment Coordinator finds that a User has violated, or continues to
760 violate, any provision of this Chapter, an individual wastewater discharge permit, or order issued
761 hereunder, or any other Pretreatment Standard or Requirement, the Provo City Industrial Pretreatment
762 Coordinator may serve upon that User a written Notice of Violation. Within ten (10) days of the receipt
763 of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention
764 thereof, to include specific required actions, shall be submitted by the User to the Provo City Industrial
765 Pretreatment Coordinator. Submission of such a plan in no way relieves the User of liability for any
766 violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit
767 the authority of the City Industrial Pretreatment Coordinator to take any action, including emergency
768 actions or any other enforcement action, without first issuing a Notice of Violation.

769
770 10.04.450. Consent Orders

771 The City Industrial Pretreatment Coordinator may enter into Consent Orders, assurances of compliance,
772 or other similar documents establishing an agreement with any User responsible for noncompliance.
773 Such documents shall include specific action to be taken by the User to correct the noncompliance
774 within a time period specified by the document. Such documents shall have the same force and effect as

the administrative orders issued pursuant to Sections 10.04.470 and 10.04.480 of this Chapter and shall be judicially enforceable.

10.04.460. Show Cause Hearing

- A. The Provo City Industrial Pretreatment Coordinator may order a User which has violated, or continues to violate, any provisions of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any Pretreatment Standard or Requirement, to appear before the Mayor or the Mayor's designee, and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 10.04.040(C) and required by Section 10.04.190(A). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.
- B. The Mayor or the Public Works Director may conduct the hearing and take the evidence, or may designate an employee of the Mayor's office, or any officer or employee of the Department of Water Resources to:
 - (1) Issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (2) Take the evidence; and
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Mayor or the Mayor's designee for action thereon
- C. At any hearing held pursuant to this Chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
- D. After the Mayor or the Mayor's designee has reviewed the evidence, the Mayor may issue an order to the User responsible for the violation imposing appropriate penalties and directing that, following a specified time period, enforcement shall escalate unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated, and the violation remedied. Further orders and directives as are necessary and appropriate may be issued.

10.04.470. Compliance Orders

When the Provo City Industrial Pretreatment Coordinator finds that a User has violated, or continues to violate, any provisions of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Provo City Industrial Pretreatment Coordinator may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing

violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.04.480. Cease and Desist Orders

When the Provo City Industrial Pretreatment Coordinator finds that a User has violated, or continues to violate, any provisions of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Provo City Industrial Pretreatment Coordinator may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other legal actions against the User.

10.04.490. Administrative Fines

- A. When the Provo City Industrial Pretreatment Coordinator finds that the User has violated, or continues to violate, any provision of this Chapter, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Provo City Industrial Pretreatment Coordinator may fine such User in an amount not to exceed ten thousand (\$10,000) per day per violation. Such fines shall be assessed on a per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten (10%) percent of the unpaid balance, and interest shall accrue thereafter at a rate of one (1%) percent per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for the Provo City Industrial Pretreatment Coordinator to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Provo City Industrial Pretreatment Coordinator may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Provo City Industrial Pretreatment Coordinator may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.04.500. Emergency Suspensions

- A. The Provo City Industrial Pretreatment Coordinator may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Provo City Industrial Pretreatment Coordinator may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operations of the POTW, or which presents, or may present, an endangerment to the environment.
- (1) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the

suspension order, the Provo City Industrial Pretreatment Coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Provo City Industrial Pretreatment Coordinator may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Provo City Industrial Pretreatment Coordinator that the period of endangerment has passed, unless the termination proceedings in Section 10.04.510 of this Chapter are initiated against the User.

- (2) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Provo City Industrial Pretreatment Coordinator prior to the date of any show cause or termination hearing under Sections 10.04.460 or 10.04.510 of this Chapter.
- B. Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension of a permit and/or discharge to the POTW.

10.04.510. Termination of Discharge

In addition to the provisions in Section 10.04.230 of this Chapter, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal to access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 10.04.050 through 10.04.100. of this Chapter.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.04.460 of this Chapter why the proposed action should not be taken. Exercise of this option by the Provo City Industrial Pretreatment Coordinator shall not be a bar to, or a prerequisite for, taking any other action against the User.

10.04.520. Injunctive Relief

When the Provo City Industrial Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Provo City Industrial Pretreatment Coordinator may petition the Attorney General's office for Utah and/or the District Attorney's office for Utah County for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this Chapter on activities of the User. The Provo City Industrial Pretreatment Coordinator may also seek such other actions as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.04.530. Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this Chapter, an individual wastewater discharge permit or order issued hereunder, or any Pretreatment Standard or Requirement shall be liable to Provo City for a maximum civil penalty of ten thousand

- 919 (\$10,000) dollars per violation, per day. In the case of a monthly or other long-term average
920 discharge limit, penalties shall accrue for each day during the period of the violation.
- 921 B. In the event that a User discharges such pollutants which cause Provo City to violate any
922 conditions of its UPDES Permit and Provo City is fined by the EPA or the State of Utah for
923 such violations, then such Users shall be full liable for the total amount of the fines and civil
924 penalties assessed against Provo City by the EPA or the State of Utah and administrative
925 costs incurred.
- 926 C. The Provo City Industrial Pretreatment Coordinator may recover reasonable attorneys' fees,
927 court costs, and other expenses associated with enforcement activities, including sampling
928 and monitoring expenses, and the cost of any actual damage incurred by Provo City.
- 929 D. In determining the amount of civil liability, the Court shall take into account all relevant
930 circumstances, including but not limited to, the extent of harm caused by the violation, the
931 magnitude and duration of the violation, any economic benefit gained through the User's
932 violation, corrective actions by the User, the compliance history of the User, and any other
933 factor as justice requires.
- 934 E. Filing a suit for civil penalties shall not be a bar against, or prerequisite for, taking any other
935 action against a User.

936
937 10.04.540. Criminal Prosecution

938 Provo City will refer to the State of Utah criminal violations of any Pretreatment Standards or
939 Requirements or permit conditions. The Attorney General's office for Utah and/or the District Attorney's
940 office for Utah County may, at their discretion, initiate appropriate criminal action. The POTW may assist
941 the prosecuting attorney's office where appropriate to support the action taken.

- 942 A. A User who willfully or negligently violates any provision of this Chapter, an individual
943 wastewater discharge permit, or order issued hereunder, or any Pretreatment Standard or
944 Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not
945 more than twenty-five thousand (\$25,000) dollars per violation, per day, and/or
946 imprisonment for not more than ninety (90) days, or both.
- 947 B. A User who willfully or negligently introduces any substance into the POTW which causes
948 personal injury or property damage shall, upon conviction, be guilty of a class B
949 misdemeanor and be subject to a penalty of not more than twenty-five thousand (\$25,000)
950 dollars per violation per day and/or be subject to imprisonment for not more than one (1)
951 year, or both. This penalty shall be in addition to any other cause of action for personal
952 injury or property damage available under State law.
- 953 C. A User who knowingly makes any false statements, representations, or certifications in any
954 application, record, report, plan, or other documentation filed, or required to be
955 maintained, pursuant to this Chapter, individual wastewater discharge permit, or order
956 issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any
957 monitoring device or method required under this Chapter shall, upon conviction, be
958 punished by a fine of not more than twenty-five thousand (\$25,000) per violation, per day,
959 and/or imprisonment for not more than one (1) years, or both.
- 960 D. In the event of a second conviction, a User shall be punished by a fine not more than fifty
961 thousand (\$50,000) per violation, per day, and/or imprisonment for not more than two (2)
962 years, or both.

963
964 11.04.550. Remedies Nonexclusive

965 The remedies provided for in this Chapter are not exclusive. The Provo City Industrial Pretreatment
966 Coordinator may take any, all, or any combination of these actions against a noncompliant User.

Enforcement of pretreatment violations will generally be in accordance with Provo City's enforcement response plan. However, the Provo City Industrial Pretreatment Coordinator may take other action against any User when the circumstances warrant. Further, the Provo City Industrial Pretreatment Coordinator is empowered to take more than one enforcement action against any noncompliant User.

10.04.560. Charges and Fees

The City may adopt charges and fees as shown on the Consolidated Fee Schedule adopted by the Municipal Council, which may include:

- A. Fees for wastewater discharge permit applications including cost of processing such applications;
- B. Fees for sampling, monitoring, inspections, reinspections and surveillance procedures, including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by User's;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (not included in Section 10.04.560 (B)) associated with the enforcement activity taken by the Provo City Industrial Pretreatment Coordinator to address IU noncompliance; and
- F. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees related solely to the matters covered by this Chapter and are separate from all other fees chargeable by the City.

Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements

B. Users described above shall submit the information set forth below:

All information required in Section 10.04.150 (2) (a), (c), (e), (f), (g), and (j):

Measurement of pollutants:

The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph:

Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

Sampling and analysis shall be performed in accordance with Section 10.04.170 (4);

Provo City may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

Signature and Report Certification. All baseline monitoring reports must include the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information submitted. Based on my inquiry of the person or persons who manage the system, or those people directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." This statement shall be signed by an authorized representative of the industrial user. Any user subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Director during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by POTW or the Pretreatment Standard necessary to determine the compliance status of the User. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in Subsection (2)(b) of this Section. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted. The Director may impose mass limitations on users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Subparagraph (a) of this Paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. Wastewater samples shall be collected using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by [the Superintendent]. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR

Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, [the Superintendent] may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements. The POTW may notify all IUs of their duty to inform the POTW, the Utah State Bureau of Solid and Hazardous Waste and the EPA Regional Waste Management Director, of all hazardous substances that they discharge to the POTW. (Am 1991-41, Am 1995-12, Am 2005-17)

(12) Compliance Date Report (90-Day Compliance Report). Within sixty ninety (60/90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, and user subject to Pretreatment Standards and Requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable Pretreatment Standards or Requirements. This report shall also include the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information submitted. Based on my inquiry of the person or persons who manage the system, or those people directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." This statement shall be signed by an authorized representative of the industrial user.

(23) Periodic Compliance Reports.

(a) Any user subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Director during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by POTW or the Pretreatment Standard necessary to determine the compliance status of the User. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in Subsection (2)(b) of this Section. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted.

~~(b) The Director may impose mass limitations on users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Subparagraph (a) of this Paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator.~~

~~(c) Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator.~~

~~(4) Sample Collection~~

~~Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.~~

~~A. Wastewater samples shall be collected using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by [the Superintendent]. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.~~

~~B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.~~

~~C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, [the Superintendent] may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.~~

~~(3) (5) The POTW may notify all IUs of their duty to inform the POTW, the Utah State Bureau of Solid and Hazardous Waste and the EPA Regional Waste Management Director, of all hazardous substances that they discharge to the POTW. (Am 1991-41, Am 1995-12, Am 2005-17)~~

~~10.04.180. Monitoring Facilities.~~

- ~~— (1) The City shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.~~
- ~~— (2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.~~
- ~~— (3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within sixty (60) days following written notification by the City. (Am 1991-41)~~

~~10.04.190. Inspection and Sampling.~~

- ~~— (1) The City shall inspect the facilities of any user to ascertain whether the purpose of this Chapter is being met and all requirements are being complied with.~~
- ~~— (2) Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, copy monitoring records or in the performance of any of their duties.~~
- ~~— (3) The City, Approval Authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, Approval Authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific requirements. (Am 1991-41, Am 1995-12)~~

~~10.04.200. Pretreatment.~~

- ~~— (1) Users shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation~~

shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

(2) Pursuant to 40 CFR 403.8(f)(2)(vii)(viii), the City shall annually publish in the Provo Daily Herald newspaper a list of the users who have been in significant non-compliance with any Pretreatment Requirements or Standards at least once during the twelve (12) previous months. This notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months. For purposes of this section an industrial user is in significant noncompliance (SNC) if its violation meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent (66%) or more of all the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l); All records relating to compliance with Pretreatment Standards shall be kept for a minimum of three (3) years, including documentation associated with Best Management Practices, and shall be made available to the public, officials of the EPA, State of Utah, and Provo City Approval Authority upon request. (Am 1991-41, Am 1995-12, Am 2005-17)

(b) Technical Review Criteria (TRC) violations defined here as those in which thirty three percent (33%) or more of all measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 60 (sixty) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

Comment [D3]: Thirty three

_____ (g) failure to accurately report non-compliance.

_____ (h) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

_____ (3) ~~All records relating to compliance with Pretreatment Standards shall be kept for a minimum of three (3) years, including documentation associated with Best Management Practices, and shall be made available to the public, officials of the EPA, State of Utah, and Provo City Approval Authority upon request. (Am 1991-41, Am 1995-12, Am 2005-17)~~

10.04.210. Confidential Information.

_____ (1) Any information submitted pursuant to the General Pretreatment Regulation requirements may be claimed as confidential by submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or in the case of submission, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the POTW may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

_____ (2) Information and data provided which is effluent data shall be available to the public with out restriction.

_____ (3) All other information which is submitted shall be available to the public at least to the extent provided by 40 CFR Part 2.302.

_____ (4) Federal, State, and Local Authorities shall have immediate access to all information in the possession of Provo City concerning pretreatment. (Am 1991-41, Am 1995-12)

10.04.220. Enforcement Response Plan.

_____ (1) Pursuant to 40 CFR 403.8(f)(5), Provo City has developed and implemented an enforcement response plan containing detailed procedures on how the City's POTW will investigate and respond to instances of industrial user non-compliance. The plan contains:

_____ (a) Description of how the POTW will investigate instances of noncompliance.

_____ (b) Description of the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial use violations and the time periods within which the responses will take place.

_____ (c) Title of the official(s) responsible for each type of response.

_____ (d) POTW's primary responsibility to enforce all applicable pretreatment requirements and standards.

_____ (2) As part of the City's enforcement response plan, the City may suspend the wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of the persons, to the environment, causes Interference to the POTW or causes the City to violate any condition of its UPDES Permit Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the Wastewater Contribution Permit and/or the

~~wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence. (Am 1991-41, Am 1995-12.~~

~~—(3) Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the Wastewater Contribution Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence. (Am 1991-41, Am 1995-12)~~

10.04.230. Revocation of Permit.

~~After inspection, monitoring or analysis, it is determined that a discharge is violation of the permit or applicable local, state, or federal regulations. (Am 1991-41, Am 1995-12)~~

~~—Any user who violates the following conditions of this Chapter, or applicable state and federal laws and regulations, is subject to having the user's permit revoked in accordance with the procedures of this Chapter:~~

~~—(1) Failure of a user to factually report the wastewater constituents and characteristics of the discharge or any other falsification or intentional misrepresentation of data or statements;~~

~~—(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics or failure to timely submit required reports and forms;~~

~~—(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring or sampling; or,~~

~~—(4) Violation of any of the conditions of the permit;~~

~~—(5) Non-payment of any fees, charges, fines, or surcharges.~~

~~—(6) After inspection, monitoring or analysis, it is determined that a discharge is violation of the permit or applicable local, state, or federal regulations. (Am 1991-41, Am 1995-12)~~

10.04.240. Notification of Violation.

~~—Whenever the City finds that any user has violated or is violating this Chapter, Wastewater Contribution Permit, or any prohibition, limitation of requirements contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within ten (10) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user. (Am 1991-41, Am 1995-12)~~

10.04.250. Show Cause Hearing.

~~—(1) The City may order any user who violates and/or causes or allows an unauthorized discharge to enter the POTW to show cause before the Mayor or the Mayor's designee, why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Mayor or the Mayor's designee, regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Mayor or the Mayor's~~

- designee, why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The Mayor or the Mayor's designee may conduct the hearing and take the evidence, or may designate an employee of the Mayor's office, or any officer or employee of the Department of Water Resources to:
 - (a) Issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (b) Take the evidence; and
 - (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Mayor or the Mayor's designee for action thereon
 - (3) At any hearing held pursuant to this Chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
 - (4) After the Mayor or the Mayor's designee has reviewed the evidence, the Mayor may issue an order to the user responsible for the violation imposing appropriate penalties and directing that, following a specified time period, enforcement shall escalate unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated, and the violation remedied. Further orders and directives as are necessary and appropriate may be issued. (Am 1991-41, Am 2006-49)
- 10.04.260. Legal Action.
- If any person discharges sewage, commercial or industrial wastes or other wastes into the City's waste water disposal system contrary to the provisions of this Chapter, Federal or State Pretreatment Requirements or any order of the City including a cease and desist order, the City Attorney may commence an action for appropriate legal and/or equitable relief in the District Court of this County continued pollution resulting from a violation of the order. (Am 1991-41, Am 1993-33)
- 10.04.270. Administrative, Civil and Criminal Penalties.
- (1) Any person who is found to have violated an order of the Mayor or the Mayor's designee, or who willfully or negligently fails to comply with any provision of this Chapter or any orders, rules, regulations and permits issued hereunder, and upon a showing that the violation occurred after notice and hearing as provided in Section 10.04.250, Provo City Code, shall be subject to an administrative penalty not to exceed one thousand dollars (\$1,000.00) per day per violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
 - (2) In lieu of the administrative penalties provided herein, pursuant to authority granted by the Utah Water Quality Act, any person who violates this Chapter, or any permit rule, or order adopted under it, upon a showing that the violation occurred, is subject in a civil proceeding in the District Court, to a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day.
 - (3) A fine not exceeding \$25,000.00 per day may be assessed against any person who willfully or with gross negligence:

- 2395 — (a) discharges pollutants in violation of Section 10.04.040, Provo City Code or in violation
2396 of any condition or limitation included in a permit issued under Section 10.04.150, Provo
2397 City Code;
2398 — (b) violates Section 10.04.190, Provo City Code;
2399 — (c) violates a pretreatment standard or toxic effluent standard for publicly-owned
2400 treatment works.
2401 — (4) The City may recover reasonable attorney's fees, court costs, court reporters' fees and
2402 other expenses of litigation in the civil proceeding against the person and/or entity found to
2403 have violated this Chapter or the orders, rules, regulations, and permits issued hereunder.
2404 — (5) It shall be unlawful and a class B misdemeanor for any person to knowingly violate any
2405 provision of this Chapter. (Am 1989-60, Am 1991-41, Am 1993-33, Am 2005-17, Am 2006-
2406 49)

2407
2408 10.04.280. Falsifying Information.

2409 — Any person who knowingly makes any false statement, representation or certification in any
2410 application, record, report, plan or other document filed or required to be maintained pursuant to this
2411 Chapter, or by any permit, rule, or order issued under it, or who falsifies, tampers with, or knowingly
2412 renders inaccurate any monitoring device or method required to be maintained by this Chapter shall be
2413 punished by a fine not exceeding ten thousand dollars (\$10,000.00) or by imprisonment for not more
2414 than six months, or by both. (Am 1991-41, Am 1993-3)

2415
2416 10.04.57290. Severability.

2417 If any provision, paragraph, word, section or article of this Chapter is invalidated by any court of
2418 competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be
2419 affected and shall continue in full force and effect.

2420 ~~(Am 1991-41)~~

2421
2422 10.04.58300. Conflict.

2423 All other Chapters and parts of the Provo City Code or other City ~~ordinance~~Chapter inconsistent
2424 or conflicting with any part of this ~~Chapter~~ Pretreatment Chapter are hereby repealed to the extent of
2425 such inconsistency or conflict.

2426
2427
2428 10.04.590. Effective Date

2429 This chapter shall be in full force and effect immediately following its passage, approval, and publication,
2430 as provided by law.
2431
2432
2433

1 RESOLUTION 2019-.

2
3 AN ORDINANCE AMENDING PROVO CITY CODE TO CORRECT AND
4 UPDATE CHAPTER 10.02 WATER SERVICE, CHAPTER 10.03 SEWER
5 SERVICE AND CHAPTER 10.04 PRE-TREATMENT PROGRAM. CITY-WIDE
6 IMPACT.

Comment [RA1]: Is this needed for amending these chapters?

7
8 WHEREAS, Chapters 10.02, 10.03 and 10.04 of Provo City Code require updating to clean
9 up inconsistencies, meet current best practices, harmonize with development standards and
10 guidelines, comply with state and federal standards, and address the needs of a large and growing
11 city; and

12
13 WHEREAS, Provo City Public Works previously implemented the Provo City Public
14 Works Department Development Guidelines (Guidelines) for 2019; and

15
16 WHEREAS, many of the development requirements have been included in Chapters 10.02
17 and 10.03 of Provo City Code and said Guidelines have been revised to address the development
18 related requirements for water and sanitary sewer infrastructure; and

19
20 WHEREAS, Provo Staff created the Guidelines to make development requirements and
21 policies readily accessible, understandable, consistently applied and up-to-date; and

22
23 WHEREAS, to simplify the code and provide one complete reference for developers to
24 find Provo's design standards, several sections of the Provo City Code have been removed from
25 Chapters 10.02 and 10.03 and combined with the Culinary Water Systems and Sanitary Sewer
26 Systems Sewer sections of the Guidelines; and

27
28 WHEREAS, Chapters 10.02 and 10.03 of Provo City Code have been updated to meet
29 current policies and best practices; and

30
31 WHEREAS, Chapter 10.04 of the Provo City Code contains the requirements of the
32 Pretreatment Program, which is mandated by the Environmental Protection Agency (EPA) and the
33 Utah Division of Water Quality (DWQ); and

34
35 WHEREAS, the EPA and the DWQ require specific items to be included in code for
36 industrial pretreatment and protection of the Publicly Owned Treatment Works (POTW) and have
37 prepared a streamlined format for consistent application of the requirements; and

38
39 WHEREAS, the DWQ has reviewed Chapter 10.04 and approved the changes
40 accompanying this resolution; and

41
42 WHEREAS, Utah State Code Section 10-9a-501 requires all land use regulations be
43 enacted by a legislative body through ordinance to be enforceable; and

44
Comment [RA2]: I am not sure if this section applies since these are not specifically land use regulations. We are only changing chapters 10.02, 10.03 and 10.04 at this time, which Brian Jones said is a different process. Please let me know if this does not apply, and I'll take it out.

45 WHEREAS, on April 9, 2019, the Municipal Council held a duly noticed public meeting
46 to ascertain the facts regarding this matter, which facts are found in the meeting records; and
47

48 WHEREAS, after considering the facts and comments presented to the Municipal Council,
49 the Council finds (i) Provo City Code Chapters 10.02, 10.03, 10.04 should be amended as set forth
50 in Exhibit A, and (ii) this action reasonably furthers the health, safety, and general welfare of the
51 citizens of Provo City.
52

53 NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah as
54 follows:
55

56 PART I:
57

58 Provo City Code Chapters 10.02, 10.03, and 10.04 and the are hereby amended as set forth
59 in Exhibit A.
60

61 PART II:
62

63 A. If a provision of this ordinance or the development guidelines conflicts with a provision
64 of a previously adopted land use regulations, this amendment shall prevail.
65

66 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to
67 be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid,
68 the remainder of the ordinance shall not be affected thereby.
69

70 C. The Municipal Council hereby directs that the official copy of the Provo City Code be
71 updated to reflect the provisions enacted by this ordinance.
72

73 D. This ordinance shall take effect immediately after it has been posted or published in
74 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-
75 3b-204, and recorded in accordance with Utah Code 10-3-713.
76

77
78 END OF RESOLUTION.

ORDINANCE 2019-.

AN ORDINANCE REPEALING PROVO CITY CODE SECTION 2.60.040
(SUBMISSION OF PROPOSED ORDINANCES AND RESOLUTIONS –
DEADLINES). (19-071)

WHEREAS, it is proposed to repeal Provo City Code Section 2.60.040 to better reflect the expectations associated with ordinances and resolutions which are proposed for consideration before the Municipal Council; and

WHEREAS, the amendment to Provo City Code will remove outdated references in City Code consistent with technological advances which have improved the efficiency of communications between City departments and the Municipal Council regarding proposed ordinances and resolutions; and

WHEREAS, the repeal of Provo City Code Section 2.60.040 is consistent with the utilization of technology, rather than a reliance on printed copies as in the past, to conduct the work of the Municipal Council; and

WHEREAS, the Municipal Council has directed Council staff to prepare updates to the Council Handbook to reflect the current policies and deadlines associated with Council Meeting materials and proposed ordinances and resolutions; and

WHEREAS, on June 4, 2019, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds (i) Provo City Code Section 2.60.040 should be repealed as set forth below and (ii) this action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 2.60.040 is hereby repealed in its entirety:

~~2.60.040 Submission of Proposed Ordinances and Resolutions – Deadlines.~~

~~(1) Unless the Municipal Council Chair or a majority of the Municipal Council shall otherwise direct, all proposed ordinances or resolutions intended for consideration by the Municipal~~

~~Council shall be submitted to the Municipal Council not less than seven (7) days before the meeting at which the ordinance or resolution is to be considered.~~

~~(2) Submission of proposed ordinances and resolutions is accomplished by submitting one (1) copy thereof to the Municipal Council Chair or by submitting one (1) copy thereof to the offices of the Municipal Council during normal business hours.~~

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.
- C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.
- D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: BMUMFORD
Department: Council
Requested Meeting Date: 06-04-2019

SUBJECT: A discussion regarding an appropriation for a temporary apparatus facility during the relocation of Fire Station #2 (19-073)

RECOMMENDATION: Information only. The item is scheduled for the June 18 Council Meeting

BACKGROUND: When the new Fire Station is being built the Fire Department is going to be temporary relocated during that time. They have a location they'll be leasing for living quarters for the fire fighters and intended to lease the location for the fire apparatus. However, when they ran the numbers, they found the cost for leasing the apparatus during this time to be near what it would cost to purchase outright. They believe they can re-use this temporary facility for apparatus storage and move it to the Public Works Fleet Management and re-assemble for apparatus storage.

FISCAL IMPACT: \$130,000 from General Fund Balance

PRESENTER'S NAME: Chief James Miguel

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-073

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: BMUMFORD
Department: Council
Requested Meeting Date: 06-04-2019

SUBJECT: A discussion regarding Fire Department budget requests. (19-004)

RECOMMENDATION: Information only.

BACKGROUND: The Fire Department requested two appropriations. First, they requested a capital equipment replacement fund creation. This would be similar to the Recreation Center where they put money into a fund so they can replace equipment as needed. And second they requested a civilian Dispatch Director, someone who could manage the Dispatch office and wouldn't require Civil Service entry.

They were granted funding for the civilian Dispatch Director, but not the replacement fund. The Chief will come and explain each of these requests in more detail and spend time answering questions for the Council.

FISCAL IMPACT: None

PRESENTER'S NAME: Chief James Miguel

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-004



Provo City Proposed FY2020 Citizens Budget

produced by Municipal Council Staff



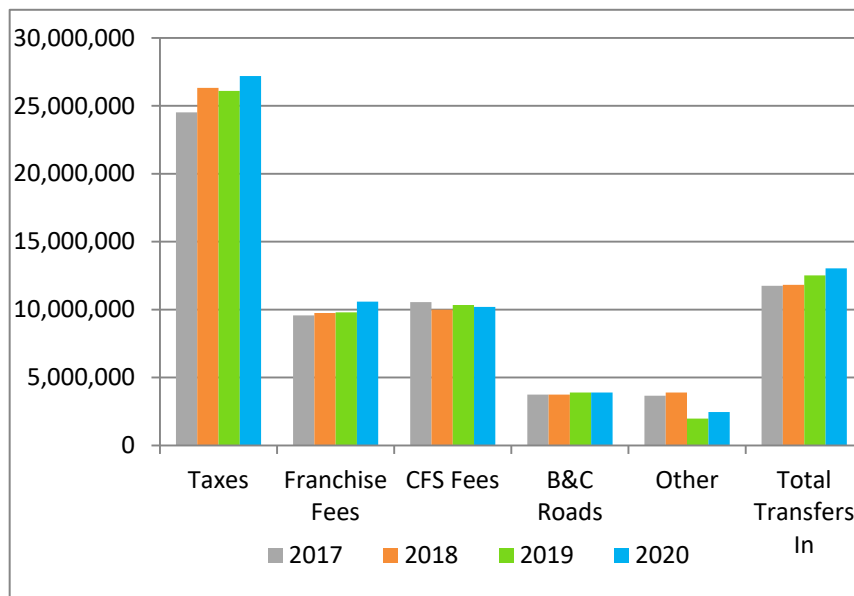
Revenue Summary



Total Revenues: \$283.7 Million

State law requires cities to balance their budgets. For Fiscal Year 2019-2020, the estimated amount of Provo's **total revenues** is approximately \$283.7 million (M) (FY 2020 Provo City Proposed Budget pg. 39). The most significant revenues come from sales for utility services (\$108.3 M), grants (\$31.8 M), and fees (\$25.3 M).

General Fund Revenues: \$67.35 Million



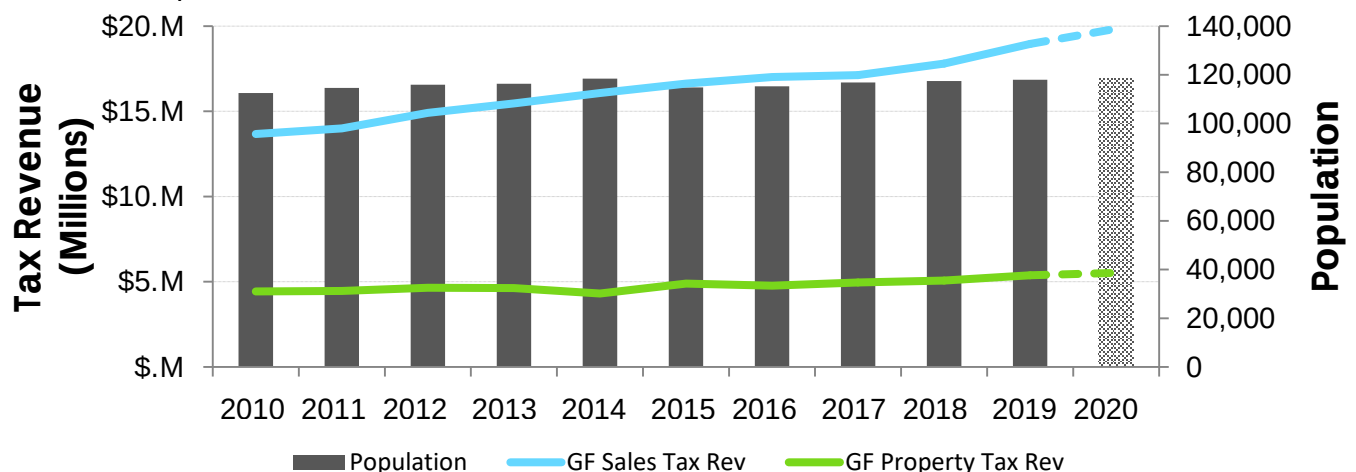
Source: FY 2020 Provo City Proposed Budget p. 46

The City uses **General Fund revenues** (breakdown and comparisons displayed on the left) to pay for City services provided by various City departments. The General Fund derives its revenues from three primary sources: taxes, fees, and transfers in (each year, 11% of Utility revenues are transferred into the General Fund). The City uses these anticipated revenues in the General Fund for running City activities. The total amount of revenues in the General Fund this budget year is \$67.35 M (see graph).

Fees approved by the Council as part of the annual budget are listed on the Consolidated Fee Schedule (CFS). The City charges fees to offset costs associated with these services. The CFS can be found [here](http://bit.ly/ProvoCFS). (bit.ly/ProvoCFS)

Sales and Property Taxes

The table below shows a historical graph of sales and property taxes as compared to population growth. Sales revenue has grown roughly in line with population since the recession, but property tax has remained relatively flat in spite of new development and increased home values.



Source: FY 2020 Provo City Proposed Budget p. 46; census.gov

Expense Summary



Total Expenses: \$280.74 Million

The City budget is split into funds to help organize and track expenses and revenues.

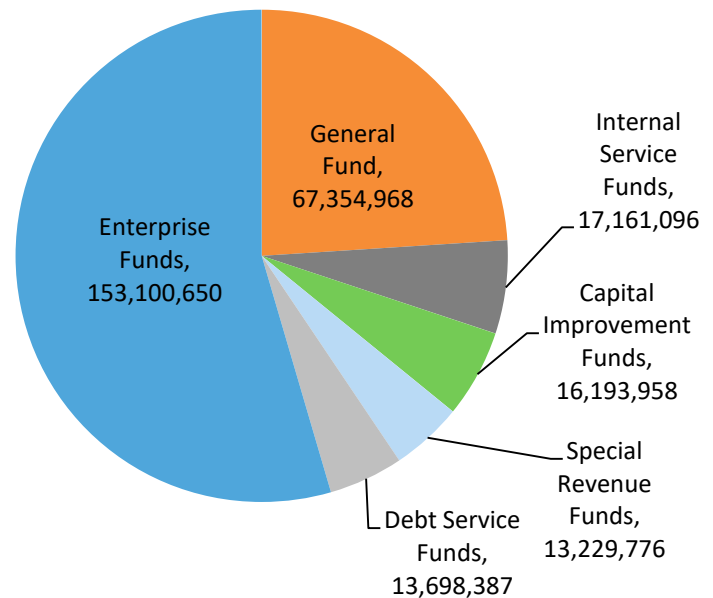
The **General Fund** pays for functions typically associated with a municipal government (e.g. police, fire, streets, parks and recreation, community development, etc.) and receives its revenues from taxes, fees, and transfers in.

Internal Service Funds primarily provide either benefits or goods and services to other funds and departments on a cost-reimbursement basis with the goal to break even rather than turn a profit. Provo City vehicle maintenance, computer replacement, employee benefits, etc. are examples of city services provided for in these funds.

Capital Improvement Funds are used to account for resources designated to construct governmental capital assets that may require more than one fiscal year for completion.

Special Revenue Funds are accounts established by a government to collect money that must be used for a specific project. These funds provide an extra level of accountability and transparency to taxpayers and signify that their tax dollars will go to an intended purpose. Provo City has a few special revenue funds used to service the Covey Center for the Arts, the Justice Court, and emergency response, among other services.

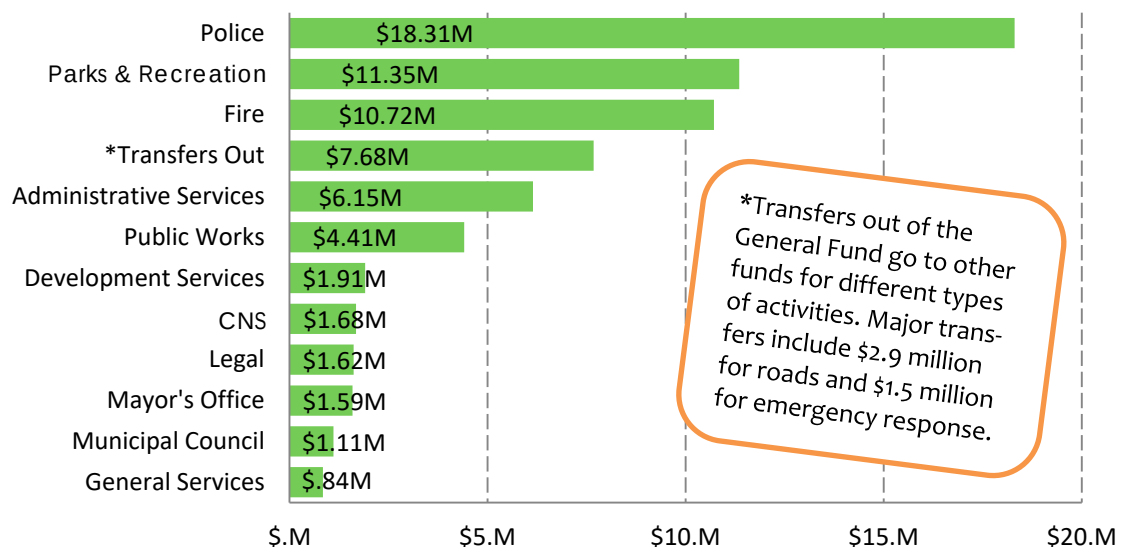
Enterprise Funds are government-owned funds that sell goods and services to the public and must abide by the same generally accepted accounting principles that private companies do. Utility funds, the Golf Course fund, and the recently added Ice Arena Fund are all examples of enterprise funds.



Source: FY 2020 Provo City Proposed Budget p. 39

General Fund Expenses: \$67.4 Million

The breakdown of the General Fund to the right shows the 11 Departments across Provo City (plus Transfers Out) and the funding they receive in order to continue their duties for the operation of City government. The two new departments, Community and Neighborhood Services (CNS) and Development Services (DS) are also listed.

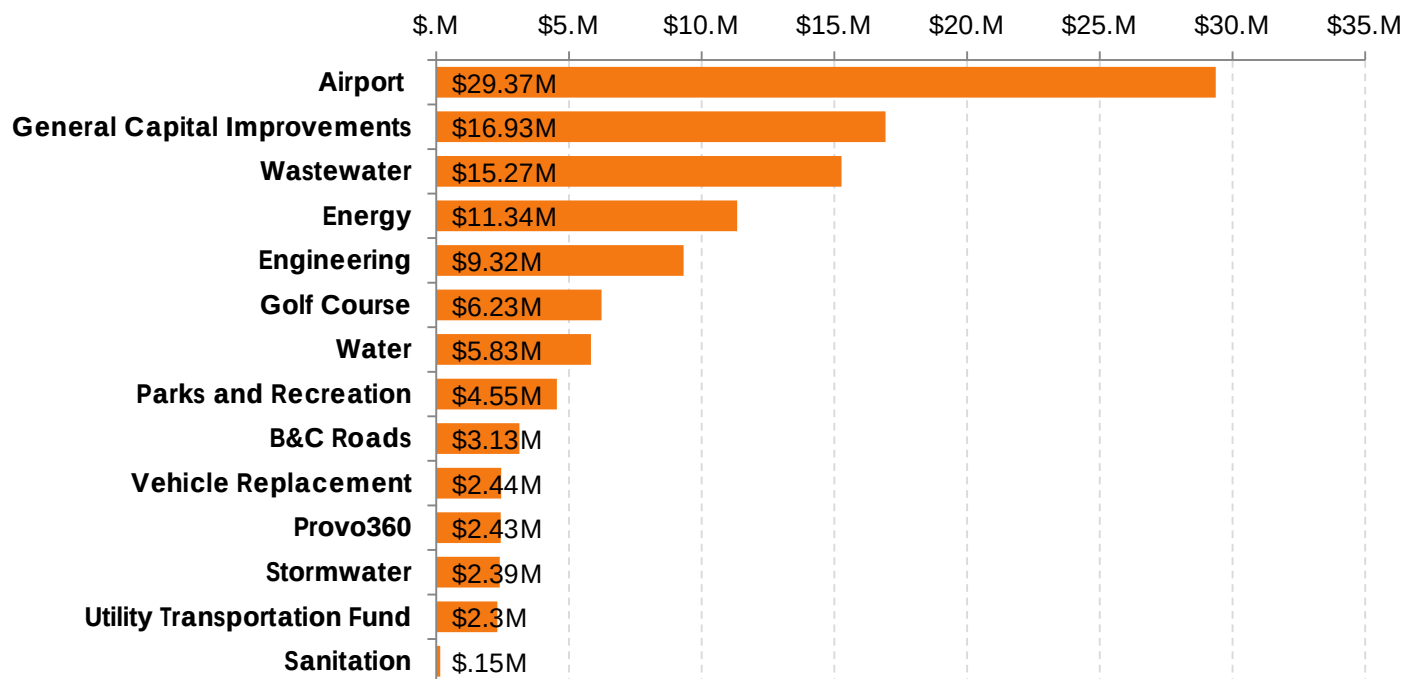


Source: FY 2020 Provo City Proposed Budget p. 46

Capital Projects



Fiscal Year 2020 Capital Projects: **\$111.66 Million**



Source: Provo City Five-Year Capital Improvement Plan, 2020

Infrastructure is one of a city's primary assets. A capital asset is a tangible property with a useful life of at least three years that costs more than \$5,000 to build. The table below shows significant capital projects scheduled to take place during Fiscal Year 2020. Each is a high priority for the City and has a budget over \$3 million in FY 2020. The five-year Capital Improvement Plan for 2020 can be viewed [here](https://bit.ly/2JGXpu4). (<https://bit.ly/2JGXpu4>)

The replacement of the Public Safety and City Administration buildings and Fire Station #2 will be funded by the general obligation bond voted on and passed in November 2018. Other projects will be funded by low-interest state loans, grants, and pay-as-you-go funding (spreading the costs over several years).

Project	Estimated Cost FY 2020	Funding Category	Purpose
Airport Terminal and Apron Phase 1	\$29,088,000	Airport	To create one new terminal with four gates at the Provo Airport
Replace Public Safety and City Administration Buildings	\$13,536,749	General CIP	To replace the Public Safety (Police, Fire, Dispatch, Emergency Operations, Fire Operations) and City Administration buildings on the existing property
New Reclamation Plant Projects	\$9,000,000	Wastewater	To construct a new water treatment plant on the existing property
Lakeview Parkway and Trail - New Provo River Bridge	\$7,000,000	Engineering	To provide direct access to the west side of Provo City, including the airport and the new Provo High School
Replace Fire Station #2	\$3,389,557	General CIP	To construct a new fire station on the existing property on North Canyon Road

Source: Provo City Five-Year Capital Improvement Plan, 2020

Department Reorganization



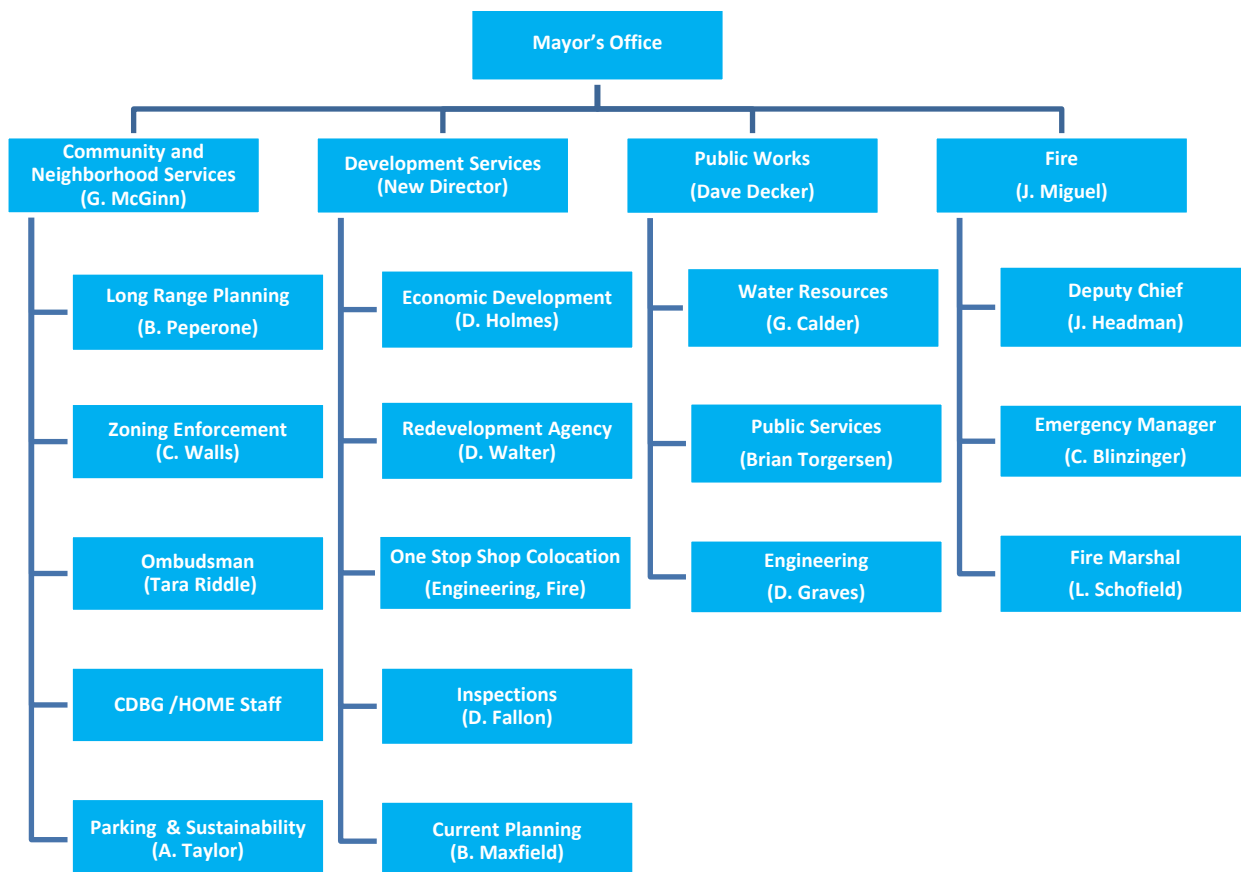
In 2016, the City Council formed a Development Approval Process Review Committee to study how to streamline and improve the application and approval process for development. In her State of the City Address in February 2019, Mayor Kaufusi announced the reorganization of some City departments to create a one-stop shop for everything related to development. This streamlined service will be overseen by the new Community and Neighborhood Services Department and the Development Services Department, both of which will report to the Mayor and are included in the tentative FY 2020 budget (see the chart below).

Community and Neighborhood Services Dept. Budget: **\$1.68 Million**

The **Community and Neighborhood Services Department**, formerly the Community Development Department, will oversee long-term planning, zoning code enforcement, property management, comprehensive planning, apartment licensing, maintenance of the citywide land use database, and accounting for all City-owned property. They will also administer the Planning Commission, Board of Adjustment, Design Review Committee, Landmarks Commission, Transportation and Mobility Advisory Committee, Administrative Hearing Program, and Board of Appeals.

Development Services Dept. Budget: **\$1.91 Million**

The **Development Services Department** will be a new addition in FY 2020, comprised of Economic Development, the Redevelopment Agency, and portions of Community Development and Public Works. It will be designed specifically to meet the needs of developers and will oversee short-term planning and building inspection.



Source: FY 2020 Provo City Proposed Budget p. 60-62; Provo City Mayor's Office

City Debt



Total City Bonded Debt: **\$156.15 Million**

As of May 1, 2020, the City has bonded debt outstanding of \$156.15 million (M). Of this amount, \$94.19 M is general obligation debt backed by the full faith and credit of the Provo City government. The remainder of the City's bonded debt, \$61,961,000, represents bonds secured by specified revenue sources (i.e., revenue bonds, whose principal and interest are payable exclusively from a designated revenue source or enterprise fund) (see table below).

The 2011 Recreation Center Bond and the 2019 City Center and Fire Station bonds are the only general obligation bonds for which the City is currently paying. The 2004 Telecom bond and the 2014 Cemetery bond are the only revenue bonds. The remaining bonds are Enterprise Fund Revenue bonds. Per the agreement for the 2017 Sales Tax Revenue bond for airport improvements, the City made only interest payments for the first two years. In FY 2020, the City will begin making payments on the principal as well.

The 2006 increment bond for the Covey Center was paid in full ahead of schedule in 2019.

Bond	Year	Type	Balance
City Center and Fire Station	2019	General Obligation	\$65,930,000
Recreation Center	2011	General Obligation	\$ 28,260,000
Telecom	2004	Revenue	\$18,325,000
Energy	2015	Enterprise Fund Revenue	\$16,470,000
Water	2015	Enterprise Fund Revenue	\$9,245,000
Wastewater	2015	Enterprise Fund Revenue	\$7,705,000
Sales Tax Revenue Bond	2017	Enterprise Fund Revenue	\$4,975,000
Stormwater	2010	Enterprise Fund Revenue	\$ 3,340,000
Cemetery	2014	Revenue	\$1,901,000

Source: FY 2020 Provo City Proposed Budget p. 123

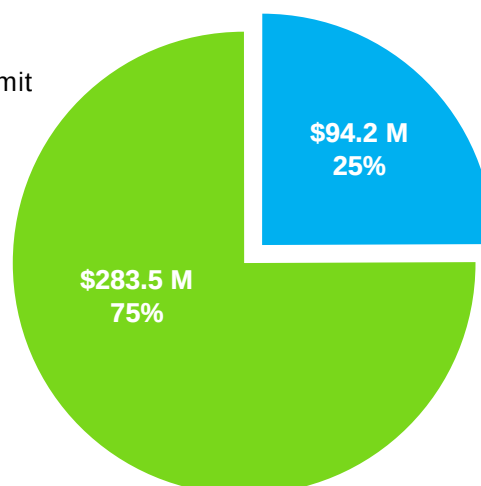
General Obligation Debt Figures

State statute limits the amount of general obligation debt a governmental entity may issue to 4% of its total assessed valuation.

At the end of FY 2017, Provo City estimates property market value of \$9.44 billion. Calculating the debt limit at 4% of estimate market value gives an estimated debt limit for the City of \$377.69 million.

This debt limit is higher than the City's current outstanding general obligation debt of \$94.19 million, which 25% of the City's legal limit (see graph on right). That leaves an unused legal debt margin of \$283.5 million.

- Current Debt Used
- Remaining Debt Limit



Source: FY 2020 Provo City Proposed Budget p. 124

Utility Infrastructure



Five years ago in FY 2016, the Council and City Administration determined that the revenues from Provo City's water, wastewater, sanitation, and stormwater utility rates were insufficient to pay for aging infrastructure repairs and replacement. As a result, the Administration proposed a plan to increase utility rates for water, wastewater, sanitation, and stormwater services over the course of five years. FY 2020 is the fifth year of those rate increases. Moving forward, increases are intended to keep up with inflation and appropriately maintain public infrastructure. The table below shows the proposed rates for FY 2020.

Utility Fund	Monthly Amount Increase	Rate Increase
Water	\$2.24	5.0%
Wastewater	\$7.18	15.0%
Sanitation	\$2.78	10.0%
Stormwater	\$0.80	8.0%

Source: FY 2020 Provo City Proposed Budget p. 32

As in prior years, fee increases in FY 2020 will pay for necessary capital improvements to better ensure each utility is appropriately and adequately maintained and better equipped to withstand natural disasters. For example:

- Additional revenues in the Water Fund will be used to construct new water wells, a 48" transmission line, and a reservoir replacement, among other projects in the next few years.
- Wastewater Fund rate increases, along with state funds, will be used to construct a new treatment plant and the west side sewer backbone.
- The Sanitation Fund increases will help operations related to garbage, recycling, and green yard waste reach sustainable levels.
- The Stormwater Fund will use fee increases to build or repair storm drains throughout the City, which will prevent flooding in the event of large storms.

The wastewater utility rate is anticipated to increase over the next decade in order to fund a new water treatment facility, as shown in the table below. In addition to meeting new, more stringent state standards for effluent (the water that comes out of the treatment plant), the new facility is also expected to help Provo independently meet its water needs, improve safety, and prevent deterioration of water quality in Utah Lake. Algae blooms occur when a common lake bacteria multiplies quickly and can produce harmful cyanotoxins (Harmful Algal Blooms Home, deq.utah.gov). Although the effluent meets all current regulations, its current nutrient content could be contributing to the growth of algae blooms.

The new facility will also be safer for staff. A recent risk assessment found that approximately 75% of the existing water reclamation facility was at a medium or high risk of failure. The operations and laboratory facilities also lack modern health and safety features.

Year	Anticipated Monthly Amount Increase	Anticipated Rate Increase
2021	\$13.84	25%
2022	\$6.92	10%
2023	\$6.85	9%

Source: Provo City Public Works Department

Police Department



Provo currently has the lowest officer-to-citizen ration of the 10 largest cities in Utah. Between an ongoing nationwide shortage of police officers and Provo's rapid growth, Provo's need for police officers on patrol has reached critical levels.

In 2011, the Provo City Police Department contracted with the Police Executive Research Forum (PERF) – a non-profit organization that assists law enforcement agencies with research and policy organization – to perform a study to better understand what the Police Department could do to improve performance, training, and conduct. PERF recommended that in order to meet the current workload, the department would need to hire an additional 14 patrol officers.

Additional police officers are expensive, especially in equipment in the first year, and police departments nationwide face a hiring shortage. The Police Department focused its efforts and personnel resources on improving the retention rate of officers working in Provo.

Provo's Police Chief has indicated that some of his police officers face fatigue due to the volume and intensity of their calls, which often results in the officers working overtime. In FY 2019, the City spent approximately \$300,000 on overtime for officers.

In FY 2020, the City was able to budget for seven new full-time police officers (six from newly-created full-time positions and one from combining funding for two part-time officer positions to create one full-time position). All seven of the new officers will serve as patrol officers, spreading out the current workload carried by Provo Police.

In 2019, the Mayor and City Council unanimously supported the creation of a Deputy Police Chief position to better assist the Police Chief in managing the increasing demands placed on the Police Department by rapid growth, the expansion of the Provo Airport, and other changes in the city.

The chart below shows the personnel totals for the Police Department from FY 2017 through FY 2020.

Patrol Division Summary	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Police Admin	1	2	1	2
Patrol (Admin, Shifts, Traffic, and K-9)	71	73	74	81
Special Ops (Admin, SRO, COP/SET, JCAT, and Task Force)	18	18	18	18
CID (Units)	14	14	14	14
Total	104	107	107	115

Source: Provo City Human Resources

Budget Information



To see the full FY 2020 Tentative Budget, please visit <https://bit.ly/2WzrSAu> or stop by the City Council offices at the City Center Building. • 351 W. Center Street • 801-852-6120 • council@provo.org

Elected Officials' Contact Information

Mayor

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801-852-6105

michelle@provo.org

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kay.provocouncil@gmail.com

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George Stewart

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georgejoannastewart@yahoo.com



Planning Commission Hearing Staff Report Hearing Date: May 22, 2019

***ITEM #4** The Provo City Community Development Department requests an amendment to Section 14.38.085(7) to clarify limitations on signage within the North University Riverbottoms Design Corridor. City-wide application. Aaron Ardmore (801) 852-6404 PLOTA20190026

Applicant: Provo City Community Development Staff Coordinator: Aaron Ardmore Requires Council Action: Yes <u>ALTERNATIVE ACTIONS</u> 1. Continue to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is June 12, 2019 at 6:00 P.M.</i> 2. <u>Recommend Denial</u> of the requested amendment. <i>This action <u>would not be consistent</u> with the recommendations of the Staff Report. The Planning Commission should <u>state new findings</u>.</i>	Relevant History: This Section of City Code was enacted in 1996 to create an integrated design corridor from 2230 North University Avenue to the mouth of Provo Canyon. Subsequent amendments have been made to this Section in 2006, 2010, 2013, and 2018. Neighborhood Issues: There have been recent concerns regarding what is prohibited for signs along this corridor. Staff has not been made aware of any concerns with this proposed amendment, as it is attempting clarify what signs are prohibited. Summary of Key Issues: • The current language leaves some ambiguity regarding what types of signs are prohibited along the North University Riverbottoms Corridor. • The proposed amendment clarifies prohibited signs. Staff Recommendation: That the Planning Commission recommend approval of the proposed amendment to the Municipal Council.
--	---

OVERVIEW

Provo City Community Development is requesting an ordinance amendment to subsection 14.38.085(7), to clarify prohibited signs in the North University Riverbottoms Design Corridor. Section 14.38.085 was enacted in 1996 to provide consistent design through this part of that City, and minor adjustments have been made over the years.

Due to recent concerns about what types of signs are allowed, staff has brought forward this proposal to clean up language and clarify what signage is prohibited. The proposed language explicitly prohibits any signs that are not otherwise authorized by subsection one, which clarifies the restriction for property owners and residents in the area.

STAFF ANALYSIS

1. Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments:

Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan: (responses in bold)

- (a) *Public purpose for the amendment in question.*

The public purpose of Section 14.38.085 is to control signage on North University Ave as a scenic entrance into the city. This amendment is to clarify what signs are and are not permitted in the North University Riverbottoms Design Corridor.

- (b) *Confirmation that the public purpose is best served by the amendment in question.*

This amendment gives very specific language on what is not permitted in the corridor.

- (c) *Compatibility of the proposed amendment with General Plan policies, goals, and objectives.*

The proposed amendment aligns with General Plan policies and goals to “help neighborhoods preserve their own identity and sense of place” as stated in Chapter One of the General Plan.

- (d) *Consistency of the proposed amendment with the General Plan’s “timing and sequencing” provisions on changes of use, insofar as they are articulated.*

There are no timing and sequencing issues with this proposal.

- (e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.*

The proposed amendment will not hinder or obstruct attainment of any General Plan policies.

- (f) *Adverse impacts on adjacent land owners.*

There are no foreseen adverse impacts on adjacent land owners in that this amendment is not a new restriction on signage. This amendment is simply a clarification of existing language.

- (g) *Verification of correctness in the original zoning or General Plan for the area in question.*

They are correct.

- (h) *In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.*

No conflict exists.

CONCLUSIONS

Provo has only three major entrances into the city (North University Ave, South State Street and Center Street). Of the three major entrances, North University Ave has fewer commercial and industrial uses and more residential development than the other two. Years ago, the North University Ave Design Corridor was adopted to protect the scenic nature of Provo Canyon and the setting of the Riverbottoms area. This proposed amendment helps to clarify what types of signage people can expect to see on this gateway into the City.

ATTACHMENTS

1. Proposed Language

(7) *Prohibited Signs.* With the exception of For Sale, Rent, or Lease Signs authorized by subsection 14.38.050(1), all other types of signs not explicitly authorized by this section are prohibited.

~~Temporary signs are not permitted except as permitted in this Chapter such as real estate and campaign signs. These types of signs shall not be located in the public right-of-way.~~

*ITEM 4

The Provo City Community Development Department requests an amendment to Section 14.38.085(7) to clarify limitations on signage within the North University Riverbottoms Design Corridor.

City-wide application
PLOTA20190026



(7) *Prohibited Signs.* With the exception of For Sale, Rent, or Lease Signs authorized by subsection 14.38.050(1), all other types of signs not explicitly authorized by this section are prohibited.

~~Temporary signs are not permitted except as permitted in this Chapter such as real estate and campaign signs. These types of signs shall not be located in the public right-of-way.~~



Provo City Planning Commission

Report of Action

May 22, 2019

*ITEM 4 The Provo City Community Development Department requests an amendment to Section 14.38.085(7) to clarify limitations on signage within the North University Riverbottoms Design Corridor. City-wide application. Aaron Ardmore (801) 852-6404 PLOTA20190026

The following action was taken by the Planning Commission on the above described item at its regular meeting of May 22, 2019:

RECOMMEND APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Andrew Howard

Second By: Robert Knudsen

Votes in Favor of Motion: Andrew Howard, Robert Knudsen, Russell Phillips, Dave Anderson, Shannon Ellsworth

Dave Anderson was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

PLANNING COMMISSION RECOMMENDED TEXT AMENDMENT

Section 14.38.085(7)

(7) *Prohibited Signs.* **With the exception of For Sale, Rent, or Lease Signs authorized by subsection 14.38.050(1), all other types of signs not explicitly authorized by this section are prohibited.**

~~Temporary signs are not permitted except as permitted in this Chapter such as real estate and campaign signs. These types of signs shall not be located in the public right of way.~~

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following: An overview of the request.

NEIGHBORHOOD MEETING DATE

- City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Riverbottoms Neighborhood Chair was present and told the Planning Commission during the public hearing that he supported the proposal

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following: No concerns were raised.



Planning Commission Chair



Director of Community Development

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS