PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Work Meeting

12:00 PM, Tuesday, June 18, 2019
Room 310, City Conference Room
351 W. Center Street, Provo, UT 84601
*****REVISED*****

Summary of revisions:

- *Additional minutes have been added for approval:*
  - *March 19, 2019 Work Meeting*
  - *March 28, 2019 Joint Meeting with Provo School District*
  - *May 28, 2019 Special Meeting*
  - *June 4, 2019 Work Meeting*
- *Several items have been reordered since the publishing of a previous version of the agenda. Insofar as was possible, items have been grouped or ordered similarly to their original order, but changes have been made to accommodate timing and presenter availability. Below is a summary pairing items on this revised agenda with a parenthetical note as to their original numbering:*
  - *Item 2 (previously item 10)*
  - *Item 4 (previously item 7)*
  - *Item 5, 6, and 7 (previously items 4, 5, and 6, respectively)*
  - *Item 10 (previously item 9)*
  - *Item 11 (previously item 8)*
  - *Item 12 (previously item 2)*
  - *Items 13, 14, and 15 (previously items 11, 12, and 13, respectively)*
- *New items were added: 3, 8, and 9*
- *"A discussion on a proposed Permit Parking Plan ordinance amendment (19-002)," originally noticed as the third item on the agenda, has been continued to the July 9, 2019 Work Meeting.*

Agenda

Roll Call

Prayer

1. **Approval of Minutes:**
   March 5, 2019 Work Meeting
   March 19, 2019 Work Meeting
   March 28, 2019 Joint Meeting with Provo School District
   May 28, 2019 Special Council Meeting
   June 4, 2019 Work Meeting

Budget Committee

2. A discussion regarding changes to the FY 2019-2020 Tentative Budget. (19-004)

Business

3. A discussion regarding an appropriation for the Airport operating budget. (19-078)

4. A discussion on the creation of Community and Neighborhood Services and Development Services. (19-036)

5. A discussion regarding the parking requirements and Transportation Demand Management plans for multi-family developments. (19-074)

6. A discussion on a proposed ordinance amendment to Provo City Code Chapter 9.17 (Civil Infractions) parking violations (19-023)

7. A discussion regarding the HOME Consortium Interlocal Agreement. (19-075)

8. A presentation regarding the annexation process. (19-076)

9. A discussion regarding the East Bay Annexation. (PLANEX20190140)

Redevelopment Agency

10. 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

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

12. A discussion of proposed amendments to Provo City Code 15.03.035 (Grading) to clarify and change requirements related to grading and grading permits. (19-002)

Policy Items Referred from the Planning Commission

13. A discussion about a Zone Change from Public Facilities (PF) to Low Density Residential and a Gen Plan Amendment from PF to Residential for 0.78 ac to allow 4 townhomes at 862 E Quail Valley Drive. Edgemont Neighborhood. (PLGPA20190009&PLRZ20180430)

14. A discussion regarding a request for an ordinance text amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone. City-wide application. (PLOTA20190120)

15. A discussion on a request for a zone change for approximately 2.12 acres of real property, from R1.10 to a Project Redevelopment Option Zone (PRO), generally located at 1320 S State Street. Spring Creek Neighborhood. (PLRZ20190100)

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

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The next scheduled Council Meeting will be held on 7/9/2019 12:00:00 PM at 7/9/2019 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.

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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.

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Pending minutes – awaiting approval

PROVO MUNICIPAL COUNCIL
Work Meeting Minutes

1:00 PM, Tuesday, March 05, 2019
Room 310, Provo City Conference Room
351 W. Center Street, Provo, UT 84601

Agenda (0:00:00)

Roll Call

The following elected officials were present:

Council Chair David Harding, conducting
Council Vice-Chair Kay Van Buren, arrived 1:13 PM
Councilor David Sewell
Councilor David Knecht
Councilor George Handley
Councilor George Stewart, arrived 1:10 PM
Mayor Michelle Kaufusi, arrived 1:05 PM

Excused: Councilor Gary Winterton

Prayer

The prayer was offered by Gary Millward, City Attorney.

Business

1. A discussion on the Economic Development Impact that has been produced through Parks and Recreation efforts (19-031) (0:02:22)

Scott Henderson, Parks and Recreation Director, presented. The Parks and Recreation Department wished to introduce an element of economic analysis in their operations and assessment of management of their programs. They worked with the Utah Valley Convention and Visitors Bureau for each Parks and Recreation operation, and what financial impacts run in these operations. Mr. Henderson explained that Provo Parks and Recreation was among the top 30 businesses in the City, paying $450,000 annually in sales tax.

Mr. Henderson invited representatives from each of the individual Parks and Recreation operations to share additional details on their facilities and its impacts:

- Paul Duerden, Covey Center for the Arts, shared details of the venue's operations in 2018, including statistics from ticketed performances. A survey of ticketed patrons showed that approximately 60% ate at a Provo establishment in conjunction with attending a performance. That did not factor in gas, shopping, or other impacts, but produced a great economic impact for Provo businesses and restaurants.
- Brett Watson, East Bay Golf Course, outlined usage rates of the course, noting that golf ranked just behind skiing in Utah in its economic impact, reaching nearly $1 billion

annually. East Bay Golf Course hosts a number of golf events and tournaments, as well as large national or regional track and field events, drawing large attendance and consequent business impacts for local businesses.

- Bryce Merrill, Provo Recreation Center Manager, outlined membership and day pass use of the facility, and details of events bringing out-of-town visitors to the center.
- Foster Watabe, Peaks Ice Arena Manager, highlighted use of the ice arena by local and league teams, public skate events which draw crowds, and figure skating events held at the arena. The Peaks Ice Arena operates at a high level true to its Olympic legacy.
- Doug Robins, Parks and Recreation Assistant Director, presented on Provo's system of parks and trails. Mr. Robins highlighted the distribution of these features throughout the community and usage statistics. These investments truly contribute to Provo's sense of community and as an attractive place to live and work.
- Mr. Henderson highlighted the boon that the proposed regional sports park in west Provo would provide to the City as it becomes a hub of local and regional use. Mr. Henderson explained the background behind the need in the broader community for a facility of this kind, as well as the impacts it would have for local business and retail. Mr. Henderson shared details of how the facility would operate with hosting tournaments and with self-sustaining operations. Mr. Henderson indicated that they had received a commitment of monetary support of $2.5 million from the Utah County Tax and Tourism Board toward development of the project. Mr. Henderson shared a pro-forma for the operation, as well as renderings of an innovative design with well-distributed parking and a central hub.

Mr. Henderson reiterated the recreational and economic benefits that these facilities provide to the City. The net effect on the operating expenses of the facilities is significant, and they hope to see the tremendous impacts continuing. Mr. Henderson responded to questions and comments from Councilors. Councilor George Handley asked about future plans as the Recreation Center and Peaks Arena continue to grow in attendance and success. Mr. Henderson explained how the operations at these facilities has changed to adapt to growing numbers; Mr. Henderson was hopeful that they could continue to be forward thinking in their planning for the future. Councilor David Harding suggested that Parks and Recreation produce some infographics with these details to share with the community about the City's recreation facilities.

Mr. Henderson acknowledged the contributions and teamwork of the Council, Administration and Parks and Recreation who have contributed to this success story. ***Presentation only.***

2. A discussion concerning House Bill 324 which proposes raising the minimum age for tobacco purchase and other alternatives available to Provo City (19-029) (0:31:10)

Councilor David Sewell presented. House Bill 324 proposes to raise the age limit for tobacco purchases from 18 to 21. The Council recently learned that cities have the flexibility to raise that minimum age as well, which has been done in both Lehi and Cedar Hills. Mr. Sewell explained that this was part of a nationwide movement called Tobacco 21, which encouraged states and municipalities to enact such provisions. In all states, it started with municipalities making the change first. Mr. Sewell shared statistics detailing the health impacts of smoking. Over 480,000 people die from smoking each year in the United States, and on average, smokers have a decade shorter life expectancy than non-smokers. It is estimated that of those who do smoke, about 95%

started when they were under the age of 21. Of those who start smoking under age 18, 90% of their supply comes from people they know who are aged 18-20. Mr. Sewell indicated that this would provide a significant benefit to the youth of the community and encourage healthier lives. Mr. Sewell explained that this resolution would express support for HB324. If HB324 did not pass, Mr. Sewell hoped that the Council would consider passing a city law to that effect.

Mr. Sewell noted that a previous version of the bill had included language that would diminish cities' ability to regulate tobacco, but the Utah League of Cities and Towns was successful in getting that removed in the final version that passed the committee. A representative from the American Heart Association had suggested making it clear that the Council supported the version that the Utah House of Representatives had actually passed, rather than the version which restricted the cities' abilities to regulate tobacco. Mr. Sewell read the paragraph which included the referenced changes and clarification of the City's position.

Motion: David Sewell moved to amend the implied motion to include the language suggested. Seconded by George Stewart.
Vote: Approved 6:0, with Councilor Gary Winterton excused.
This item was already scheduled for the March 5, 2019 Council Meeting.

3. A discussion regarding a proposed ordinance amendment prohibiting the sale of dogs, cats, and rabbits from commercial animal establishments (19-030) (0:39:34)

Cliff Strachan, Council Executive Director, presented. This ordinance would prevent the sale of dogs, cats, and rabbits at commercial animal establishments. Mr. Strachan outlined provisions of the ordinance, which was drafted in response to concern about recent reports in the Daily Herald. The Herald covered a recent influx of parvo virus affecting animals sold in retail stores. Rescue organizations facilitate the adoption of dogs, cats, and rabbits and are always looking for potential owners for adopted pets, while they typically provide proof of immunization, veterinary checkups, and have spayed or neutered the rescued animals.

Mr. Strachan spoke with some local pet store owners, including Goo Goo Dogs, Jay's Jungle, Rocco & Roxie Supply, and the Provo IFA to ask questions about their operations and to receive feedback on elements of the ordinance. Mr. Strachan shared these comments and expressed a desire to further review the ordinance with those business owners prior to the Council Meeting on March 19, 2019. Mr. Strachan responded to questions from Councilors, including:

- Councilor David Knecht was interested in learning more about USDA standards for certified breeders. Mr. Strachan indicated that he could do more research on this point, but that typically, one aspect the USDA examines is the volume of pets being raised.
- Councilor David Harding shared comments on why many cities were examining this issue.
- Councilor Kay Van Buren asked whether this would impact individuals selling puppies out of a car trunk. Mr. Strachan said this ordinance would not address that, but that that particular issue would likely be categorized as a business license violation. Mr. Van Buren expressed that surely there were also private breeders who also treat animals poorly.
- Councilor George Stewart was in favor of private enterprise, but felt it was problematic when it came to pets. He felt that this ordinance provided protection, as well as promotes shelters, which have a steady supply of adoptable pets.

- Councilor David Sewell shared other ideas to explore, such as a tax that would discourage the negative behavior, differential license fees for private breeders, a differential license fee for animals that have been spayed or neutered versus one that has not.

Mr. Strachan indicated that the Daily Herald was to publish another story with more research on this subject. ***This item will be scheduled for the Work and Council Meetings on March 19, 2019.***

4. A discussion regarding the Provo City Parking goals and objectives (19-018) (1:30:00)

Austin Taylor, Parking and Sustainability Coordinator, presented. Mr. Taylor outlined elements of the parking program and plan, highlighting that the biggest problem was the perceptions about parking downtown and how to help drivers find the existing parking. Parking accounts for about 58 acres or 25% of land uses downtown, which represents a significant cost to businesses and taxpayers. Mr. Taylor hoped to continue implementing a program to help drivers find the many parking spaces that routinely go unused.

Mr. Taylor shared details of recent efforts in parking education, including maps for hotel and convention center guests, planned updates to the wayfinding plan, and an interactive, online parking map at provo.org/parkingmap. Mr. Taylor shared additional policy considerations regarding a metered on-street parking program in downtown Provo, which would encourage and incentivize employees and business owners to utilize available structured parking, which would encourage higher turnover in the on-street parking utilized by customers and guests. Mr. Taylor and Downtown Provo, Inc. have been working with downtown business owners to involve them in the process, which will involve increased enforcement, maps, wayfinding and additional signage, and revamping arrangements with several parking garages/structures. They hope to also encourage other modes of transportation, as cars sit for 90% of their working life, versus bicycles and transit, which have higher utilization and take up less public space. Mr. Taylor referenced the results of an economic impact study conducted in Salt Lake City, following installation of protected bicycle lanes in a designated area of Salt Lake. Several Councilors requested additional data on the results of the Utah Valley Express in a future presentation by UTA.

Mr. Taylor outlined details of parking problems experienced in the Joaquin Neighborhood, illustrating the lengths that drivers go to for on-street parking, which results in problems for residents and business owners, as well as safety hazards for cyclists and pedestrians. A parking permit program would regulate who could park in those areas, and it would also provide an equitable financial incentive for utilizing other modes of transportation or other parking lots. Mr. Taylor noted other potential partnerships with off-peak use of parking lots that typically remain empty overnight; there are many existing parking assets in Provo that could be better used to advantage. Mr. Taylor again iterated the accessibility of other modes of transportation, noting the close relationship between transportation and sustainability. As Provo is land-locked by the mountains and Utah Lake, it is not possible to expand the available space in the City, but with creative solutions, Provo can gain additional space by encouraging mass transit, trains, and walking. Currently, driving is encouraged through the default methods of building roads that typically require a significant government investment and upkeep; driving is the most expensive and heavily subsidized form of transportation for governments. Street design can also be adjusted to encourage more active transportation at low costs overall. ***Presentation only.***

5. A discussion on an ordinance to correct inconsistencies and provide clarification regarding boards and commissions in Provo City Code Title 2 (19-033) (0:58:43)

Elizabeth VanDerwerken, Council Executive Assistant, presented. Ms. VanDerwerken highlighted the corrections and adjustments proposed for Provo City Code Title 2, regarding Government Organizations. In the process of coordinating with the Mayor's Office on nominations for City board and commissions, Ms. VanDerwerken and other staff members have prepared several updates and adjustments to make Title 2 consistent with the boards and commissions currently in operation and to remove redundancies and outdated references. Ms. VanDerwerken reviewed specific changes and explained additional details as needed.
Presentation only. This item was scheduled for the Council Meeting on March 5, 2019.

6. A discussion on Council work efforts (19-032) (1:04:48)

Council Chair David Harding presented and outlined a spreadsheet for tracking and updating the various assignments and current efforts of the Council. Mr. Harding outlined several considerations for an ad hoc Election Code Committee.

Motion: David Harding moved to create an ad hoc Election Code Committee, with the mission statement: "Review Provo City's current election code with Provo City election officials and propose updates and changes to better address and balance interests of campaign finance transparency, donor privacy, code clarity, and ballot access," and with David Harding as Chair and George Stewart as Vice-Chair. Seconded by George Handley.

Mr. Harding responded to several questions from other Councilors regarding the structure of the committee. He indicated that the City Recorder and Deputy Recorder, as well as Council Attorney Brian Jones, would be invited to participate in the discussions, though only the Councilors would be formal members of the committee, per Council Rules. Councilor Kay Van Buren asked for clarification on the provision in the mission statement regarding ballot access. Mr. Harding explained several policy considerations and topics of discussion that the committee would review as part of their preparation of formal recommendations to the Council.

Vote: Approved 6:0, with Gary Winterton excused.

Policy Items Referred from the Planning Commission

7. A discussion on an ordinance amending the Zone Map Classification of approximately 4.99 acres of real property, generally located at 2450 West 560 South from Agriculture (A1.5) to One-Family Residential (R1.8). Provo Bay Neighborhood. (PLRZ20180426) (1:18:40)

Javin Weaver, Planner, presented. Mr. Weaver highlighted details of the proposal, noting that the applicant coordinated with City staff to meet the requirements of the City code and to prepare a site plan consistent with the General Plan designation for this area. The site plan was adjusted such that driveways do not interface with the collector street, and Mr. Weaver highlighted additional details relative to the street requirements.

Councilors discussed sewer infrastructure capacity on the west side of Provo; there has not been a formal policy determination regarding distribution of existing utility connections. Councilor David Harding expressed concerns about fair access for developers and whether the City was openly and frankly communicating with developers regarding the sewer concerns. He hoped that everyone had the same access, but perhaps the Council needed to consider the policy in play. ***Presentation only. This item was scheduled for the Council Meeting on March 5, 2019.***

Budget Committee

8. A discussion on Council requests for FY 2019-2020 budget emphasis (19-004) (2:03:33)

Council Chair David Harding presented this item and asked whether the Council were interested in presenting a budget priority statement to the Administration. Mr. Harding outlined items which had been discussed previously: (items with an asterisk [*] were removed during the discussion)

- Police staffing and safety
- Public safety and city facilities* (use and value of bond funds)
- Parking (and *license plate readers)
- Housing audit*
- Zoning enforcement

Mr. Harding invited comments and feedback from Councilors on these budget items. Wayne Parker, CAO, suggested that how the Mayor addressed the Council's priorities was up to her, but that the Administration could report back as to how these priorities have been incorporated in the budget.

Mr. Harding clarified that the public safety and city facilities item was mistakenly included here; he felt the Council's oversight role would be critical in the process, but did not need to be a budget priority. The Administration felt that better parking enforcement was critical to introducing any kind of successful parking meter program. License plate readers allowed for efficient and effective enforcement and were an important element, but the overall subject of parking meters needed additional research and analysis before any decisions would be made. Mr. Harding suggested to keep parking on the list, but to remove license plate readers specifically.

Regarding zoning enforcement, several Councilors were primarily interested in an evaluation or report on how previous increases for the zoning division have been effective; this item was not a request to increase their budget, but to evaluate the effectiveness of previous increases to it. Councilor George Stewart expressed interest in a presentation on the topic at a future meeting.

Several Councilors were interested in pursuing a housing audit in Provo. Mr. Stewart wanted to know the expected return on investment of conducting a housing audit. Several Councilors felt that housing audits were an extremely useful tool for planners, businesses, organizations working with affordable housing, and policymakers. Gary McGinn, Community Development Director, shared background information on their partnerships with several BYU professors whose classes have helped prepare reports and plans with this kind of data collection and plan preparation element. He indicated that they could explore working with one of the student groups on a housing audit if that were of interest to the Council. Councilor George Handley noted other elements that are helpful in a housing audit, such as data on rentals, the populations driving rentals, demographics, etc. Mr. Harding suggested removing this item from the list as it

would require additional research to determine the costs and scope of a housing audit; perhaps an appropriation or one-time money would be more appropriate to address this item in the end.

Motion: David Harding moved to request that Council staff prepare a memo communicating these Council priority areas for the Administration to report on during the budget process. Seconded by David Knecht.
Vote: Approved 6:0, with Gary Winterton excused.

9. A presentation on the Council Office and potential budget requests. (19-004) (2:24:38)

Cliff Strachan, Council Executive Director, presented. About 75% of the Council budget was allocated to personnel costs. Mr. Strachan highlighted goals and elements of the General Plan which the Council had worked towards over the last year. Mr. Strachan expressed that the Council staff felt the current budget was sufficient. Mr. Strachan explained that one unfunded or underfunded need was facility rentals for neighborhood meeting spaces. If an economic downturn were anticipated, Mr. Strachan highlighted several areas that could be reduced or compacted; Mr. Strachan explained that the Council often returns surplus funds to the General Fund. Mr. Strachan responded to several questions from Councilors, and Councilor George Stewart expressed appreciation for the work by Brian Jones as Council Attorney. ***Presentation only.***

10. A presentation on the Fire Department and potential budget requests (19-004) (2:34:03)

Provo Fire Chief Jim Miguel presented. Chief Miguel outlined various activities and programs of the Fire Department and explained that Provo City utilized its resources to a high degree, providing multiple services from the Fire Department staff, where those same services may be split out in other municipalities. Chief Miguel shared details about:

- Ambulance services
- Emergency Preparedness and Emergency Operation Center
- Provo river runoff
- Great Utah Shake Out
- CERT classes
- Emergency mass notification systems
- Wildlands prevention and wildfire responses

Chief Miguel explained that staffing ratios were previously a benchmark for Fire Departments. However, rather than staffing ratios, the present standard is measured by the number of responders able to be on scene and the time it requires for them to arrive. Provo City aims to have the first unit arrive on scene in 5 minutes or less, with 15 firefighters and one command officer onsite within 9 minutes. A critical component is whether the department can support crews to handle simultaneous calls in various parts of the City. Provo has aid agreements throughout Utah County; Orem and Springville act as frequent partners due to their proximity.

Chief Miguel outlined additional infrastructure, equipment, and technological updates which would increase the quality of service of the Fire Department:

- Rebuilding 40% of the Fire Department's facilities
- Updated radio equipment and mobile dispatch tablets

- Video conferencing for training (allows staff to remain stationed at field locations)
- Pulsepoint app
- Dispatch consoles to improve the work environment of the dispatch center
- Fleet improvements
- Station 3 and 4 updates (new standards for carcinogen mitigation)
- Diesel emissions removal equipment
- Remodeling of living quarters and kitchens

Chief Miguel reviewed several concerns and considerations for future plans for addressing the emergency needs in the City. With increased density downtown and expansion at the airport, there may be impacts to Stations 1 and 4. Chief Miguel noted that the General Plan outlines a service area in the northwest part of Provo as well for a future Station 6.

Chief Miguel highlighted details of unfunded or underfunded needs of the Fire Department:

- Station 5 grounds and ramp repair capital investment
- Wildland Interface Prevention program
- Station 6 land acquisition plans
- Carcinogen reduction program
- Public Safety Information Systems Analyst
- Civilian Dispatch Director
- Capital repair and maintenance – various ongoing needs

In the event of an economic downturn and if the department were asked to reduce their budget, Chief Miguel explained the approach they would consider. The wildland program and an inter-facility transport program could be explored as revenue sources to meet the gaps. This would continue the great partnerships with other wildland agencies, and the transport service would improve system reliability (by allowing ambulances to remain on hand for emergencies, rather than be tied up in transport service for non-urgent patients). Chief Miguel and staff would also evaluate spending and make informed decisions about sustainable reductions. Chief Miguel hoped that the Fire Department could meet gaps in their budget with additional revenue opportunities, but he recognized the many impacts in the discussion and related concerns.

Chief Miguel responded to several questions from Councilors. He indicated that the new Provo High School has not exerted the demands they had expected to see (such as false alarms and car accidents) and that the School District has done an excellent job opening the school. The new Fire Station 1 as part of the facilities rebuild downtown would be designed to handle future expansion. The bay to be constructed would be larger than the existing size bay. ***Presentation only.***

11. A presentation on the Police Department and potential budget requests (19-004) (3:02:06)

Police Chief Rich Ferguson presented. Chief Ferguson echoed that the Information Systems division was a great partner for the Police Department. Chief Ferguson also introduced several staff members in attendance, Captain Brian Wolken and Lieutenant Brandon Post. He explained that it had been two months to date since Officer Joseph Shinners was killed in the line of duty. Chief Ferguson shared details for an upcoming event at the Utah State Capitol to honor fallen officers.

Chief Ferguson outlined elements of the Police Department programs and operations:

- Moving from a beat system to staffing based on active crime analysis
- Master Officer program
- Major Crimes Task Force: created by Provo in 1997, made up of 18 participating agencies
- Traffic patrol unit
- Community outreach initiatives
- Cyber Crimes, including grant-funded Internet Crimes Against Children Task Force
- Special Victims Unit
- Criminal Investigations Division
- Volunteers in Policing: over 2500 volunteer hours, savings to the City of about $62,000
- School Resource Officers, including criminal justice classes and gang resistance program
- K-9 Officers
- Special events (including the impacts to staffing; mandatory overtime is problematic)
- Recruitment efforts (including Channel 17 collaboration on a recruitment video)
- Implementation of Cop Logic online reporting system

Chief Ferguson and Lieutenant Post indicated that police recruitment and retention rates were still down nationally. Lieutenant Post shared data on the typical rate of number of officers per 1000 residents. The Police Executive Research Forum (PERF) report uses this measure along with other factors such as 9-1-1 call volume, calls responded to, and other local data to make a recommendation for Provo City. The Utah average is 1.49 officers per 1000 residents; Provo would need a 50% increase in the police force to reach that level. Captain Wolken shared details of recent recruitment and retention efforts, which have had a positive effect; Provo has still had several officers leave for other agencies, but not at such drastic rates as in recent years. There has also been an increase in applicants through the recent lateral program.

If economic downturn resulted in a need to reduce their budget by 5%, Captain Wolken addressed ways the Police Department would address those constraints. One area would be to request that the Provo School District contribute more to the School Resource Officers program. Chief Ferguson highlighted several other areas of success and other concerns, including officer fatigue and overtime, transient issues, population growth, assaults/injuries on officers, the impacts of the airport expansion, and the possibility of decertification for the BYU Police Department. Chief Ferguson recommended that Provo follow the PERF report's 2012 recommendation, to get to a police force 120-strong in sworn officers. This would be an increase of 13 officers for Provo and he felt that this trajectory would help prepare Provo for future growth. ***Presentation only.***

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. ***None requested.***

Adjournment

Adjourned by unanimous consent.

Pending minutes – awaiting approval

PROVO MUNICIPAL COUNCIL
Work Meeting Minutes

12:30 PM, Tuesday, March 19, 2019
Room 310, Provo City Conference Room
351 W. Center Street, Provo, UT 84601

Agenda (0:00:00)

Roll Call

The following elected officials were present:

Council Chair David Harding, conducting
Council Vice-Chair Kay Van Buren
Councilor David Sewell
Councilor George Handley
Councilor Gary Winterton
Councilor David Knecht
Councilor George Stewart arrived 12:36 PM.
Mayor Michelle Kaufusi

Prayer

The prayer was given by Cliff Strachan, Council Executive Director.

Approval of Minutes

November 27, 2018 Work Meeting - *Approved by unanimous consent.*

Budget Committee

1. A presentation on the Parks and Recreation Department and potential budget requests. (19-004) (0:04:55)

Scott Henderson, Parks and Recreation Director, presented. Mr. Henderson highlighted goals and objectives of the General Plan and how Parks and Recreation has achieved them. Doug Robins, Parks and Recreation Assistant Director, addressed environmental stewardship and how Parks and Recreation has introduced sustainable measures into their operations. Mr. Henderson addressed the self-sustaining elements that further the department's operations and offerings. Mr. Henderson highlighted several upcoming projects, including the regional sports complex and the all-abilities playground. Mr. Henderson highlighted areas of the Parks and Recreation Department where there have been pinch points, but how these issues have been resolved through innovative management.

Mr. Henderson highlighted supplemental requests and how these have been utilized. They were able to take a part-time events position to a full-time position, allowing the events staff more bandwidth and continuity in continuing to put on high-caliber, high-attendance events. Parks and Recreation has also implemented the Triple Play program, which has better integrated recreation facilities and offerings for residents. Mr. Henderson also addressed strategies the department would implement in

an economic downturn. In the past, they have observed an uptick in use of parks facilities during economic dips; with less expendable income, many stay close to home instead of vacationing out-of-town. Through subsidy reduction, Parks and Recreation continues to streamline operations.

Mr. Henderson highlighted several other elements of the coming budget year, including some potential challenges as the medical school construction begins in the East Bay area, the regional sports park economic impact and timeframe, and the future of the Recreation Center [as Orem invests more in their recreation facilities, which may impact the surrounding communities].

Councilors asked additional questions regarding the Parks and Recreation budget. Councilor Gary Winterton was interested in a breakdown of usage between the recreation center, golf course, and ice arena. In response to a question from Councilor David Knecht, Mr. Henderson explained that the recreation center serves in many ways that the private sector does not, to provide youth sports programs, senior programming, and other adaptive programming. Mr. Henderson introduced his staff members who manage each of the major Parks and Recreation facilities; he acknowledged the tremendous success of the department and the community support they have received at elections. Mr. Henderson highlighted several other services and functions of the department, including child-watch, community parks assets, pavilion usage, Provo's Olympic heritage, and large-scale events. Councilors expressed appreciation for the work of Mr. Henderson and his staff. ***Presentation only.***

2. A discussion regarding the Provo City Five-Year Capital Improvement Plan for FY 2019-2020 (part 1 of 2). (19-035) (0:34:50)

Dustin Grabau, Budget Officer, presented on the various capital improvement projects related to Public Works functions. Highlights of the CIP included:

- Preliminary figures for the airport, as there will likely be substantial changes given the potential for terminal development. Mr. Grabau noted portions that were already funded, versus the unfunded portions of the project at this time. This particular CIP will be updated as additional funding sources are secured in the development process.
- Master plan for the Public Works facility, with gradual improvements planned over the next five years (currently and upcoming elements were the Fleet office and fueling island).
- The City is nearing the end of a five-year project to make drastic improvements to the City's fleet composition (vehicle replacement CIP).
- This CIP includes the beginning of building a new wastewater treatment plant.

Throughout the discussion, Mr. Grabau received questions from Councilors. He referenced related CIP projects in response and offered additional clarification as needed. Questions included:

- Councilor Gary Winterton asked about the future of the Utility Transportation Fund; Mr. Grabau indicated that it was expected to continue as usual. Several Councilors commended the results of the UTF and its impact on Provo's roads maintenance.
- Councilors asked about various road projects with 820 North, a bridge study at the Freedom Boulevard railroad crossing, and a request for a safer crossing over railroad tracks on 820 North near Freedom Preparatory Academy. Dave Decker, Public Works Director, explained that there were likely ways to mitigate the danger of that crossing, but there was hesitancy to complete significant capital improvements which could be replaced within a few years due to the possibility of a future highway on-ramp development. Mr. Decker

indicated that the City engineers could examine the issue in more detail.

- Councilor David Knecht asked about low emissions fuels, such as Tier 3, versus natural gas. Mr. Decker indicated that information was important for Nancy Bean, Fleet Manager, to examine as the City considered future changes to the fleet makeup.
- Councilor Gary Winterton asked about any plans for future bonding and whether the current reserves and savings of Public Works were sufficient and adequate for project planning. Mr. Decker indicated that these savings and funds were set up for specific projects in mind; any crossover between projects and funds would be handled as an inter-fund loan, which would return to the original fund as a loan payment and dividend.
- There has been some discussion of a Center Street redesign to make a walking park or linear park, with a large pedestrian element. Mr. Grabau and Public Works staff outlined several considerations of who would manage certain elements of such a project.
- Councilor David Harding asked about aquifer storage and recovery (ASR) projects and policies regarding use of treated water. Mr. Decker planned to present in depth on this topic at a future Work Meeting. Mr. Decker suggested that funding sources would likely change as Public Works continues to formalize an ASR study with a consultant as to how to address long-term needs of the aquifer and groundwater levels. Mr. Decker explained that although Provo has 16 wells, water rights are only efficacious if water is available, so protecting Provo's water sources was a crucial factor in the broader discussion.
- Councilor Kay Van Buren was interested in more information on well projects. Mr. Decker highlighted several projects currently underway, as well as several upcoming projects.

Mr. Grabau invited the Council to submit any additional questions or concerns, to which Finance could prepare responses for a future discussion. ***Presentation only.***

Business

3. A presentation from the Administration about proposed organizational changes. (19-036) (1:18:32)

Mayor Michelle Kaufusi introduced this item and invited Wayne Parker, CAO, to share details on the restructuring of the city's development services. Mr. Parker highlighted the past history of concerns related to disconnections in the development approval process and he outlined the process to get to this point. Mr. Parker highlighted the importance of balancing varying and competing interests at play, including: the ease of the development process versus ensuring high-quality development; flexibility for applicants versus rigid standards to protect infrastructure; and an accelerated approval process versus protections for neighborhoods.

Mr. Parker referenced Jim Collins' book "Good to Great" and Collins' idea of a bus: defining who is involved, then defining what the organization looks like. The Administration has looked to this type of model as they have considered the reorganization, which they will do by making changes to:

- Structure: create department of development services, reformat community development
- Location: co-locate staff involved in the development review process in a one-stop shop
- Process: reformat the CRC (Coordinator's Review Council)

Mr. Parker explained that this combination of changes would address concerns heard over the last several months and years. Mr. Parker outlined the specifics of the two departments: Development

Services; and Community and Neighborhood Services. He explained which functions of existing City departments would be divided among each new department. One controversial question centered on how to handle boards and commissions; the Administration wanted to organize these in a way that made sense, but that would not inadvertently create an environment that seemed over-streamlined to neighborhoods. Mr. Parker explained the anticipated division of boards and commissions between departments. Mr. Parker also noted that a couple of engineers would be co-located to Community Development; there was value in maintaining the existing structure of Engineering within Public Works, but the hope was that by co-locating several engineers, communication would improve within the development approval process.

The Administration hoped that reformatting CRC would mitigate breakdowns in the process (for either infrastructure planning or development approval). The new CRC group would be much smaller and operate in a more focused manner. Much of the feedback received from developers centered on the dysfunction of the current CRC organization. Mr. Parker outlined more details on CRC, noting that the Mayor had invited him to chair that group; having a decision-maker involved in the meeting was intended to expedite the process and drive solutions. Mr. Parker explained that the CRC changes would start in May 2019. At a future point, the chair position would be transferred to the new Development Services director, as a main priority of their job.

Mr. Parker explained the anticipated process for organization changes (in conjunction with the new budget year due to timing and budget impacts) and location changes (as opportunities arise; final locations may not be firmed up until the new city facility is constructed). There has not been unanimous support for the changes, but the Administration felt these were important steps in the process of improving the organization; they felt that these solutions reached a good middle-ground among stakeholders, as well as provided transparency for residents. Mr. Parker indicated that changes to Titles 2, 14, and 15 would come forward at a future point. Mr. Parker commended Mayor Kaufusi for taking on these changes; these ideas have been discussed for many years and having the political will to be able to take them on was amazing. Councilors also commended the Administration for these changes. ***Presentation only. This item was scheduled to be brought back to a future Work Meeting.***

4. A discussion regarding a proposed ordinance amendment prohibiting the sale of dogs, cats, and rabbits from commercial animal establishments (19-030) (1:50:25)

Cliff Strachan, Council Executive Director, presented. Mr. Strachan highlighted background information regarding the request. Mr. Strachan also shared specific feedback from several retailers in Provo and more broadly in Utah County who shared comments on the proposal. Mr. Strachan noted that breeders are regulated by the USDA and that the State of Utah did not have additional laws in place for breeding of cats, dogs, or rabbits. Mr. Strachan outlined other programs seen in other municipalities in Utah, but noted that this ordinance draft did not contemplate regulation of breeders; if the Council were interested in forming a policy on breeders, it would be addressed in a separate section of code.

Mr. Strachan outlined options for how the Council could proceed. Mr. Strachan outlined options for granting a prior business exemption (for existing businesses which have already sold rabbits) and he invited comments from the Council. Several Councilors wondered whether the ordinance

was worth proceeding with and whether it should stay on the Council Meeting agenda. ***Presentation only. This item was scheduled for the Council Meeting on March 19, 2019.***

5. A discussion regarding the proposed Community Land Trust Request for Proposal/Request for Qualifications. (19-032) (2:18:37)

David Walter, Redevelopment Agency Director, presented on the history of this request and invited comments from the Council. David Harding, Council Chair, suggested that the Council make broader policy decisions before proceeding. Councilor David Knecht shared comments on the policy discussion. Mr. Walter made some clarifications about the Community Land Trust consideration. Mr. Knecht felt that this was an appropriate next step and he thought there were different ways to articulate a policy. After further discussion, the RFP/RFQ was updated to an RFI or Request for Information, in order to facilitate further policy discussion. ***Presentation only.***

6. A policy discussion related to the Neighborhood Housing Services of Provo proposal with regards to homes purchased with CDBG/HOME Dollars. (18-076) (2:32:01)

Mr. Walter also presented this item, outlining background information and some of the institutional history involved between Provo City, the Redevelopment Agency, and NeighborWorks (formerly Neighborhood Housing Services of Provo). Councilors shared comments and feedback on the management of the properties involved; NeighborWorks has been a great partner in the community in rehabilitating rundown or contaminated properties and bringing them back into use as needed housing inventory. Several Councilors were reluctant to lose their partnership. ***Presentation only. This item will be brought to a future Council Meeting.***

Policy Items Referred from the Planning Commission

7. A discussion regarding a proposed ordinance to amend Downtown Streetscape standards to clarify right-of-way improvements for 100 West. Citywide impact. (PLOTA20190007) (2:47:47)

Javin Weaver, Planner, presented. This is a follow-up looking at streetscape standards for 100 West. Mr. Weaver outlined elements of the amended standards, including pedestrian activity nodes, artistic displays, mid-block crossings, unique identifying features, and other options for introducing charm and character along this corridor. Mr. Weaver also noted the updated layout of the document, as well as other updates introduced by Public Works and the City arborist. ***Presentation only. This item was scheduled for the Council Meeting on March 19, 2019.***

Business

8. A discussion about Wastewater Recommendations, Treatment Resolution, and Code Changes. (19-037 and 19-038) (2:53:16)

Dave Decker, Public Works Director, presented. Mr. Decker shared an update on the process selection and site selection for the wastewater treatment plant, which would need to be formalized in the coming months in order to proceed with a variance request to the State Division of

Environmental Quality (DEQ) board. Mr. Decker provided additional context for the language in the resolutions on the Council Meeting agenda and highlighted how that information has evolved since previous discussions with the DEQ board and the Council. Mr. Decker introduced Mark Ogren, Treatment Plant Manager, who was present to answer additional questions.

Mr. Decker responded to several questions from Councilors and outlined considerations which have led to the current decision points, including:

- The current site of the treatment plant was selected for the new construction due to a number of factors, including geotechnical concerns of the other site option, construction phasing costs, operation of the current plant, and the financial impacts of each site.
- The project budget was about $93 million and the City was able to secure a $78 million loan from the State DEQ. Provo City would make significant contributions to fill that funding gap. The Council would need to pass a resolution of approval for Public Works and the DEQ to move forward with the loan authorization.
- Mr. Decker highlighted sewer capacity throughout the City, including areas with current existing capacity, as well as areas that have capacity concerns. Public Works staff have evaluated CIP projects in a map format, rather than a list, for consistent comparison. Mr. Decker clarified that the existing capacity map was not a master plan; it was an important tool in the ongoing discussions about capacity and density. Repairs of existing sewer lines would be done alongside other utility projects during major construction or road projects. For areas with insufficient capacity, staff have recommended denial of current applications for development on the premise that there is not capacity, nor will there be for some time.
- Other Councilors asked about delta restoration, open space preservation, west-side grocery store, and the regional park. Mr. Decker indicated that these projects would face similar capacity and timing challenges with wastewater and the completion of a master lift station.

Presentation only. This item was scheduled for the Council Meeting on March 19, 2019.

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.

Brian Jones, Council Attorney, introduced the legal basis for the Closed Meeting discussion.

Motion: Gary Winterton moved to close the meeting. Seconded by George Handley.
Vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.

Pending minutes – awaiting approval

PROVO MUNICIPAL COUNCIL

Joint Meeting with the Provo School District

Meeting Minutes

12:00 PM, Thursday, March 28, 2019
Room 310, City Conference Room
351 W. Center Street, Provo, UT 84601

Agenda (0:00:00)

Roll Call

The following Council members, Provo School Board members, and staff were present:

Councilor David Harding, conducting
Councilor David Knecht
Councilor George Handley
Councilor David Sewell
Councilor Gary Winterton, arrived 12:04 PM
Cliff Strachan, Council Executive Director
Wayne Parker, CAO, arrived 12:06 PM
Mayor Kaufusi, arrived 12:09 PM
Isaac Paxman, Deputy Mayor, arrived 12:09 PM
Jim Petersson, School Board President
Julie Rash, School Board Member
Melanie Hall, School Board Member
Nate Bryson, School Board Member
Stefanie Bryant, School District Business Admin.
Rebecca Nielsen, School Board, arrived 12:04 PM
Jennifer Partridge, School Board, arrived 12:04 PM
Elizabeth VanDerwerken, Council Executive Asst.
Excused: Kay Van Buren and George Stewart

Prayer

The prayer was given by Melanie Hall, School Board Member.

Business

1. A presentation from the Redevelopment Agency regarding creation of a redevelopment area near the East Bay Golf Course. (0:03:32)

Scott Henderson, Parks and Recreation Director, presented. Mr. Henderson outlined a site plan and illustrated how the creation of a redevelopment project area could be implemented to enhance the remaining golf course, utilizing the tax increment of the land given up by the golf course to facilitate the development of the medical school in East Bay.

Brett Watson, Golf Course Manager, outlined specific elements of the proposed golf course improvements. The intent was to introduce several elements to expand playability of the course by adding lights to the driving range and short course, as well as make golf more accessible to students, children, and families. Mr. Henderson highlighted benefits of the program for Provo.

David Walter, Redevelopment Agency Director, outlined additional details including base property values (one property had not yet been assessed by the County), the scope of the project area and duration, and how the increment would be put to use. Council Chair David Harding thanked Mr. Walter for his ability to present at the last minute, and Mr. Harding clarified that this is the first time that the Council was hearing about the proposal as well.

Stefanie Bryant, School Board Business Administrator, shared her appreciation at the City involving the School District in the discussion early on. Several Councilors thought it would be important to get more details, but felt it was useful to have the presentation to both groups. Ms. Bryant asked about the proposed use of the increment for golf course improvements; typically tax increment has been used for infrastructure improvements, so that is certainly an issue the School District would like to research further before coming to a decision. ***Presentation only.***

2. A discussion on a rezone application for a proposed development at 862 E Quail Valley and potential impacts to nearby Provo School District properties. (PLRZ20180430) (0:27:34)

Councilor Gary Winterton introduced the topic, following a concern raised at a recent Neighborhood Symposium regarding growth at Timpview High School and parking issues. School Board President Jim Petersson invited comments from board members Melanie Hall and Nate Bryson, both of whom represent that area of Provo. Ms. Hall expressed concern about selling property zoned as Public Facilities. Additional discussion touched on the following:

- Councilor George Handley asked whether the School District has looked at restricting the number of student cars on campus.
- Ms. Bryant felt it was critical to have enough parking onsite, but she did not think overflow into the neighborhood was as much a concern as the neighborhood thought.
- Mr. Winterton suggested that if the School District needs more ground, this was a contiguous piece. He wanted to make sure they were aware of any possibilities for the future use of that property before a development came to the Council for approval. Several other Councilors agreed that it was certainly something for the school district to consider or take into account.
- Several school board members expressed that the property presented certain limits for usability that may not be worth the costs associated with the parcel. ***Discussion only.***

3. An update from the Provo School District regarding potential bonding. (0:44:00)

Jim Petersson, School Board President, shared an update on the School District's plans for bonding, including details of an upcoming outreach and information meeting. The School District has prepared two sets of figures, realizing that the final numbers will likely be somewhere in the middle range.

High end: $255 million bond which includes:

- $145 million for Timpview High School rebuild
- $65 million for onsite rebuild of Dixon Middle School
- $30 million for Wasatch Elementary rebuild
- $10 million addition Westridge Elementary
- $5 million for security upgrades

Low end: $165 million bond which includes:

- $65 million for a phased, limited rebuild of Timpview High School
- $55 million for larger, off-site rebuild of Dixon Middle School
- $30 million for Wasatch Elementary rebuild
- $10 million addition Westridge Elementary
- $5 million for security upgrades

The School District is planning for three bond releases to help minimize the impacts to residents. There will be a significant impact for the first five years of the bond, with reductions after that.

Ms. Bryant elaborated on some considerations for how the bond would be structured. The School District plans to outline a decision at their business meeting in mid-April. The Board members expressed appreciation for Provo residents who have been involved in the discussions. Councilors asked other questions and shared comments, including:

- Regarding Dixon Middle School, Mr. Petersson indicated that the district would be looking at what would be best for the coming generations of students, as well as for Provo tax-payers. They hoped to base decisions on the most reliable data and facts available, including professional best practices and standards.
- Mayor Kaufusi suggested that the School District provide expected figures for the bond impacts for an average home in Provo. For each $100,000 in tax value, the increase would be approximately $50 for the first year.
- Several Councilors felt it was important to understand the impacts of doing nothing.
- Regarding the Timpview High School site, there are remediation techniques that make rebuilding onsite possible. Those mitigations to the clay soil were not possible in the 1970s, although the remediation will be expensive.
- Councilor David Harding suggested that perhaps land was available in Mountain Vista Business Park that could suit the School District's needs and may be less expensive.
- School Board members commented on the shift in the responses from residents in the Timpview area; while there was not consensus on a position, many have noticed a decreased resistance to a Timpview rebuild as more information has been shared. The board members felt that providing various options that they have considered have helped with their public dialogue about the bond.
- Councilor Gary Winterton suggested the importance of demonstrating wise use of taxpayer funds by the School District. ***Discussion only.***

4. A discussion of possible mitigations for walking students and increased traffic on the west end of Center Street near Amelia Earhart Elementary School. (1:09:21)

School Board Member Julie Rash introduced the item and outlined questions regarding traffic and pedestrian concerns on west Center Street near Amelia Earhart Elementary School. Shane Winters, Provo City Traffic Engineer, shared some insight and overall understanding on what is happening on west Center Street. Construction of Lakeview Parkway, from Mike Jense Parkway to Center Street, is reaching completion in late 2019. Public Works is also installing a large sewer main to connect to the lift station south of Lakeview Parkway. The next phase of Lakeview Parkway construction will continue to the north of Center Street, which may result in some additional truck traffic on Center Street as they construct bridges and begin the Provo River Delta Restoration project. Mr. Winters indicated that there is a school crossing at that intersection, with both flashing lights and a crossing guard. Mr. Winters explained the process for evaluating safety of an intersection and indicated that a study would certainly be possible.

Mr. Winters continued, outlining the Safe Routes to School program, which is administered by the State under UDOT. Utah utilizes the Manual of Uniform Traffic Control Device, a national standard that governs traffic and safety devices, but has adopted a Utah-specific Safe Routes chapter (chapter 7), which regulates safe routes to school in the state. Mr. Winters explained that the school's community council and principal should be meeting annually to formulate the Safe Route Plan. These routes are completed each year and submitted to the State. There is also a

school district traffic safety council, which meets with the City regarding routes, implementation, and any other issues that the City may need to examine.

As Engineering gets comments from the public on this subject, they guide them back to the school community council and principal. The Police Department is also involved in those discussions. Mr. Winters explained that it was important to follow this process, as it was designed to involve all the related groups in formulating those plans and routes. As far as whether a traffic signal would be needed, that is something that Public Works can examine regardless of its impacts on safe routes; Mr. Winters indicated that the study could proceed and once Public Works has obtained more data, he could share updates with the School District in a letter or memo.

Jennifer Partridge, School Board Member, indicated that Troy Limbaugh was the school district safety coordinator and that he coordinates all the School District's traffic concerns and safe routes to the City. UDOT's Chapter 7 on Safe Routes is a helpful resource. ***Discussion only.***

5. **Discussion of other topics of mutual interest as time permits.** *No additional topics of discussion were requested.*

Adjournment

Adjourned by unanimous consent.

Please Note – These minutes have been prepared with a time-stamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussion held during council meeting.

PROVO MUNICIPAL COUNCIL

Special Council Meeting Minutes

2:30 PM, Tuesday, May 28, 2019
Room 200, Municipal Council Chambers
351 W. Center Street, Provo, UT 84601

Roll Call (0:00:00)

The following elected officials were present:

Council Chair David Harding, conducting
Council Vice-Chair Kay Van Buren
Councilor George Stewart
Councilor Gary Winterton
Councilor David Sewell
Councilor David Knecht
Mayor Michelle Kaufusi

Excused: Councilor George Handley

Prayer

The prayer was offered by Brett Watson, East Bay Golf Course Manager.

Pledge of Allegiance

The pledge of allegiance was given by Scott Henderson, Parks and Recreation Director.

Action Agenda

1. A resolution authorizing the Mayor to execute the agreement with Duininck, Inc. to complete East Bay Golf Course improvements. (19-069) (0:08:00)

Motion: An implied motion to adopt **Resolution 2019-29**, as currently constituted, has been made by council rule.

Scott Henderson, Parks and Recreation Director, introduced Brett Watson, East Bay Golf Course Manager, who presented. Mr. Watson reviewed the proposed improvements to the golf course. In addition to lighting the driving range and short course, Parks and Recreation would be introducing a 'starting new at golf' course to allow families, children, and others to learn golf in a more suitable, low-stress learning environment. There will also be several safety improvements to correct playability of some holes on the existing course and to backfill several areas with shallow fill over the landfill cap. In the process of relocating the three holes to facilitate development of the medical school, the intent is to bring other improvements and fixes in order to improve the entire operation. Mr. Watson referenced the sustainability of the project and continued efficiency of the irrigation systems, which utilize reclaimed water from the wastewater treatment plant. By making these improvements, they hope to create a consistent experience throughout the entire golf course facility,

as well as a feel of continuity between the golf course and the neighboring medical school campus. Minor updates throughout the golf course will refresh the look of the course rather than leave an obviously older section between the new medical school and the new holes on the golf course.

Mr. Watson explained that staffing would be more efficiently utilized; a lighted course allows mowing to be done in non-peak hours. In addition, with Duininck as the project contractor, their efforts as staff are more concentrated on day-to-day operations, rather than on sporadic projects. Duininck has earned a name in the golf industry for their great work, and their project proposal and bid were received at an amazing price. Mr. Henderson noted areas of natural and native landscaping which will also be easier to maintain and which will utilize less irrigation.

The Parks and Recreation Department continues to achieve success through offering a diversity of programming. Mr. Henderson noted that these improvements would bring a unique combination of golf development and golf play to Provo, which is critical to the ongoing success of the sport and which would benefit families, students (from younger grades to university classes), and community.

David Walter, Redevelopment Director, outlined the survey area and proposed project area. He noted that the area corresponded with the housing component proposed by the developer. As the property was previously owned by the City, all taxing entities would see an immediate benefit from its re-entry into private ownership. Mr. Walter outlined how the proposed tax increment would be allocated, with a portion used to pay for the additional golf course improvements.

Several Councilors felt that this project illustrated the success that can be achieved with the common objective of doing what was best for the community. Councilor David Sewell expressed that he was happy to hear support from individuals who had originally expressed skepticism. He thought it was wonderful to attract more youth and families to the project. Parks and Recreation has really shown a track record of innovation, and anticipating facilities that are going to be well-loved and well-used by the community. Wayne Parker, CAO, explained that there was a concern with the tight timeframe to make these improvements; Mr. Parker expressed appreciation for the Council's willingness to holding a special meeting to discuss the project and authorize the contract and appropriation.

Vote: Resolution 2019-29 was approved 6:0, with George Handley excused.

2. A resolution appropriating $2,286,354 in the Golf Course Fund for East Bay Golf Course improvements, applying to fiscal year ending June 30, 2019. (19-069) (0:38:19)

Motion: An implied motion to adopt **Resolution 2019-30**, as currently constituted, has been made by council rule.

John Borget, Administrative Services Director, responded to questions from Councilors about the appropriation. The project costs would be expended in a quicker time frame than when the tax increment would be brought in; the appropriation would be made up front to facilitate the project, and tax increment funding would be used to repay the loan with interest to the Economic Development fund over seven years. The tax increment was expected to accrue within six years, but because completion of the housing units was at least a year out, the loan was set for seven years. Questions included:

- Councilor Kay Van Buren asked about the precedent for using tax increment to finance a city project. Mr. Borget and Mr. Parker indicated that there have been two other instances in Provo where tax increment financed public improvements associated with an economic

development project. The Provo Towne Centre Mall public infrastructure and the public roads and utilities at the auto dealerships on University Parkway. The golf course is impacted by relocating three holes to facilitate the medical school development, and use of tax increment allows the golf course to maximize these facility updates.

- Councilor Gary Winterton asked about the opportunity costs of granting this loan. Mr. Borget indicated that there is expected revenue in Economic Development from several upcoming property sales, which will fulfill current needs for those funds in Economic Development.
- Councilor David Harding asked whether there was a cap on the tax increment, either on years or a maximum dollar amount. Mr. Walter indicated that as part of the purchase agreement approved by the Council last year, the medical school would have either however long it took them to recoup $3.2 million [the cost of acquiring the Nature Sunshine parcel] or 12 years, whichever came first. He explained that if they built the project sooner, they would likewise recoup their costs sooner.
- Mr. Parker clarified that the tax increment was only on the housing portion of the project; all taxes related to the medical school parcel would flow directly to the taxing entities.
- Mr. Harding inquired about adding soil to the landfill cap and whether it would affect playability of the course during construction. Mr. Watson explained that this would be done in conjunction with the medical school construction and construction of the island on the golf course. Rather than shipping the fill offsite, it would be utilized onsite to correct areas which still had methane leaks due to proximity to the landfill cap.

Chair Harding opened the public hearing as required by State law. He invited any interested attendees to approach the podium to provide comments:

- Randy Dodson, Provo, is the communication and marketing consultant for the Utah Golfing Association and works closely with other golf operations and publications. He thanked the City for reaching this win-win solution that allows East Bay Golf Course to remain an important part of the City, while still facilitating development. He felt that Provo has set a precedent that other cities can look at as they make decisions with their golf courses. Mr. Dodson congratulated Mr. Watson and Mr. Henderson on their work.
- Tommy Roosevelt, Provo, is a senior at Timpview High School and an avid golfer. He has been following the issue for some time and he thanked the City on behalf of youth golfers for finding a win-win solution. He thought this was a great decision benefitting Provo.
- Brent Edgington, Provo, and former member of the Parks and Recreation Board, said that while originally outspoken about this proposal, he echoed the sentiments of the other commenters. He thanked the Council for taking steps to further community recreation and provide constructive activities for youth and their parents.

Seeing no additional commenters, Chair Harding closed the public comment portion and invited Council discussion. Mr. Kay Van Buren thanked Mr. Walter for working to guarantee funds to the golf course first. He hoped the project would be completed quickly and that it would continue to be a win-win for the long-term. Mr. Harding seconded these comments and appreciation.

Vote: Resolution 2019-30 was approved 6:0, with George Handley excused.

Adjournment

Adjourned by unanimous consent.

Pending minutes – awaiting approval

PROVO MUNICIPAL COUNCIL
Work Meeting Minutes

2:00 PM, Tuesday, June 04, 2019
Room 310, Provo City Conference Room
351 W. Center Street, Provo, UT 84601

Agenda (0:00:00)

Roll Call

The following elected officials were present at the meeting:

Council Chair David Harding, conducting
Council Vice-chair Kay Van Buren
Councilor Gary Winterton
Councilor David Sewell
Councilor David Knecht
Councilor George Stewart
Councilor George Handley
Mayor Michelle Kaufusi, arrived 2:15 PM

Prayer

The prayer was given by David Walter, Redevelopment Director.

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) (0:00:52)**

David Walter, Redevelopment Agency (RDA) Director, presented. Mr. Walter highlighted elements of the project. Previously, the RDA has worked with 63 East Center to provide some resident parking in the Wells Fargo parking structure. The RDA has been working with McKay Christensen, the developer of Blue Sky Development, and Mr. Christensen is interested in partnering with the RDA to secure some dedicated parking spaces in the Wells Fargo parking structure. Mr. Walter indicated that there have been several revisions since the initial renderings.

The RDA received these 204 spaces when the Wells Fargo went through a bankruptcy hearing. The RDA has been trying to reach out to the attorneys who were involved in that hearing; the resolution asks the Council to approve the concept of assigning a lease agreement and giving the CEO of the RDA authority to make some minor adjustments. The City's ownership of the spaces expires in 2044, after which ownership reverts to the Wells Fargo building ownership.

Councilor George Stewart asked about the policies driving assigning out city parking spaces. Councilor Kay Van Buren asked for clarification on the number of spaces requested. Mr. Walter indicated that Blue Sky Development was interested in 55, although 36 was what would be

required in addition to the onsite parking. Blue Sky has dedicated 54,000 square feet of parking in the project, which was about 132 spaces for 126 residential units, plus commercial space.

Councilors shared comments and questions on the proposal, including:

- Councilor David Sewell noted that Austin Taylor, Parking Coordinator, recommended giving the required 36 spaces given the interest and demand for the spaces. Mr. Walter outlined several scenarios of how the Redevelopment Agency's 204 spaces in the structure could be allocated between several interested and adjacent projects or properties.
- Councilor David Harding asked about the allocation of the 55 stalls rented by 63 East Center; he wondered whether there were any signage or marking designating these spots for those residents. Mr. Walter explained that the spaces would not be dedicated/signed, as the RDA was not receiving parking space rents to maintain or manage the spaces that way. Councilor Harding wondered whether if there were value to moving to more of a managed solution in order to maximize the value of these stalls. He was hesitant to sign an agreement for the next 25 years if the RDA wanted to explore different management options for those spaces. Mr. Walter indicated that the agreement was not yet finalized; the RDA could certainly incorporate a provision for a future situation in which parking could be released back to the RDA before the 25-year period is up (with approval of both parties).
- Councilor Gary Winterton asked whether signing this agreement before the project was complete would tie up the spaces; Mr. Walter indicated that the granting of use of the spaces would likely be made contingent on the completion of a specific project milestone, such as receipt of the Certificate of Occupancy.
- Councilor George Handley felt that this development was a positive change for downtown. He was comfortable with doing the 36 spaces as a compromise. He wondered whether the parking space revenue could be dedicated toward downtown improvements. Several other Councilors expressed support of adjusting the proposal from 55 spaces to 36 spaces.

Mr. Walter summarized the direction he had gathered from the Councilors' comments—namely the desire to adjust the number of spaces from 55 to 36; and to include a provision that if at a future time, the City Council moved to a managed parking system in downtown, or changed parking minimum requirements for development in the downtown, then the Redevelopment Agency would have ability to renegotiate the parking arrangement with Blue Sky Development. This item was already scheduled for the Council Meeting on June 4, 2019; Mr. Walter indicated that he could contact McKay Christensen prior to the Council Meeting, but it was suggested that the item be continued in advance as the agreement would likely require additional fine-tuning.

Motion: George Stewart moved to continue the item. Seconded by Kay Van Buren.
Vote: Approved 7:0.

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) (0:37:23)

Gary Calder, Water Division Director, presented. Mr. Calder outlined the changes to the water resources sections of the City Code Sections 10.02, 10.03, and 10.04, and he introduced other

staff members involved in preparing the changes. The intent has been to simplify the City Code and consolidate information in the development standards, in order to make elements clearer for staff and developers. Mr. Calder explained that Public Works was trying to improve the overall standards presented to the public. Brian Jones, Council Attorney, clarified that by default, any item in the Provo City Code that was unlawful could be prosecuted as a Class-B misdemeanor.

Mr. Calder clarified the content of several documents distributed, which illustrated the full extent of the changes, and other versions which showed the side-by-side markups. Mr. Calder explained that Section 10.04 was essentially replaced by a template from the State and EPA. The template was modified consistent with Provo's requirements in 10.04 and after receiving approval from the State, this template was to replace Section 10.04. This template outlines the water pre-treatment program, or the regulations put on businesses and what they can put into the City's collection system. Mr. Jones suggested that it may be simpler to repeal the current Section 10.04 in its entirety, then to enact a new Section 10.04, since the changes were so extensive. ***Presentation only. This item will return to a future Council Meeting.***

3. A discussion regarding the repeal of Provo City Code Section 2.60.040 (19-071) (0:50:04)

Brian Jones, Council Attorney, explained that this proposal would remove an outdated section of code, consistent with the use of an electronic/online workflow that simplified this process. ***Presentation only. This item was already scheduled for the Council Meeting on June 4, 2019.***

4. A discussion regarding an appropriation for a temporary apparatus facility during the relocation of Fire Station #2 (19-073) (0:51:32)

Fire Chief Jim Miguel presented on this request related to the rebuild of Fire Station #2. Apparatus storage is very expensive and initially the Fire Department had intended to rent a temporary apparatus facility. As they have obtained quotes for a temporary structure, they have also evaluated the cost difference for purchasing an apparatus storage facility, which could be repurposed after the rebuild for apparatus storage at the City's fleet facility and would provide several tangible benefits. Chief Miguel outlined several cost options for renting versus purchasing an apparatus storage facility. While more expensive, purchasing the facility would ultimately be the more cost-effective option over the long-term.

In discussions and plans for the City's General Obligation bond, it had not been envisioned that the apparatus storage would be purchased for the City to continue to use. With that in mind, the city facilities bond committee felt it was appropriate to handle this separately and bring an appropriation request to the Council, rather than pay for the purchase from bond funds. Chief Miguel clarified that bond funds would pay for onsite work for the temporary living quarters and related utility improvements. Chief Miguel clarified other elements of the request in response to several questions from Councilors. The Administration has examined many solutions, and they were comfortable with this request, feeling that it was the most responsible and effective way to proceed, which would result in an asset for the City at the end of the process. ***Presentation only. This item will be scheduled for the Council Meeting on June 18, 2019.***

Budget Committee

5. A discussion regarding Fire Department budget requests. (19-004) (1:07:30)

Chief Jim Miguel presented on the two supplemental requests submitted by the Fire Department in the budget process: implementation of a capital improvement program and creating a civilian position for an emergency communications manager. Chief Miguel outlined background information on the budget process during the previous fiscal year. To implement a CIP fund, the department has proposed allocating certain budget savings each year to the CIP account (which would otherwise return to the General Fund). The Fire and Police Departments have collaborated on the second supplemental request for an emergency communications manager. This position has historically been staffed by a police lieutenant, but they have proposed hiring an experienced 911 dispatch manager, which would allow the lieutenant to return to patrol duty. Chief Miguel outlined additional elements of the dispatch center staffing and the expected outcome or results of making this organizational change, which is believed to result in a more positive culture in the dispatch center. This would be a cost-neutral change that can be accounted for within the existing personnel funds. ***Presentation only.***

6. A discussion regarding the Provo City Citizens' Budget. (19-004) (1:16:07)

Hannah Salzl, Policy Analyst, presented. Ms. Salzl reviewed elements of the Citizens' Budget and highlighted elements of the document. As Councilors raised questions or asked for clarification on elements of the document, Ms. Salzl shared additional information or invited input from John Borget, Administrative Services Director. Mr. Borget offered clarification on the revenue summary, explained more details of how sales tax is allocated to municipalities. Councilor George Handley commented on the flat property tax revenue, which he felt meant that the City was losing money every year, as the rate stayed steady despite increased development.

Ms. Salzl outlined expense summaries for each department, as well as highlights of capital projects in 2020. There will be some budget impacts of the department reorganization, which Ms. Salzl also touched on. Regarding bonded debt, the City has a very healthy debt margin. Ms. Salzl also highlighted recent rate increases and the schedule of additional rate changes going forward. Several Councilors offered feedback and commented on the documents' contents. Mr. Borget indicated that Finance could review the document to ensure consistency with the updated budget. Councilor George Stewart felt that one statement regarding algal bloom was speculative and potentially controversial. Councilor Gary Winterton wished to highlight the critical nature of the utility transfer, which helps to keep Provo's property tax rates low. ***Presentation only.***

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. (PLOTA20190026) (1:33:26)

Aaron Ardmore, Planner, presented. Mr. Ardmore highlighted the changes and invited comments or questions from Councilors. Councilor Gary Winterton felt that this was important clarifying

language. Brian Jones, Council Attorney, indicated that this provision was present in the code for every other design corridor in Provo; it was intended to be included in this section and this code amendment was meant to clean up and clarify by placing it where it was intended to be.
Presentation only. This item was already scheduled for the Council Meeting on June 4, 2019.

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.

Brian Jones, Council Attorney, outlined the statutory basis for a closed meeting discussion.

Motion: Kay Van Buren moved to close the meeting. Seconded by David Knecht.
Vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: HSALZL
Department: Council
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion regarding changes to the FY 2019-2020 Tentative Budget. (19-004)

RECOMMENDATION: Information only. The Council will hold the second public hearing for the budget in the meeting this evening.

BACKGROUND: Some changes have been made to the FY 2019-2020 Tentative Budget. In addition to noting these changes for the Council, John Borget will also discuss the changes to the Consolidated Fee Schedule and the new job descriptions updated after the addition of the deputy chief position in the Police Department.

FISCAL IMPACT: N/A

PRESENTER'S NAME: John Borget

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-004

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: HSALZL
Department: COUNCIL
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion regarding an appropriation for the Airport operating budget. (19-078)

RECOMMENDATION: Information only. This item is scheduled to be heard in the Council Meeting this evening.

BACKGROUND: The Airport would like to increase their operating budget by $60,000; $30K for personnel, and $30K for operating costs. The need for the increase in personnel is mostly being driven by overtime expenses. The Airport typically goes through this budget by September. It has been increased in the FY2020 budget as a supplemental request, but needs to be increased in FY2019 to cover what has occurred in the current year. This cost is driven by staff's requirement to have someone at the airport for every commercial flight.

The need for the increase in operating expenses is due to multiple other factors as well. The cost of snow removal at the airport this year was double what it was last year due to the amount of snow. They also had an unexpected one-time expenditure to receive environmental clearances for new hangar pads; the low bid received for our entry landscaping maintenance contract was much higher this year, and they also had some property appraisals done for potential land purchases.

The Airport is covering the cost of this appropriation with higher-than-budgeted revenues. As of today, they are already $26,000 above budget. They are confident that with the remaining parking revenue set to come in (estimated at approximately $30,000, received in account 3832-Lease), $20,000 from Allegiant for passenger and landing fees, and $10,000 anticipated in fuel flowage fees, they will have the revenue needed to cover this appropriation.

FISCAL IMPACT: $60,000 ($30,000 for personnel, $30,000 for operating costs)

PRESENTER'S NAME: Jimmy McKnight

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
CITYVIEW OR ISSUE FILE NUMBER: 19-078

RESOLUTION 2019-.

A RESOLUTION APPROPRIATING $60,000 FROM THE GENERAL FUND IN THE AIRPORT FUND FOR PERSONNEL AND OPERATING COSTS APPLYING TO FISCAL YEAR ENDING JUNE 30, 2019. (19-061)

WHEREAS, the Municipal Council of Provo City Corporation has received a recommendation from the Provo City Mayor that $60,000 be appropriated in the Airport Fund for personnel and operating costs; and

WHEREAS, the appropriation will be funded by $60,000 from the General Fund balance; and

WHEREAS, on June 18, 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, all persons for and against the proposed appropriation were given an opportunity to be heard; and

WHEREAS, after considering the Mayor's recommendation, and facts and comments presented to the Municipal Council, the Municipal Council finds the proposed appropriation reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

The Mayor is hereby authorized to appropriate $60,000 in Airport Fund from the General Fund.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: BMUMFORD
Department: Council
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion on the creation of Community and Neighborhood Services and Development Services. (19-036)

RECOMMENDATION: Information only.

BACKGROUND: During the Mayor's State of the Union delivery in January 2019, she announced that the Administration would be restructuring to create two separate departments in order to provide better service delivery to residents in the form of a one-stop shop for development. The two departments—-Dept. of Community and Neighborhood Services and Dept. of Development Services—would be created by taking the tasks held in Economic Development, Redevelopment Agency, and then divvy up some of the services from Community Development and Public Works to get the employees for these depaertments.

The Administration will address the Title 2 amendments necessary to formally create the Department of Community and Neighborhood Services and the Department of Development Services.

FISCAL IMPACT: N/A

PRESENTER'S NAME: Wayne Parker

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-036

EXHIBIT A

Chapter 2.10
MUNICIPAL ADMINISTRATIVE CODE

. . .

2.10.090. Administrative Organization.

Subject to the limitations and requirements of applicable budget and appropriations, the City's administrative organization shall consist of offices, administrative departments, divisions and sections. Each administrative department shall be identified and have the duties, functions and responsibilities as hereafter generally designated and as assigned by the Mayor. The following shall be classified as offices and departments responsible to the executive.

(Enacted 1985-12)

2.10.100. Department of Administrative Services.

The Director of Administrative Services shall have charge of and responsibility for the following:

(1) The Division of Human Resources, including:

(a) the administration of all personnel functions of the City;
(b) providing staff and clerical support for wage and salary administration, recruitment, testing and selection, fringe benefit administration, classifications of positions, organizational analysis, productivity analysis and employee training; and
(c) providing staff and clerical support for the Civil Service Commission in fulfilling its duties as provided under State law.

(2) The Division of Finance, including central support and financial services required by City operations, including purchasing, cash management and investment, accounting, inventory control, and licensing.

(a) The Director of the Department of Administrative Services or the Mayor's designee within this department shall perform those duties set forth in the Uniform Fiscal Procedures Act for Utah Cities, except those duties specifically delegated to the Budget Officer and as assigned by the Mayor.

(b) The functions of City Treasurer shall be assigned to the department under the administrative direction of the director. The City Treasurer shall:

(i) supervise collection of all taxes, assessments, fines, forfeitures, service charges, intergovernmental revenue, licenses, fees, and other revenues of the City as provided for by applicable laws the Provo City Code and other ordinances;

(ii) be responsible for disposition of City revenues;

(iii) provide for investment of idle cash;

(iv) make all disbursements of funds of the City, subject to budget appropriations;

(v) keep an accurate and detailed accounting of all transactions, receipts, disbursements, and other matters within the Treasurer's charge as provided in the Uniform Fiscal Procedures Act for Utah Cities and as the City may by the Provo City Code, other ordinance, or resolution direct;

(vi) maintain legally required balances in sinking fund accounts, and special improvement district guarantees funds account;

(vii) record the bond of the City Recorder as required by Section 10-3-825, Utah Code, as amended;

(viii) execute all checks of the City consistent with State law;

(ix) conduct internal audit services;

(x) collect all special improvement assessments and foreclose all delinquencies therein; and

(xi) any other matter prescribed by State law.

(c) The Budget Officer shall have charge of and be responsible for:

(i) performing trend analysis such as future revenue projections; and

(ii) coordinating the preparation, evaluation and monitoring of the City's operating and capital budgets, subject to the final review and adoption by the Mayor and the Municipal Council.

(3) The Division of Facilities, which shall include the general supervision, maintenance, up-keep, and control of all City building operations and maintenance as designated by the Mayor.

(4) The Provo City Justice Court, which shall include the supervision and operation of the Justice Court in accordance with State law, local ordinance, and direction from the Administrative Office of the Courts.

(5) The Division of Information Systems, which shall provide information systems services to all departments of the City. Functions of the Division of Information Systems shall include the protection, maintenance, and operation of computer systems and communication systems, and development and review of software. The division shall also evaluate and recommend the use of technology to facilitate cost effective use and efficient delivery of City services.

(Enacted 1985-12, Am 2010-06)

2.10.110. Office of Legal Services.

(1) The City Attorney shall be the Chief Legal Officer of the City and shall be responsible to the Mayor for administration of the Office of Legal Services and to the Mayor and Municipal Council for the proper administration of the legal affairs of the respective executive and legislative branches of City government. Said Attorney, or the City Attorney's designated deputies or assistants, shall have the following responsibilities:

(a) prosecution of all charges of violations of any section within the Provo City Code or other municipal ordinances and City regulations in the courts or administrative tribunals;

(b) prosecution and defense of all actions and appeals involving the City in all courts and before all boards, commissions and administrative agencies;

(c) to furnish legal advice, counsel and assistance to the Mayor, the Municipal Council and all other officers, offices, departments, boards, commissions and agencies, in relation to their duties and the business of the City;

(d) to direct and/or coordinate as determined by the administration or Municipal Council respectively all legal services performed by special counsel for the City who may be employed from time to time to provide legal services for the City;

(e) to prepare as requested or approve as to legal form all ordinances and resolutions presented to the Mayor or Municipal Council;

(f) to approve as to legal form all contracts entered into by the City;

(g) to make the necessary affidavits and verifications on behalf of the City in any and all proceedings; and

(h) to assist in property acquisition and disposition as directed by the Administration.

(2) The foregoing notwithstanding, the City Attorney shall not in any instance, either personally, or by deputies, act as both prosecutor or advocate before and at the same time advisor to any board, commission, agency, officer, official, or body of the City. In cases where such conflict shall arise the Mayor may employ special counsel who shall not be subject to the control or direction of the City Attorney in such manner, and who shall act as advisor to such board, commission, agency, officer, official, or body.

(3) Nothing herein shall be construed to prohibit either the Municipal Council or Mayor from retaining separate counsel to assist in legal issues, arising out of differences between the two branches.

(Enacted 1985-12, Am 2006-45)

2.10.120. ~~Mayor's Office of Economic Development~~Reserved.

~~The Deputy Mayor for Economic Development shall be responsible for:~~
~~(1) the supervision of economic development programs for the City;~~

~~(2) providing for the coordination with Federal, State and other local governmental agencies on economic development matters as assigned; and~~

~~(3) providing coordination with private industry, the Economic Development Corporation of Utah, Brigham Young University, Utah Valley University, the Chamber of Commerce, and other private or quasi-public organizations.~~

~~(Enacted 1985-12, Am 2005-14, Am 2010-06)~~

2.10.130. ~~Redevelopment Agency~~Reserved.

~~The Deputy Mayor for Economic Development shall be responsible for:~~
~~(1) the supervision of economic development programs for the City;~~

~~(2) providing for the coordination with Federal, State and other local governmental agencies on economic development matters as assigned; and~~

~~(3) providing coordination with private industry, the Economic Development Corporation of Utah, Brigham Young University, Utah Valley University, the Chamber of Commerce, and other private or quasi-public organizations.~~

~~(Enacted 1985-12, Am 2005-14, Am 2010-06)~~

2.10.140. Police Department.

(1) The Police Department by and through its sworn officers, shall be responsible for preserving the public peace, preventing crime, detecting and arresting criminal offenders, protecting the rights of persons and property, regulating and controlling motorized and pedestrian traffic, mountain rescue, training sworn personnel and providing and maintaining police records and communications systems.

(2) The Chief of the Police Department shall have command over all the officers, members and employees of the department.

(Enacted 1985-12, Am 2010-06)

2.10.150. Fire Department.

(1) The Fire Department shall be responsible throughout the City for the protection of life and property from damage or loss due to fire, through measures including but not limited to:

(a) the development and administration of public education and fire prevention programs;
(b) fire safety;
(c) fire and life safety inspection of buildings and proposed building plans;
(d) fire rescue and emergency services;
(e) fire combat; and
(f) post-investigation of fires for possible arson.

(2) The Chief of the Fire Department shall have command over all of the officers, members and employees of the department.

(Enacted 1985-12, Am 2010-06)

2.10.160. Department of Public Works.

(1) The Department of Public Works shall be responsible for the construction, maintenance and operation of the physical infrastructure of the City as related to the provision of water, streets, drainage, sanitation services, wastewater collection and treatment, aviation related services and engineering for said infrastructure. The Department of Public Works shall consist of the following divisions:

(a) The Engineering Division. The Engineering Division shall have charge of and be responsible for:
(i) the supervision of design and construction of public works projects for the City;
(ii) the supervision and coordination of all construction work or alterations carried out within the public ways of the City;
(iii) review of all private engineering designs of developers and utilities including subdivisions, commercial developments, planned unit developments and residential construction;
(iv) traffic engineering, design, construction and maintenance; and
(v) survey and inspection of all City-wide projects.
(vi) The position of City Engineer shall be assigned to the Engineering Division. The City Engineer shall be a registered Professional Engineer of the State of Utah

and shall be responsible for the review, supervision and acceptance of all engineering architectural design and construction work required by or for the City, except as otherwise assigned within the Provo City Code or other ordinances to other departments or officials of the City; the coordination and supervision of all construction work done within the public rights-of-way of the City, and the records of public improvements as prescribed by State statute. Said duties may be delegated as deemed prudent and appropriate, as well as other duties and functions as prescribed by State law.

(b) The Public Services Division shall have charge of and be responsible for:

(i) sanitation including the collection and disposal of all solid waste generated within the City as prescribed for by the Provo City Code or other City ordinances;

(ii) streets including the operation and maintenance of streets, parkways, sidewalks, all street related drainage ways, river flood control and maintenance, and other public ways and facilities;

(iii) fleet management including:

(1) the management and coordination of all City vehicle service centers;

(2) the maintenance of records that would indicate the performance and costs of all equipment assigned to fleet management; and

(3) the management and dispensing of all fuel for City use.

(iv) operation of the Provo Municipal Airport.

(c) The Water Resources Division shall have charge of and be responsible for:

(i) the acquisition, transportation, storage, treatment and distribution of all irrigation and potable water for the City and its customers within the designated service areas, including but not limited to:

(1) monitoring and controlling watershed land to protect the water supply for the City;

(2) constructing, operating and maintaining all water sources from which the domestic supply is or may be taken

(3) constructing, operating and maintaining all reservoirs, pump stations, water mains, City fire hydrants and appurtenances (however, nothing in sub-paragraph (b) and (c) preempts the supervisory role of the Engineering Division for projects located in the public rights-of-ways); and

(4) providing the City Engineer with accurate records of the locations and other essential information on mains, valves, reservoirs, wells, fire hydrants, canals, ditches, and other related facilities and water rights owned by the City.

(ii) the collection, treatment and disposal of all waste water (sewage) generated within the City and its designated service areas.

(d) The Storm Water Division shall have responsibility for protecting life and property from flooding by constructing, operating and maintaining the City's storm drainage system, and to operate the City's irrigation system.

(2) The Mayor may (1) appoint a Director of Public Works or (2) direct that the Division Director of Water Resources, the Division Director of Engineering, the Division Director of Public Services, or the Division Director of Storm Water concurrently serve as Director of Public Works. The Director of Public Works shall exercise such supervisory powers over the Water Resources, Engineering, Public Services and Storm Water divisions, including their operations and personnel, as the Mayor shall direct.

(Enacted 1985-12, Am 2010-06)

2.10.170. Energy.

The Department of Energy shall have charge of and be responsible for:

(1) the general supervision, maintenance, upkeep and control of the City's municipal power system, including generation and distribution;

(2) development, administration and enforcement of all energy conservation programs; and

(3) development, planning, and administration of other energy needs, which include but are not limited to the development and administration of the City's district heating, cooling and co-generation activities.

(Enacted 1985-12, Am 2010-06)

2.10.180. Department of Community ~~Development~~and Neighborhood Services.

The Department of Community ~~Development~~and Neighborhood Services shall have charge of and be responsible for:

(1) the development of the City's master land use and public facilities plans; ~~and~~

(2) ~~the development, administration and enforcement of all attendant laws, codes, ordinances and relative regulations (including but not limited to future land use plans, zoning ordinances, subdivision regulations, and building and housing codes), intended to serve the implementation of said plans.~~the administration of federal and state funding programs associated with housing, community and neighborhood development;

(3) code enforcement as defined in Section 2.10.210;

(4) the City's ombudsman and property management functions; and

(5) administration of the city's parking programs, management of the city's parking infrastructure, and regulation of the city's neighborhood parking permit programs.

(Enacted 1985-12, Am 2010-06)

2.10.190. Department of Parks and Recreation.

The Department of Parks and Recreation shall have charge of and be responsible for:

(1) the general supervision, design, and management of all recreational, leisure, arts and cultural activities or programs of the City; and

(2) the general supervision, maintenance, up-keep and control of those public grounds as designated by the Executive.

(Enacted 1985-12, Am 1989-10, Am 2010-06)

2.10.200. Department of Library Resources.

The Department of Library Resources shall have charge of and be responsible for:

(1) general supervision and management of Library services including implementation of library policy in accordance with advice from the Library Board and approval by the Mayor or the Mayor's designee and

(2) the following sections of the Library:
- (a) Children's Section;
- (b) Adult Section; and
- (c) Audio Visual Section.

(Enacted 1985-12, Am 2006-50, Am 2010-06)

2.10.210. Code Enforcement Officers.

The Mayor or Chief Administrative Officer of the City may appoint City employees to serve as code enforcement officers within the Department of Community and Neighborhood Services. Code enforcement officers shall have the authority to enforce violations of the Provo City Code and other City ordinances which do not pose an imminent threat to life or property. Code enforcement officers shall have discretion to issue ~~citations~~notices of violation to persons who violate any portion of the Provo City Code or other Provo City ordinances to notify them of the violation and to require that they repair, fix or otherwise correct the violation within a reasonable period of time. If the violation has been corrected the ~~citation~~notice of violation may be dismissed by the code enforcement officer. If the violation has not been corrected within the required period of time, the code enforcement officer may refer the matter to the City Attorney's Office for formal civil and/or criminal legal proceedings, as provided in sections 1.03.010 and 14.42.010, Provo City Code.

(Enacted 1993-29, Am 1996-21, Am 2010-06)

2.10.220. Department of Customer Service.

The Department of Customer Service shall have charge of and be responsible for:

(1) The supervision and management of customer services including implementation of customer service policy and procedures;

(2) Development and administration of public education related to 311 nonemergency versus 911 emergency services; and

(3) Customer service functions and services, including but not limited to:

- (a) Utility billing;
- (b) Centralized cashiering;
- (c) 311 call center operations;
- (d) Licensing (commercial, rental housing, alcohol, bicycle, solicitor, mobile food, taxi, animal);
- (e) Special event permit processing;
- (f) Operational management of parking (permits, tickets, enforcement);
- (g) Passport services;
- (h) Electronic fingerprinting; and
- (i) Airport security badging.

(Enacted 2018-05)

2.10.230. Department of Development Services.

The Department of Development Services shall be responsible for the processes associated with the orderly and effective development of property within the City, attracting and retaining businesses, managing tax increment projects, managing tax increment projects, managing the City's development review process, administering, developing, and monitoring compliance with building and development code requirements, and supporting efforts at building and strengthening the City's tax base. The Department of Development Services shall consist of the following divisions:

(1) The Economic Development Division. The Economic Development Division shall be responsible for:

(a) the supervision of economic development programs for the City;

(b) providing for the coordination with Federal, State and other local governmental agencies on economic development matters as assigned; and

(c) providing coordination with private industry, the Economic Development Corporation of Utah, Brigham Young University, Utah Valley University, the Chamber of Commerce, and other private or quasi-public organizations.

(2) Redevelopment Agency Staff: Redevelopment Agency Staff shall have charge of and be responsible for:

(a) all policies and directives established by the Redevelopment Agency Board, including the day-to-day affairs of the agency;

(b) coordination of all redevelopment related projects for the City; and

(c) coordination with Federal, State, and local governmental agencies on redevelopment matters as assigned.

(3) The Inspections Division: The Inspections Division shall have charge of and be responsible for reviewing and issuing building, sign, and other related permits, conducting plan reviews, inspecting buildings constructed in the city, and issuing certificates of occupancy. The division shall also have such other duties as indicated in Chapter 2.12 herein. The division manager of this division shall also be the City's chief building official.

(4) The Current Planning Division: The Current Planning Division shall have charge of and be responsible for the administration of all attendant laws, codes, ordinances and regulations associated with the City's development review process and intended to serve the implementation of City plans associated with this process.

. . .

Chapter 2.12
BUILDING INSPECTION DIVISION

Sections:

- 2.12.010 Created - Duty Generally.
- 2.12.020 Chief Building Inspector - Appointment - Bond.
- 2.12.030 Additional Inspectors and Employees.
- 2.12.040 Records - Reports.

2.12.010. Created – Duty Generally.

There is hereby created in the ~~office of the Community Development Department~~Department of Development Services, a building inspection division. This division shall have the duty and responsibility, under the supervision of the ~~Community Development~~ Development Services Director, of building inspection, electrical inspection, plumbing inspection and heating inspection.

(Am 1989-10)

2.12.020. Chief Building Inspector – Appointment – Bond.

The ~~Community Development~~ Development Services Director may appoint and employ a chief building inspector, who shall have charge of the building inspection division, and whose duties shall be to inspect or cause to be inspected all buildings and structures erected or proposed to be erected within the City, and to carry out, enforce and perform all duties, provisions and mandates designated, made and set forth in the Provo City Code or other ordinances of Provo City concerning buildings, building inspection, plumbing and heating inspection, electrical, and to approve plans and specifications before permits are issued. Said chief building inspector shall execute all permits, certificates and notices required to be issued; and enforce the Provo City Code and all other City ordinances relating to the installation or maintenance of plumbing, building, heating installations and equipment; and to inspect and supervise the same.

(Am 1987-14)

2.12.030. Additional Inspectors and Employees.

The ~~Community Development~~ Development Services Director may employ such additional inspectors and employees to assist the chief building inspector as the administration may approve

within the established budget and as the exigencies of the work of the department may from time to time require.

(Am 1987-14)

2.12.040. Records – Reports.

The building inspection division shall maintain a record of inspections and the transactions of the division, and shall make periodic reports of the business of the division to the ~~Community Development~~Development Services Director.

(Am 1987-14)

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: BMUMFORD
Department: Council
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion regarding the parking requirements and Transportation Demand Management plans for multi-family developments. (19-074)

RECOMMENDATION: Information only. If the Council approves of the policy decision, the code amendment will need to go through the Planning Commission, so a motion to that effect would be needed.

BACKGROUND: The Housing Executive Committee has met to discuss the idea of amending the parking requirements for multi-family developments. There is currently an exception for non-profit entites with regards to those building multi-family developments. Council has attempted to provide alternatives to developers by approving a Transportation Demand Management program for developers of muti-family developments. This discussion is intended to provide further clarification on this issue.

FISCAL IMPACT: none

PRESENTER'S NAME: Councilor Harding

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-074

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: LARAMIEG
Department: Customer Service
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion on a proposed ordinance amendment to Provo City Code Chapter 9.17 (Civil Infractions) parking violations (19-023)

RECOMMENDATION: Information only. This item is scheduled to be heard in the Council Meeting this evening.

BACKGROUND: The amendments to ~~this T~~the Civil Infractions chapter are necessary for two reasons. First, to restructure the fee schedule to comply with Utah Legislature HB0336 which modified the assessment of late fees for violations and will cause the City to be out of compliance as of July 1st, 2019. Second, a proposed increase to all the violation fees to generate an average increase of 25% to the annual revenue generated to cover expected Parking Enforcement operations for the next five budgeted years.

Last year during Utah's legislative session, HB0336 was passed restricting the amount of late fees that an unpaid or past due violation could be assessed. Currently under ~~current~~ Provo City Code, any parking violation fee that is not paid on time will be charged a late fee of double the original fee amount. If the payment is late 11 to 15 days the fee is triple the original amount. HB0336 does not allow for the accumulation of all late fees to exceed 25% of the original amount of the fee. Therefore our current fee structure needs to be modified to be in compliance with the new law.

A couple years ago, Parking Enforcement started the transition to become a stand alone function separate from Police and was officially under the oversight of the Customer Service Department in December of 2017. Now after a full year of analyzing the operations of Parking Enforcement, including staffing, rebranding, equipment, establishing routs, etc., as well as identifying potential immediate and future needs for the enforcement effort, an operating costs vs. revenue analysis ~~was~~ has been completed. Through this process we have realized that an increase in our current operating budget and the budget for the next few years will be necessary. That increase we are suggesting will be realized through an increase of each violation fee to be included in the consolidated fee schedule beginning this next fiscal year 2020. No increases for the next few years after are being proposed at this time. This year's budget for Parking Enforcement was created assuming these increases to support the operating costs would be approved.

Provo's City's Civil Infraction or Parking Violation Code has not been modified for over 10 years, and the parking violation fee amounts longer than that. Since the City needs to restructure the fees to comply with the new law, and we now have the data to propose and support an increase in fee amounts, it seems appropriate to satisfy both needs at this time (please see the attached documentation to review the method and new rates that we are proposing). We have proposed the new fees trying to keep them in line with surrounding cities and with BYU. The approach for the new structure is to allow for a discount as an incentive to pay on time rather than penalize a late payer. This approach seems to be the approach others are taking since the late fees that can be assessed under the new law are not sufficient enough to aid in collecting past due fees. ~~E~~For example, ~~... T~~ the typical parking violation fee in Provo is $30. under our new proposed structure that fee would raise to $55~~.~~ with a $15~~.~~ discount, making the on-time fee paid $40 if paid on time.

FISCAL IMPACT: A 25% increase to the annual generated revenue will equalize the annual revenue with the operating costs that are in the current proposed budget for this next fiscal year as well as the next 4four. The current operating costs for the past two years have been approximately $463,000 per year. Collected revenue for last year was approximately $477,000~~.~~ (difference of $14,000). Future needs for the Parking Enforcement Division as it now has been established as a separate function residing in the Customer Service Department have been identified and included in the proposed budget. The proposed increase in fees will allow for Parking Enforcement to keep up with the current need of enforcement as well as start to satisfy those identified in the Strategic Parking Management Plan for the next few years. The proposed increase keeps the balance between generated revenue and operating costs within +/- 5% (Revenue neutral). See attached 5 year projection.

PRESENTER'S NAME: Laramie Gonzales, Customer Service Department

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-023

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DANG
Department: Redevelopment Agency
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion regarding the HOME Consortium Interlocal Agreement. (19-075)

RECOMMENDATION: Information only. This item is scheduled to be heard in the Council Meeting this evening.

BACKGROUND: 1. Provo City has been a member of a HOME Consortium since 1992, through which it receives an annual award from the HUD Office of Community Planning and Development's HOME Program.
2. Under the HOME Program, local governments are able to join together to form a consortium in order to receive HOME funding to alleviate housing problems in the community. Forming a consortium enables local governments that would not otherwise qualify for HOME Program funding under the formula criteria to join with other units of local government to receive a direct allocation of funds. This creates an opportunity for these jurisdictions to take a more regional, collaborative approach to meeting their housing needs. In order to carry out HOME activities and meet all requirements, the consortium must create and operate as one new entity that is able to operate efficiently and effectively to assess housing needs, develop a plan to address those needs, make funding decisions, carry out housing activities, self-monitor progress, account for expenditures, and report to HUD.
3. Under HOME statute, the Consortium must designate a Lead Entity, which must have sufficient legal authority and administrative capacity to carry out the purposes of the HOME Program in behalf and in collaboration with its members.
4. The Lead Entity retains full responsibility to execute all grant agreements and is legally liable and fully responsible to HUD for the execution of the HOME Program. This Interlocal Agreement designates Provo City as the Lead Entity for the Consortium. The Lead Entity will pre-screen and review all projects and project applicants for compliance with rules, regulations, policies, and procedures; provide technical assistance to applicants; develop an appropriate system to assist in the selection of projects; monitor existing projects and Subrecipients; and provide direction and assistance to the Consortium Advisory Board, among other duties.
5. While the Interlocal Agreement goes into effect on July 1, 2020 and will continue in full force through the qualification period (the consecutive Fiscal Years 2020, 2021 and 2022). It must be executed prior to the June 30, 2019 deadline to submit to HUD.
6. The Agreement has been reviewed and approved by Camille Williams.

FISCAL IMPACT: Approximately $3,250,000 in HOME funds. (Estimated amount for the three-year cycle of the Agreement based in prior year awards to the Consortium)

PRESENTER'S NAME: Dan Gonzalez

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: 2015 Consolidated Plan, as Amended to HUD.

CITYVIEW OR ISSUE FILE NUMBER: 19-075

HOME INVESTMENT PARTNERSHIPS PROGRAM

INTERLOCAL COOPERATION AGREEMENT

Relating to the establishment and conduct of the Utah Valley HOME Consortium

UNITED STATES HOUSING AND URBAN DEVELOPMENT HOME PROGRAM

for **FEDERAL FISCAL YEARS 2020, 2021, AND 2022**

THE AGREEMENT is entered into and shall be effective as of July 1, 2020, by and between Provo City (hereinafter "Provo"), a municipal corporation of the State of Utah, Orem City (hereinafter "Orem"), Lehi City (hereinafter "Lehi"); and Utah County, an Urban County as defined by Section 102(a)(6) of the Housing and Community Development Act of 1974 as amended.

RECITALS:

A. On November 28, 1990, the United States Congress enacted the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, title II, Sec. 211, Nov. 28, 1990, 104 Stat. 4096.) Title II of the legislation entitled the HOME Investment Partnerships Act (hereinafter the "Act" or "HOME Program"), which authorizes the Secretary of the Department of Housing and Urban Development (hereinafter "HUD") to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and to expand the long-term supply of affordable housing in accordance with the Act.

B. The primary objective of the HOME Program include: (1) Expanding the supply of decent, affordable housing for low and very-low income families; (2) Building state and

local capacity to carry out affordable housing programs; (3) Providing for coordinated assistance to participants in the development of affordable low-income housing; and (4) Affirmatively further fair housing by promoting non-discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability); and ensure fair and equal housing opportunities for all.

C. Under the Act, a consortium of geographically contiguous units of general local government, which separately may not qualify to receive HOME funding, may, by entering into a cooperation agreement in accordance with the requirements as set forth in the regulations, join together for the purpose of receiving a HOME allocation and administering the HOME Program as a single Participating Jurisdiction (hereinafter "PJ").

D. A Metropolitan City is defined by the Community Development Block Grant Program funding (hereinafter "CDBG") statute as a city that is receiving a CDBG entitlement grant. Provo, Orem and Lehi, being designated as such, are eligible to join a HOME consortium to receive HOME funding.

E. An Urban County is defined by Section 102(a)(6) of the Housing and Community Development Act of 1974 as amended. An Urban County is a county receiving a CDBG Entitlement Grant and includes Units of General Local Government (hereinafter "UGLG") that sign an Interlocal Cooperation Agreement with the Urban County. Utah

County, being designated as such, is eligible to join a HOME consortium to receive HOME funding.

a. When a UGLG agrees to be part of an Urban County for the CDBG program, it also agrees to participate in the HOME program if the Urban County joins a consortium. Accordingly, when an Urban County joins a HOME consortium, a UGLG that is a member of the Urban County is included in the consortium through its participation in the Urban County. All UGLGs within Utah County that sign an Interlocal Cooperation Agreement to be included as a part of the Urban County for the CDBG program qualification and grant calculation purposes shall be included in the HOME Consortium, participating through Utah County.

b. An UGLG that has chosen to not join the Urban County to participate in the CDBG program may choose to join the HOME Consortium by signing the HOME Consortium Agreement. By signing the Consortium Agreement, the UGLG within the Urban County, not participating in the CDBG Urban County, becomes a member of the HOME consortium.

F. Pursuant to the Act and HOME regulations, Provo, Orem, Lehi and Utah County, an Urban County, intend to form a consortium that is eligible to receive entitlement grants as a PJ under the Act and shall direct its activities to the alleviation of housing problems within the state.

G. The Act requires UGLGs acting as a consortium to submit a Consolidated Plan (CP) that covers the entire geographic area encompassed by the consortium.

H. In accordance with section 91.402 of the Consolidated Plan Final Rule, all UGLGs that are Consortium Members are on the same program year that starts on July 1st for CDBG, and HOME Programs.

I. Pursuant to 24 CFR 92.101(a)(2)(ii), the consortium must have one member UGLG authorized to act in a representative capacity for all members for the purposes of this part, providing that the representative member assumes overall responsibility for ensuring that the consortium's HOME program is carried out in compliance with the requirements of this part; such member UGLG shall hereinafter be referred to as "Lead Entity".

J. Under general provisions of Utah law governing contracting between governmental entities and by virtue of specific authority granted in the Interlocal Cooperation Act, Utah Code Annotated, §11-13-101, *et. seq.*, 1953, as amended, any two or more agencies of the State may enter into agreements with one another for joint or cooperative action and any one or more agencies may contract with one another or with a legal or administrative entity created pursuant to that act to perform any governmental service, activity, or undertaking which each agency entering into the contract is authorized by law to perform.

K. The parties hereto have determined that it will be mutually beneficial and in the public interest to enter into this Interlocal Cooperation Agreement regarding the formation and administration of a consortium under the HOME Act.

NOW THEREFORE, in consideration of the premises and the cooperative actions contemplated hereunder, the parties agree as follows:

1. CONSORTIUM

   a. Provo, Orem, Lehi and Utah County agree to act jointly as a consortium to become a Participating Jurisdiction to be known as the **Utah Valley HOME Consortium** (hereinafter collectively "UVHC" or "Consortium"; and, individually "Consortium Members"). Provo, Orem, Lehi, and Utah County shall act jointly as the Consortium for the purposes of applying jointly for federal funding under the HOME Investment Partnerships Program and administering affordable housing programs, including undertaking or assisting in undertaking HOME eligible housing assistance activities described in Title II of the Act, the latter to include, but not be limited to, acquiring, rehabilitating, constructing affordable housing, providing down-payment assistance and tenant-based rental assistance to serve eligible, qualified beneficiaries.

   b. As provided in Section 92.101, subpart C, of the HOME Final Rule, the Consortium's status shall continue until HUD is notified that the Consortium is dissolved or HUD revokes its designation as a PJ. A fully executed copy of this Interlocal Cooperation Agreement, together with the resolutions of all parties, shall be submitted to HUD as part of the Consortium's qualification documentation.

   c. The Consortium shall be governed by a Board of Directors (hereinafter "Board") comprised of an equal representation of members from each participating entity. The Board members shall be the Mayors of Provo, Orem, and Lehi, and the Chairman of the Utah County Board of Commissioners, or their designees. Each Consortium Member may elect to appoint one (1)

alternate member. The Board shall provide leadership and have overall management responsibility to direct the Consortium activities. Further, the Board shall make appropriate policy assessments and decisions concerning issues including, but not limited to, those relating to existing and potential HOME projects, programs, activities, and its policies and procedures.

i. Each party to this Agreement shall, within thirty (30) days from the date of execution thereof, appoint an individual as its member representative as follows:

   I. The Board representative shall be a resident of the jurisdiction he or she represents, and;

   II. The Board representative shall be appointed as otherwise required by local law, and;

   III. Written notice of appointment, together with a written acceptance of appointee, shall be provided by the Clerk or Recorder of each appointing party to the Provo City Recorder.

ii. Each of the parties agrees that each member of the Board may cast one vote; and that the passage of any proposal by the Board shall require the affirmative vote of a simple majority.

iii. Alternate members shall be appointed in like manner as members representatives described above.

   I. Alternate members shall be provided one vote only in the absence of the Board member from the jurisdiction which they represent.

2. DESIGNATION OF A CONSORTIUM MEMBER REPRESENTATIVE TO HUD

   a. Provo, Orem, Lehi, and Utah County agree that the City of Provo shall serve as the Lead Entity and administer the Consortium through the staff of the Redevelopment Agency of Provo City Corporation (hereinafter "RDA"). The RDA staff shall provide effective leadership, support and management of the Consortium's required functions.

   b. Provo's HOME Program Administrator shall be appointed Executive Director of the UVHC's Board and shall function as a consultant to Board members, providing direction and guidance on HOME regulations and policies, and assisting the Board in the determination of eligible projects and activities. The Executive Director is not a voting member of the Board.

   c. Provo shall provide a recording secretary for each meeting who shall be responsible for a record of the meeting and for maintaining pertinent written and audio minutes. The secretary does not serve as an officer of the Board nor is he/she a voting member.

3. LEAD ENTITY RESPONSIBILITIES

   a. The parties hereto recognize and understand that the Lead Entity shall be the governmental entity required to execute all grant agreements received from HUD pursuant to Lead Entity's request for HOME funds. The Lead Entity shall thereby become and shall be held by HUD to be legally liable and have full responsibility for the execution of the HOME Program. The Lead Entity shall be responsible for the Consortium's Five Year Consolidated Plan with an annual

Action Plan component and annual Action Plans for the remaining four years, as required.

b. All projects and project applicants shall be reviewed and pre-screened for threshold criteria, compliance, and conformance with the relevant HOME rules, regulations, and guidelines by the Lead Entity, and only those which meet the requirements shall be eligible to be reviewed for funding recommendations by an "Advisory and Review Committee" (hereinafter, "ARC") described in Paragraphs 3(f) through 3(i) of this Agreement.

c. The Lead Entity may also develop a pre-application or technical assistance process which would provide project assessment, technical assistance, and resource coordination to lesser experienced applicants.

d. Threshold criteria developed for each funding round shall be developed by the Lead Entity. Such criteria shall be consistent with related plans from individual CDBG entitlement jurisdiction pursuant to §91.220 (hereinafter "Action Plans") and individual housing elements in each jurisdiction's master plans.

e. The Lead Entity, in collaboration with UVHC Board members, or their designated representatives, may develop a fair and appropriate system to assist in the selection of projects; such system to reflect existing policy, priorities and criteria established by the jurisdiction's comprehensive housing plans, Consolidated Plan and Action Plans. Any such system must be reviewed and adjusted to reflect current conditions prior to each funding round.

The Lead Entity, in collaboration with UVHC Board members, or their designated representatives, may develop an appeals process by which

proponents of a proposed project either not recommended for funding by the ARC or recommended for funding at a lesser amount than requested may appeal to such ARC, or ultimately to the UVHC Board of Directors, for reconsideration.

f. Provo, Orem, Lehi, and Utah County agree that an Advisory Review Committee shall be established to review project and program applications and that from those projects and programs determined eligible for funding by the Lead Entity pursuant to Paragraphs (b) through (e) above, the ARC shall recommend projects for funding to the Board.

g. Provo, Orem, Lehi, and Utah County agree that such ARC shall be comprised of no less than five (5) persons, but no more than eleven (11). Based on population data from the 2010 Census Utah County may assign up to five representatives; Provo, Orem, and Lehi may assign up to two representatives each. The assigned persons shall be appointed by each jurisdiction made up of persons knowledgeable in housing issues and who are residents of the jurisdiction he or she represent.

h. The purpose of the ARC shall be to review eligible projects for conformity to the priorities and policies included in the Consolidated Plan, Action Plans, relevant jurisdiction's comprehensive housing plans and/or specific self-directed priority project(s), and criteria established by the UVHC Board, including threshold criteria concerning periods of affordability, which may be more strict than those required by HOME regulations, as defined in §92.252.e. The ARC

shall prioritize projects based on the evaluation described in this paragraph and make funding recommendations as constrained by the availability of funds.

i. Provo, Orem, Lehi, and Utah County agree that the recommendations made by the ARC shall be reviewed for final approval by the UVHC's Board subject to Paragraph 7 of this Agreement and other terms contained in this paragraph. All projects selected by the UVHC Board must conform to the jurisdictions' comprehensive housing plan, Consolidated Plan, related Action Plans, minimum criteria established and self-directed priority projects.

j. The Lead Entity's program, supervisory and administrative obligations to Consortium Members shall be limited to the performance of the administrative and program tasks necessary to make HOME funds available to them and to provide at least annual monitoring for the performance of their various projects funded with HOME funds throughout the corresponding period of affordability to ensure compliance with applicable Federal laws and regulations. The Lead Entity shall be responsible for determining eligibility and confirming the compliance of the HOME projects with applicable Federal laws and regulations.

k. The Lead Entity shall make all of its financial records related to the administration of the HOME funds available for inspection to all persons, including representatives from corporations and governments, in accordance with its own policies and regulations and with State law.

l. The Lead Entity will act to protect the Consortium's interest in enforcing and reviewing contracts, agreements, memorandums, and or any other legal instruments entered into in the process of administering the HOME Program

and utilizing legal counsel to represent the Consortium while protecting these interests. Orem, Lehi and Utah County agree to have Provo City Legal Department staff act as head counsel in these matters.

4. GENERAL ADMINISTRATION

   a. Provo, as the designated Lead Entity of the Consortium, has the ultimate and overall responsibility under the Act for ensuring that the HOME Program is carried out as required in 24 CFR, Part 92, including the submission and approval of a Comprehensive Housing Affordability Strategy for the use of HOME funds as set forth in Paragraph 5 below, which has been mutually agreed upon by all Consortium Members, and for providing all assurances or certifications as required under 24 CFR, Part 92. Therefore, Provo requires Orem, Lehi, and Utah County, and Orem, Lehi, and Utah County require Provo, to agree to strict adherence to the Program description as approved and to all assurances and certifications provided, including agreeing to take all actions necessary to assure compliance with Provo's certification under the Fair Housing Act; Executive Order11063 (Equal Opportunity in Housing) and Title VI of the Civil Rights Act of 1964, the Uniform Relocation Assistance, Real Property Acquisition Policy Act of 1970, and the Davis Bacon Act at 40 USC 276a, *et.seq.* Provo shall not provide HOME funds for activities, or support any cooperating jurisdiction that does not affirmatively further fair housing within its own jurisdiction or activities that impede Provo's action to comply with Fair Housing certification. In addition, the Lead Entity is responsible for taking all required actions to comply with provisions of the National Environmental

Policy Act of 1969. Orem, Lehi, and Utah County shall readily support the Lead Entity as requested to meet these requirements.

b. Annual allocation of HOME funds to Consortium Members for self-directed projects shall be based upon information listed by HUD's "HOME Consortia Participating Members Percentage Report" posted annually in HUD's HOME Consortia website for the corresponding Fiscal Year. Alternatively, shall HUD delay a timely posting of such Report, the allocation may be based upon an approximation estimated from the previous Fiscal Year allocation. The funds so dedicated to the PJ may be from any HOME funds, including program income, available to the Consortium. Consortium Members can self-direct funds by notifying the ARC of their jurisdictional funding self-direction recommendations **thirty (30) business days** prior to the ARC's final public hearing to develop recommendations for funding. Any of the available self-directed funds not allocated by the individual Consortium Members will no longer be dedicated to self-direction and will be made available for allocation by the ARC. If funds are allocated to a jurisdiction, but not used timely by that jurisdiction, the Board shall have the right to re-allocate those funds to other member jurisdictions in whole or in part.

c. Disputes arising between Consortium Members regarding direction, policy, or procedure shall be resolved by the Board. Should the Board be unable to agree upon the resolution, it should be referred to the Legislative bodies of the Consortium Members for resolution. If no resolution is forthcoming, the parties may terminate this Agreement in accordance with Paragraph 6 below.

d. Each Consortium Member shall be responsible for providing its own pro rata share of matching non-federal funds required by the Act for any HOME funds allocated and accepted for use by that Member.

e. Consortium Members shall use their own jurisdiction's general funding for expenditures of HOME projects, and subsequently request reimbursement of HOME funds from the Lead Entity. The Lead Entity shall review expenditure documentation prior to drawing down HOME funds from the U.S. Treasury and releasing those funds to the Consortium Member.

f. *Program Income*, as defined at 24 CFR 92.2, generated by any HOME project will be held by the Lead Entity. Program Income shall be used first before any HOME funds are drawn or requested from HUD by the Lead Entity.

g. *Recaptured Funds.* Recaptured funds received from any of the Consortium's homebuyer programs during the period of affordability shall be held by the Lead Entity and shall be used for eligible activities and in accordance with HOME requirements.

h. *Monitoring.* The Lead Entity shall be responsible for reviewing the performance of each Subrecipient at least annually, and shall continue to monitor projects and activities assisted with HOME funds during the corresponding period of affordability.

i. Consortium Members shall provide the Lead Entity with a semi-annual HOME Program activity report of all HOME funded projects. Consortium Members shall provide the Lead Entity with semi-annual reports that capture and identify Program Income derived from the funded activities.

j. Consortium Members shall prepare and submit to Lead Entity for consolidation into one report the following reports, if applicable, for submission to HUD according to applicable deadlines: Impediments to Fair Housing, Citizen Participation Plan, Minority Business Enterprise/Women's Business Enterprise reports, Federal Cash Transaction reports, and annual HOME Consolidated Action Plan Evaluation Report(s) (CAPER) as well as preparing and submitting any other reports that are required by HUD.

k. *Repayments.* Any HOME funds invested in housing that does not meet the affordability requirements, is terminated before completion, or is determined to be ineligible must be repaid to HUD by the Consortium. Each Consortium Member assumes full responsibility for repayment of HOME expenditures made within its jurisdiction that are disallowed by HUD.

5. AFFIRMATIVELY FURTHERING FAIR HOUSING

Each Consortium Member agrees to affirmatively further fair housing. The City of Provo, as Lead Entity for the Consortium, will conduct an assessment of fair housing within the jurisdiction. Each Consortium Member will consider appropriate actions to overcome the effects of any impediments identified through that assessment, and maintain records reflecting that assessment and actions in this regard.

6. EFFECTIVE DATE, DURATION AND TERMINATION

a. This Agreement shall go into effect July 1, 2020, and shall continue in full force and effect for the consecutive three Federal Fiscal Years 2020, 2021 and 2022 (hereinafter, "Qualification Period") during which the Consortium qualifies to

receive HOME funds and which will end on June 30, 2023, unless HUD revokes the Consortium's designation as a PJ, or Utah County fails to re-qualify as an Urban County for a Fiscal Year included in the Consortium's Qualification Period, or the Consortium fails to receive a HOME allocation for the first Federal Fiscal year of the Consortium's Qualification Period and does not request to be considered to receive a HOME allocation in each of the subsequent two years. The terms of this Agreement cover the period necessary to carry out all activities that will be funded from funds awarded during the indicated qualification period. This Agreement remains in effect until the HOME funds from each of the Federal Fiscal Years of the Qualification Period are closed pursuant to 24 CFR 92.507

b. Pursuant to 24 CFR 92.101(e), during the Qualification Period additional UGLGs may join the Consortium, but no Consortium Members may withdraw from the Consortium or terminate this Agreement until its expiration.

   i. New members may be added to the Consortium upon consent of a simple majority of the Consortium Board of Directors. When a new member is added, the Agreement will be amended accordingly; and the parties agree to execute such further instruments as may be reasonably required to effect such amendment. The Agreement will be amended in the Federal Fiscal Year before the year in which the new member is to be added.

c. The Lead Entity shall, by June 1, 2022, notify UVHC members in writing of their right not to participate in the subsequent Qualification Period.

7. INTERLOCAL COOPERATION ACT.

These following provisions are included in this Agreement to comply with the requirements of the Interlocal Cooperation Act:

a. Financing and Budget. The Provision for the financing of the cooperative actions contemplated by this Interlocal Cooperation Agreement and the budget thereof are found in Paragraph 4(b) hereof.

b. Filing. The Parties shall each file a copy of this Agreement with the keeper of records of each of the parties hereto.

c. Authorizing Resolutions. The respective Legislative bodies of the parties shall adopt resolutions authorizing this Agreement.

d. Legal Opinion. Each of the parties has submitted this Agreement to its legal counsel for review as to proper form and compliance with applicable law.

8. INDEMNIFICATION.

All parties to this Agreement are governmental entities under the Utah Government Immunity Act as set forth in Title 63G, Chapter 7, Utah Code Ann., 1953 as amended. Consistent with the terms of that Act, it is mutually agreed that each party hereto shall be responsible and liable for its own wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. None of the parties hereto waive any defenses otherwise available under the Utah Governmental Immunity Act.

9. LAWFUL AGREEMENT.

The parties represent each of them has lawfully entered into this Agreement, having complied with all relevant statutes, ordinances, resolutions, by-laws, and other legal requirements applicable to their operation.

10. UTAH LAW.

This Agreement shall be interpreted pursuant to the laws of the State of Utah.

11. INTERPRETATION OF AGREEMENT.

The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number and vice versa, and the use of any gender shall include any other and all genders. The paragraph and section headings in the Agreement are for convenience only and do not constitute a part of the provisions hereof.

12. AMENDMENTS.

No oral modifications or amendments to this Agreement shall be effective, but this Agreement may be modified or amended by written Agreement signed by all UVHC members. The Agreement may be amended to add automatic renewal provisions or for other reasons upon written approval from the Denver HUD Field Office.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly authorized and executed by each jurisdiction on the date specified on the respective signature pages,

PROVO CITY

Approved this _____ day of _____, 2019

By: _____

Michelle G. Kaufusi, Mayor

ATTEST:_____

Amanda Ercanbrack, City Recorder

ATTORNEY REVIEW

The undersigned, as the authorized attorney of Provo City, has reviewed the foregoing Interlocal Cooperation Agreement and finds it to be in proper form and in compliance with Utah Code 11-13-202. The terms and provisions of the Agreement are fully authorized under state and local law and the Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnerships Program.

Dated this _____ day of _____, 2019

By: _____

Legal Counsel for Provo City

SIGNATURE PAGE FOR **OREM CITY**
TO
HOME INVESTMENT PARTNERSHIPS PROGRAM
INTERLOCAL COOPERATION AGREEMENT
for FEDERAL FISCAL YEARS 2020, 2021, AND 2022

Approved this _____ day of _____, 2019

By: _____

Richard Brunst, Mayor

ATTEST:_____

Orem City Recorder

ATTORNEY REVIEW

The undersigned, as the authorized attorney of Orem City, has reviewed the foregoing Interlocal Cooperation Agreement and finds it to be in proper form and in compliance with applicable Utah State law.

Dated this _____ day of _____, 2019

By: _____

Legal Counsel for Orem City

SIGNATURE PAGE FOR **LEHI CITY**
TO
HOME INVESTMENT PARTNERSHIPS PROGRAM
INTERLOCAL COOPERATION AGREEMENT
for FEDERAL FISCAL YEARS 2020, 2021, AND 2022

Approved this _____ day of _____, 2019

By: _____

Mark Johnson, Mayor

ATTEST:_____

Lehi City Recorder

ATTORNEY REVIEW

The undersigned, as the authorized attorney of Lehi City, has reviewed the foregoing Interlocal Cooperation Agreement and finds it to be in proper form and in compliance with applicable Utah State law.

Dated this _____ day of _____, 2019

By: _____

Legal Counsel for Lehi City

SIGNATURE PAGE FOR **UTAH COUNTY**
TO
HOME INVESTMENT PARTNERSHIPS PROGRAM
INTERLOCAL COOPERATION AGREEMENT
for FEDERAL FISCAL YEARS 2020, 2021, AND 2022

Approved this _____ day of _____, 2019

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH

By: _____

William Christensen Lee, Chair

ATTEST:_____

Utah County Clerk/Auditor

ATTORNEY REVIEW

The undersigned, as the authorized attorney of Utah County, has reviewed the foregoing Interlocal Cooperation Agreement and finds it to be in proper form and in compliance with applicable Utah State law.

Dated this _____ day of _____, 2019

By: _____

Utah County Attorney

Provo City *(Redevelopment Agency)*

Staff Memorandum

HOME Consortium Interlocal Agreement

June 18, 2019

Department Head
David Walter
6167

Presenter
Dan González
6168

Required Time for Presentation
10 Minutes

Is This Time Sensitive
Yes / No

Case File # (if applicable)
XX-XXX

Purpose of Proposal

- Entering into an Interlocal Agreement with the City of Orem, City of Lehi and Utah County to continue the Utah Valley HOME Consortium in order to receive funding from the U.S. Department of Housing and Urban Development (HUD) through the HOME Investment Partnerships Program (HOME) to alleviate housing problems in our community.

Action Requested

- Approval and adoption of a resolution to authorize the execution of the Interlocal Agreement for Provo City to be a member of the Utah Valley HOME Consortium and act as the Lead Entity for the Consortium. (Action requested for Jun-18 Council Meeting).

Relevant City Policies

- 2015 Consolidated Plan, as Amended to HUD.

Budget Impact

- Approximately $3,250,000 in HOME funds. (Estimated amount for the three-year cycle of the Agreement based in prior year awards to the Consortium)

Description of this item (at least 2 paragraphs)

- Provo City has been a member of a HOME Consortium since 1992, through which it receives an annual award from the HUD Office of Community Planning and Development's HOME Program.
- Under the HOME Program, local governments are able to join together to form a consortium in order to receive

	HOME funding to alleviate housing problems in the community. Forming a consortium enables local governments that would not otherwise qualify for HOME Program funding under the formula criteria to join with other units of local government to receive a direct allocation of funds. This creates an opportunity for these jurisdictions to take a more regional, collaborative approach to meeting their housing needs. In order to carry out HOME activities and meet all requirements, the consortium must create and operate as one new entity that is able to operate efficiently and effectively to assess housing needs, develop a plan to address those needs, make funding decisions, carry out housing activities, self-monitor progress, account for expenditures, and report to HUD. ● Under HOME statute, the Consortium must designate a Lead Entity, which must have sufficient legal authority and administrative capacity to carry out the purposes of the HOME Program in behalf and in collaboration with its members. ● The Lead Entity retains full responsibility to execute all grant agreements and is legally liable and fully responsible to HUD for the execution of the HOME Program. This Interlocal Agreement designates Provo City as the Lead Entity for the Consortium. The Lead Entity will pre-screen and review all projects and project applicants for compliance with rules, regulations, policies, and procedures; provide technical assistance to applicants; develop an appropriate system to assist in the selection of projects; monitor existing projects and Subrecipients; and provide direction and assistance to the Consortium Advisory Board, among other duties. ● While the Interlocal Agreement goes into effect on July 1, 2020 and will continue in full force through the qualification period (the consecutive Fiscal Years 2020, 2021 and 2022). It must be executed prior to the June 30, 2019 deadline to submit to HUD.

RESOLUTION 2019-.

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT TO AUTHORIZE PROVO CITY'S PARTICIPATION IN THE UTAH VALLEY HOME CONSORTIUM IN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S HOME INVESTMENT PARTNERSHIPS PROGRAM FOR FEDERAL FISCAL YEARS 2020, 2021, AND 2022. (19-075)

WHEREAS, Provo City Corporation ("City") recognizes the need to provide decent, safe, sanitary, and affordable housing for low income families within Utah County; and

WHEREAS the Utah Interlocal Cooperation Act, authorizes any two or more public agencies, as defined in the Act, to enter into agreements with one another for joint or cooperative action and to perform any governmental service, activity, or undertaking which each public agency entering into the agreement is authorized by law to perform; and

WHEREAS, it is in the public interest and welfare of the residents of the City to engage in a cooperative effort with Orem City, Lehi City, and Utah County by entering into an Interlocal Cooperation Agreement to continue the Utah Valley HOME Consortium ("Consortium") for the purpose of qualifying for and administering a United States Housing and Urban Development HOME Investment Partnerships Program (hereinafter referred to as the "HOME Program"), and other associated activities and projects in the County; and

WHEREAS it is proposed that Provo City should act as Lead Entity for the Consortium to administer the HOME Program under and pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act; and

WHEREAS, on June 18, 2019, the Municipal Council held a duly noticed public meeting to ascertain the facts regarding this matter, which facts are found in the meeting record; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds (i) the Interlocal Cooperation Agreement ("Agreement") covering federal fiscal years 2020, 2021, 2022 between the participating parties including the City should be executed, (ii) such Agreement forms a Consortium, states the purposes thereof, the extent of the required participation of the parties, and the rights, duties, and responsibilities and obligations of the parties in the conduct and administration of the HOME Program as specified therein; and (iii) execution of the Agreement reasonably furthers the health, safety and general welfare of the citizens of Provo City.

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

The Agreement, as attached hereto, entitled the HOME Investment Partnerships Program Interlocal Cooperation Agreement relating to the establishment and conduct of the Utah Valley HOME Consortium United States Housing and Urban Development HOME Program for Federal Fiscal Years 2020, 2021, and 2022 is hereby approved and the Mayor is authorized and directed to execute the Agreement.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: HSALZL
Department: Council
Requested Meeting Date: 06-18-2019

SUBJECT: A presentation regarding the annexation process. (19-076)

RECOMMENDATION: Information only.

BACKGROUND: Annexation is a critical but sometimes complicated process. This presentation will outline and clarify the process and highlight the Council's role.

FISCAL IMPACT: N/A

PRESENTER'S NAME: Cliff Strachan

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-076

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: HSALZL
Department: Council
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion regarding the East Bay Annexation. (PLANEX20180140)

RECOMMENDATION: Information only. This item is scheduled to be heard in the Council Meeting this evening. This is the first step in the application process and does not approve the annexation itself. The annexation will return to the Council after it been through the rest of the application process.

BACKGROUND: It has been suggested that a parcel of land located at approximately 1860 South and Colorado Avenue, Provo, UT (see attached map) be annexed into Provo City. The owners have submitted all of the necessary documentation. There are no conflicting water rights in the area. The plan for the area is to build a storage unit called East Bay Self Storage. Construction on the project is anticipated to be completed in April 2020.

FISCAL IMPACT:

PRESENTER'S NAME: Brian Maxfield

REQUESTED DURATION OF PRESENTATION: 5 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLANEX20180140

RESOLUTION 2019-

A RESOLUTION ACCEPTING AN ANNEXATION PETITION FOR FURTHER CONSIDERATION FOR APPROXIMATELY 2.55 ACRES OF PROPERTY GENERALLY LOCATED AT 1860 SOUTH AND COLORADO AVENUE, PROVO. EAST BAY NEIGHBORHOOD. (PLANEX20190140)

WHEREAS, The Municipal Council has received a petition to annex approximately 2.55 acres of property generally located at 1860 South and Colorado Avenue into Provo City; and

WHEREAS, pursuant to Utah Code 10-2-405, the Municipal Council may accept or deny the petition for further consideration; and

WHEREAS, if within fourteen days of the receipt of the annexation petition by the City Recorder the Municipal Council fails to affirmatively accept or deny the petition it is considered to have been accepted for further consideration pursuant to Utah Code; and

WHEREAS, per the Provo City General Plan Map 6.1 – Annexation Policy, the property is within Annexation Policy Area #2; and

WHEREAS, Provo City Code Section 15.03.300 requires that, concurrent with any request to rezone or annex property, a concept plan application shall be submitted to the City, which requirement has been met; and

WHEREAS, Provo City Code Section 15.15.020 requires: (a) an accurate survey plat of the property, (b) a statement as to the anticipated timetable for development of the property being annexed, and (c) a full disclosure of any and all waters owned or historically utilized on the property to be annexed and a statement from the water owner as to the water owner's estimate of value of the water or the price at which the owner is willing to sell the said water to the City, which requirements have been met; and

WHEREAS, after considering the facts and comments presented to the Municipal Council at a public meeting held on June 18, 2019, the Council finds that acceptance of this annexation petition for further consideration would reasonably further the health, safety and general welfare of the citizens of Provo City.

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

PART I:

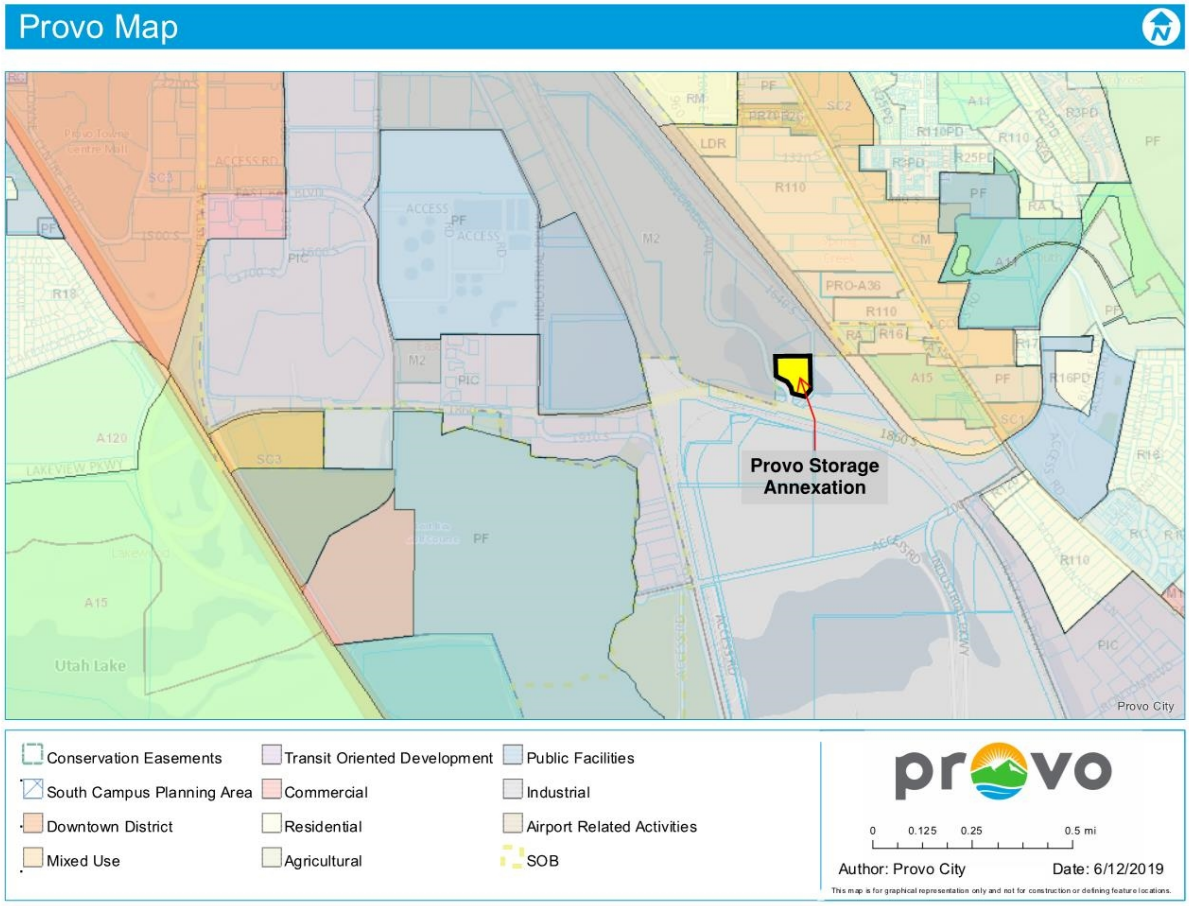
1. The Municipal Council hereby accepts for further consideration, in accordance with the process set forth in state law and local ordinance, the petition to annex approximately 2.55 acres of property generally located at 1860 South and Colorado Avenue, as shown in the attached Exhibit A.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

Exhibit A


Provo Map
Provo Storage Annexation
Utah Lake
Provo City
Conservation Easements
South Campus Planning Area
Downtown District
Mixed Use
Transit Oriented Development
Commercial
Residential
Agricultural
Public Facilities
Industrial
Airport Related Activities
SOB
provo
0 0.125 0.25 0.5 mi
Author: Provo City
Date: 6/12/2019
This map is for graphical representation only and not for construction or defining feature locations.

RESOLUTION 2019-

A RESOLUTION DENYING AN ANNEXATION PETITION FOR FURTHER CONSIDERATION FOR APPROXIMATELY 2.55 ACRES OF PROPERTY GENERALLY LOCATED AT 1860 SOUTH AND COLORADO AVENUE, PROVO. EAST BAY NEIGHBORHOOD. (PLANEX20190140)

WHEREAS, The Municipal Council has received a petition to annex approximately 2.55 acres of property generally located at 1860 South and Colorado Avenue into Provo City; and

WHEREAS, pursuant to Utah Code 10-2-405, the Municipal Council may accept or deny the petition for further consideration; and

WHEREAS, if within fourteen days of the receipt of the annexation petition by the City Recorder the Municipal Council fails to affirmatively accept or deny the petition it is considered to have been accepted for further consideration pursuant to Utah Code; and

WHEREAS, per the Provo City General Plan Map 6.1 – Annexation Policy, the property is within Annexation Policy Area #2; and

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WHEREAS, Provo City Code Section 15.15.020 requires: (a) an accurate survey plat of the property, (b) a statement as to the anticipated timetable for development of the property being annexed, and (c) a full disclosure of any and all waters owned or historically utilized on the property to be annexed and a statement from the water owner as to the water owner's estimate of value of the water or the price at which the owner is willing to sell the said water to the City, which requirements have been met; and

WHEREAS, after considering the facts and comments presented to the Municipal Council at a public meeting held on June 18, 2019, the Council finds that denying of this annexation petition for further consideration would reasonably further the health, safety and general welfare of the citizens of Provo City.

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

PART I:

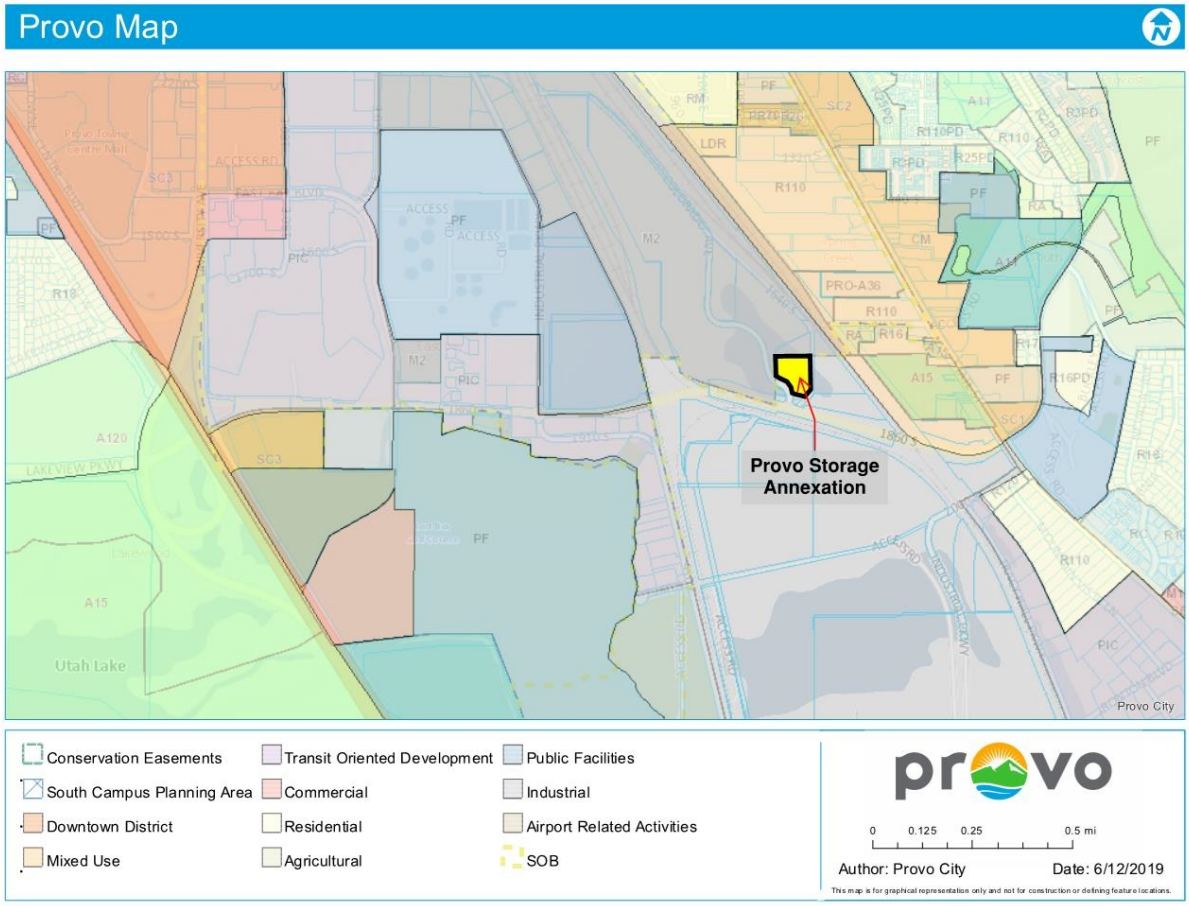
1. The Municipal Council hereby denies for further consideration, in accordance with the process set forth in state law and local ordinance, the petition to annex approximately 2.55 acres of property generally located at 1860 South and Colorado Avenue, as shown in the attached Exhibit A.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

Exhibit A


Provo Map
Provo Storage Annexation
Utah Lake
Provo City
Conservation Easements
South Campus Planning Area
Downtown District
Mixed Use
Transit Oriented Development
Commercial
Residential
Agricultural
Public Facilities
Industrial
Airport Related Activities
SOB
provo
0 0.125 0.25 0.5 mi
Author: Provo City
Date: 6/12/2019
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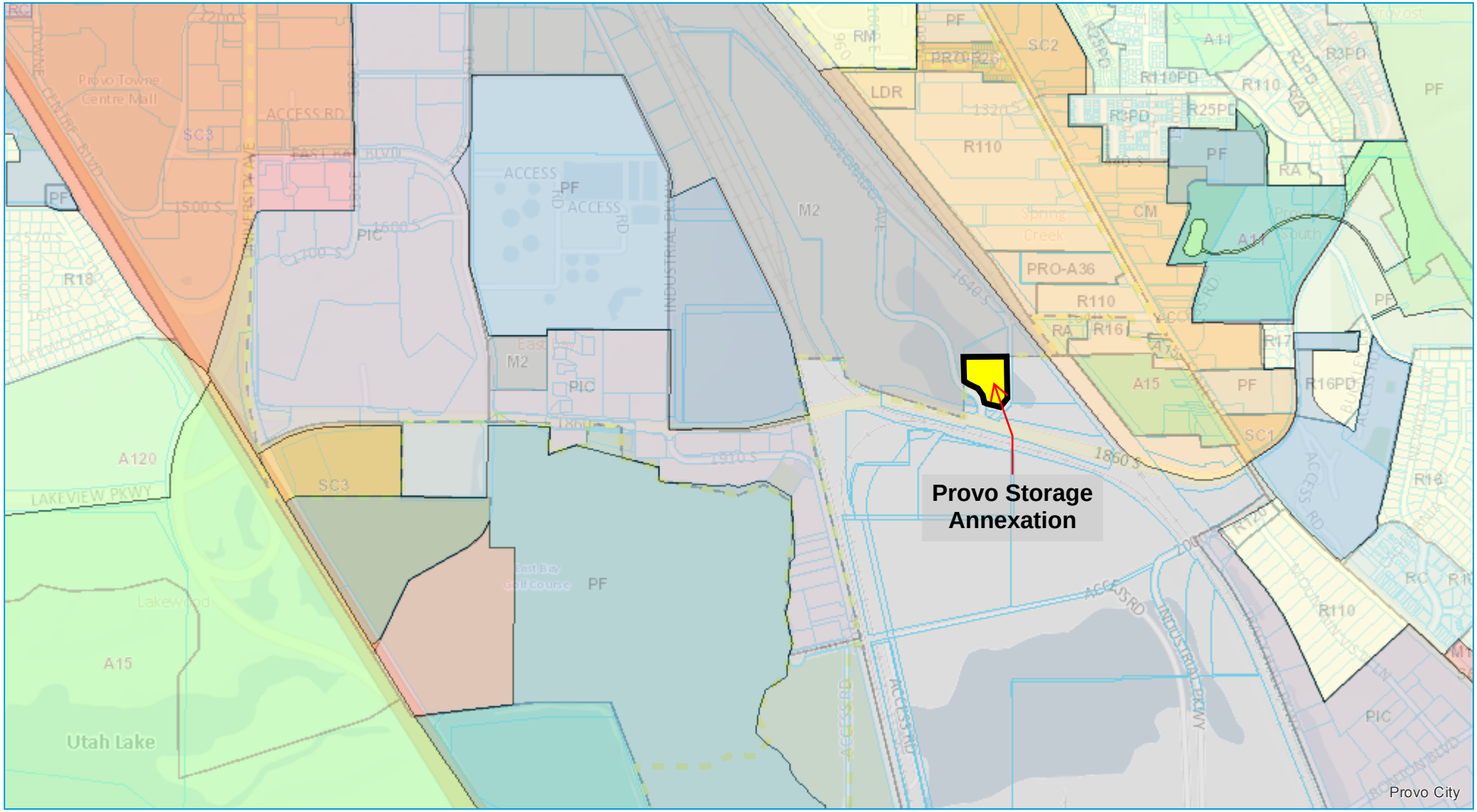
Provo Map



- Conservation Easements
- South Campus Planning Area
- Downtown District
- Mixed Use
- Transit Oriented Development
- Commercial
- Residential
- Agricultural
- Public Facilities
- Industrial
- Airport Related Activities
- SOB

provo

0 0.125 0.25 0.5 mi

Author: Provo City Date: 6/12/2019

This map is for graphical representation only and not for construction or defining feature locations.

RECEIVED
By Amanda Ercanbrack at 4:39 pm, May 23, 2019

Notice of Proposed Annexation

This Notice is for the proposed annexation of the property located at approximately 1860 S. and Colorado ave. Provo, UT

Legal Description: COM N 55.08 FT & W 351.78 FT FR E 1/4 COR. SEC. 18, T7S, R3E, SLB&M.; N 63 DEG 20' 6" E 400.91 FT; S 577.95 FT; S 42 DEG 47' 0" W 83.77 FT; ALONG A CURVE TO R (CHORD BEARS: N 84 DEG 28' 29" W 12.41 FT, RADIUS = 37.62 FT); N 74 DEG 58' 48" W 111.76 FT; ALONG A CURVE TO L (CHORD BEARS: N 42 DEG 43' 10" W 195.58 FT, RADIUS = 209 FT); ALONG A CURVE TO R (CHORD BEARS: N 56 DEG 47' 19" W 57.84 FT, RADIUS = 121 FT); N 253.99 FT TO BEG. AREA 3.848 AC.

We are requesting this property to be annexed into Provo city along with a proposed storage unit project to be built. The property is currently zoned as industrial and this project is allowed within the zoning guidelines. The project will be know as East Bay Self Storage

Our anticipation timeline is as follows.:

- June 2019 complete annexation
- August 2019 Plans for project approved
- September 2019 Begin construction
- April 2020 Complete construction and open

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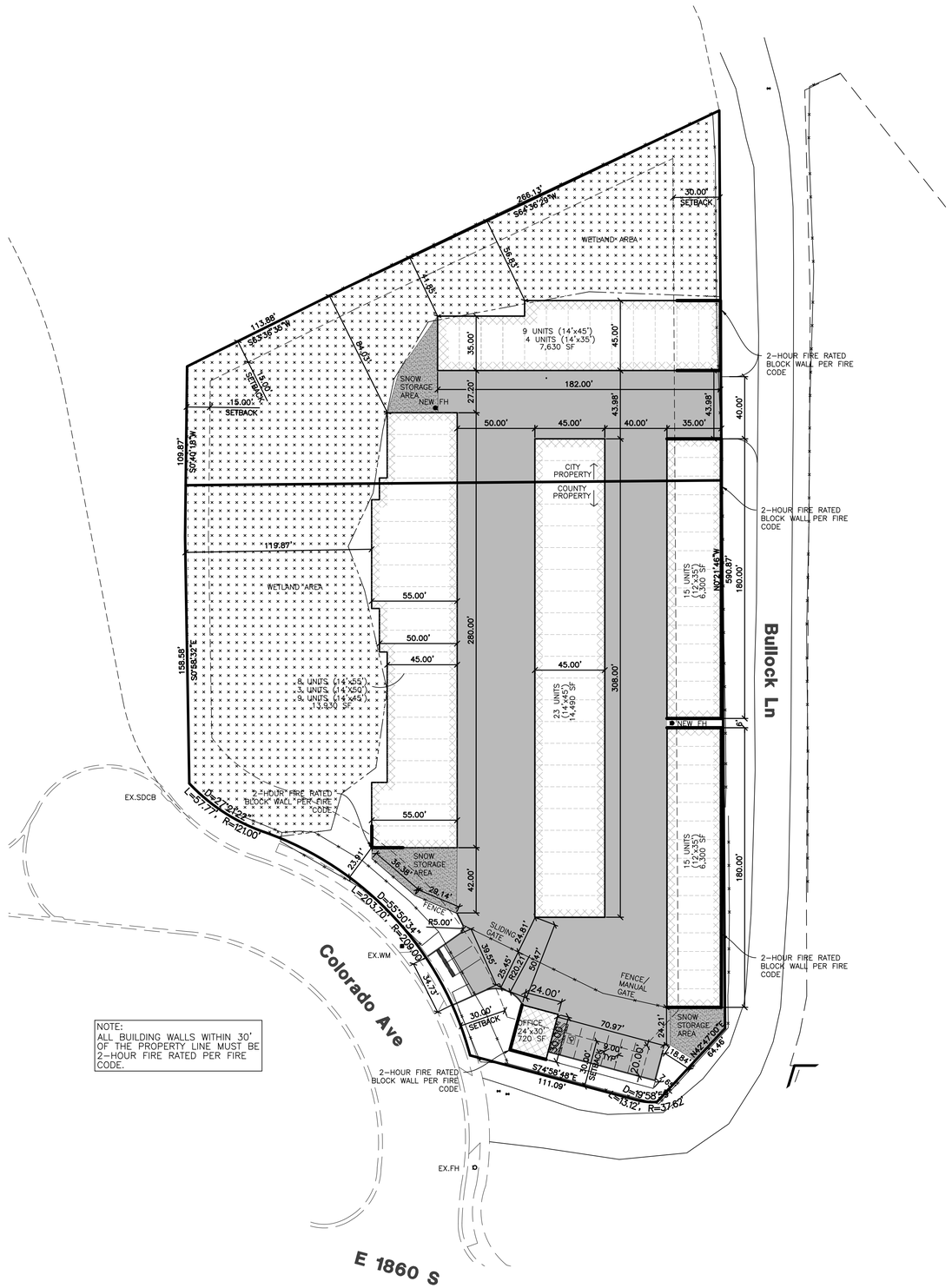


NOTE:
ALL BUILDING WALLS WITHIN 30' OF THE PROPERTY LINE MUST BE 2-HOUR FIRE RATED PER FIRE CODE.

SITE DATA PARCEL

TOTAL AREA	163,250 SF (3.75 ACRES)
TOTAL BUILDING AREA	48,650 SF
HARDSPACE	51,146 SF
PARKING STALLS	8 STALLS & 1 ADA STALL = 9
LANDSCAPE	65,094 SF (40.0%)

22:052:0040
BOUGH, TIMOTHY W & MARLISE B

CONTAINING 163,250 SQUARE FEET OR 3.748 ACRES MORE OR LESS.

SETBACK NOTES:
- FRONT YARD SETBACKS – 30 FEET
- SIDE YARD SET BACK – 15 FEET

40 0 40 80 120
Scale: 1" = 40'

Reeve & Associates, Inc.
5160 SOUTH 1500 WEST RIVERDALE, UTAH 84405
TEL: (801) 621-3100 FAX: (801) 621-2666 www.reeve-assoc.com
LAND PLANNERS • CIVIL ENGINEERS • LAND SURVEYORS
TRAFFIC ENGINEERS • STRUCTURAL ENGINEERS • LANDSCAPE ARCHITECTS

REVISIONS
DESCRIPTION
DATE

Provo Storage
PROVO CITY, UTAH COUNTY, UTAH

Site Plan

PROFESSIONAL ENGINEER
THOMAS J. HUNT
04/11/2019
STATE OF UTAH

Project Info.
Engineer: T. HUNT
Drafter: N. FICKLIN
Begin Date: MARCH 2019
Name: PROVO STORAGE
Number: 7030-02

Sheet 3 of 7 Sheets

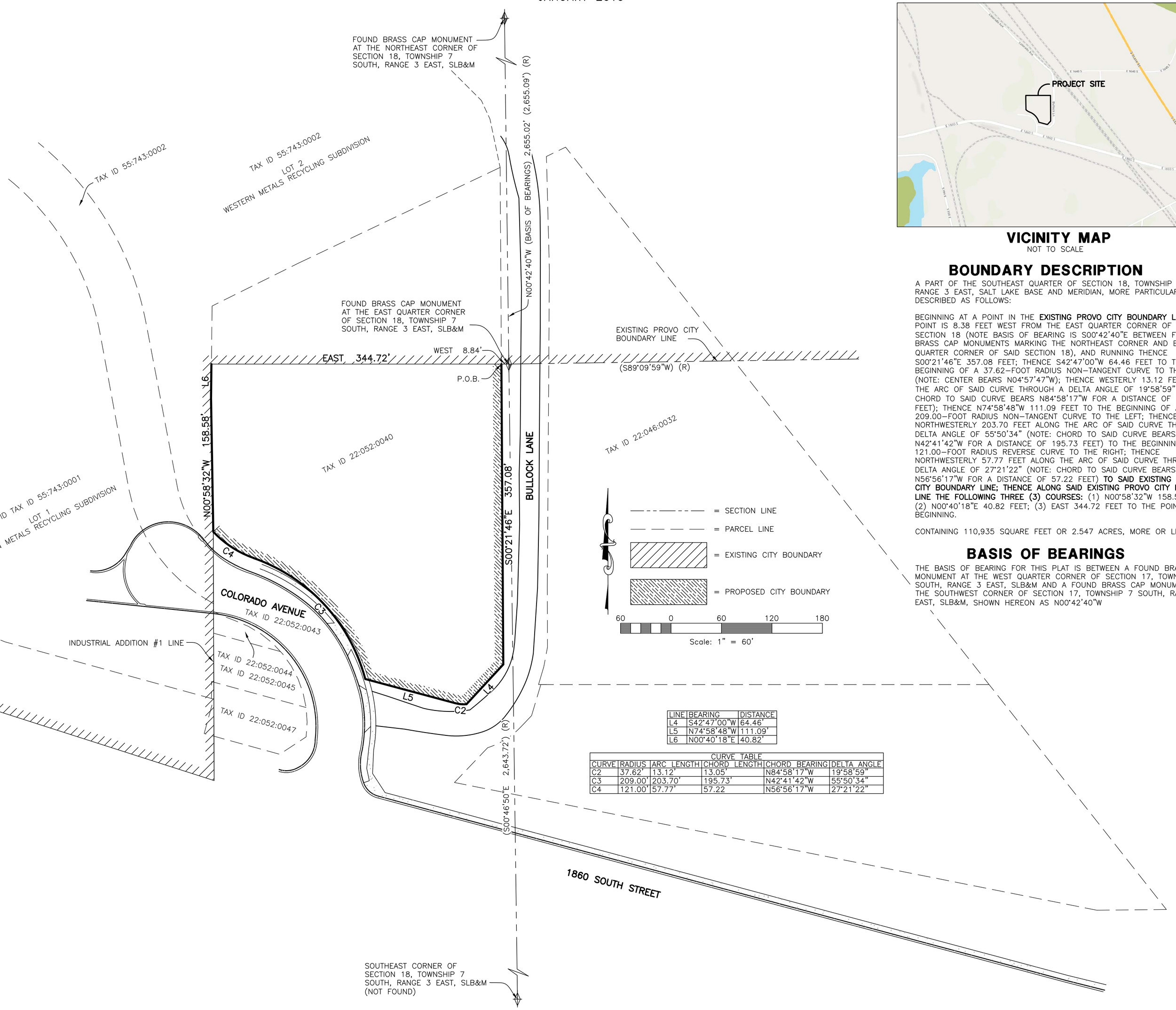
THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF REEVE & ASSOCIATES, INC., 5160 SOUTH 1500 WEST, RIVERDALE, UTAH 84405, AND SHALL NOT BE PHOTOCOPIED, RE-DRAWN, OR USED ON ANY PROJECT OTHER THAN THE PROJECT SPECIFICALLY DESIGNED FOR, WITHOUT THEIR WRITTEN PERMISSION. THE OWNERS AND ENGINEERS OF REEVE & ASSOCIATES, INC. DISCLAIM ANY LIABILITY FOR ANY CHANGES OR MODIFICATIONS MADE TO THESE PLANS OR THE DESIGN THEREON WITHOUT THEIR CONSENT.

Reeve & Associates, Inc. - Solutions You Can Build On

RECEIVED
By Amanda Ercanbrack at 4:38 pm, May 23, 2019

ANNEXATION PLAT TO PROVO CITY

PART OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 7 SOUTH,
RANGE 3 EAST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY
PROVO, UTAH COUNTY, UTAH
JANUARY 2019



LINE	BEARING	DISTANCE
L4	S42°47'00"W	64.46'
L5	N74°58'48"W	111.09'
L6	N00°40'18"E	40.82'

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C2	37.62'	13.12'	13.05'	N84°58'17"W	19°58'59"
C3	209.00'	203.70'	195.73'	N42°41'42"W	55°50'34"
C4	121.00'	57.77'	57.22	N56°56'17"W	27°21'22"

VICINITY MAP
NOT TO SCALE

BOUNDARY DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE **EXISTING PROVO CITY BOUNDARY LINE**, SAID POINT IS 8.38 FEET WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 18 (NOTE BASIS OF BEARING IS S00°42'40"E BETWEEN FOUND BRASS CAP MONUMENTS MARKING THE NORTHEAST CORNER AND EAST QUARTER CORNER OF SAID SECTION 18), AND RUNNING THENCE S00°21'46"E 357.08 FEET; THENCE S42°47'00"W 64.46 FEET TO THE BEGINNING OF A 37.62-FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (NOTE: CENTER BEARS N04°57'47"W); THENCE WESTERLY 13.12 FEET ALONG THE ARC OF SAID CURVE THROUGH A DELTA ANGLE OF 19°58'59" (NOTE: CHORD TO SAID CURVE BEARS N84°58'17"W FOR A DISTANCE OF 13.05 FEET); THENCE N74°58'48"W 111.09 FEET TO THE BEGINNING OF A 209.00-FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; THENCE NORTHWESTERLY 203.70 FEET ALONG THE ARC OF SAID CURVE THROUGH A DELTA ANGLE OF 55°50'34" (NOTE: CHORD TO SAID CURVE BEARS N42°41'42"W FOR A DISTANCE OF 195.73 FEET) TO THE BEGINNING OF A 121.00-FOOT RADIUS REVERSE CURVE TO THE RIGHT; THENCE NORTHWESTERLY 57.77 FEET ALONG THE ARC OF SAID CURVE THROUGH A DELTA ANGLE OF 27°21'22" (NOTE: CHORD TO SAID CURVE BEARS N56°56'17"W FOR A DISTANCE OF 57.22 FEET) **TO SAID EXISTING PROVO CITY BOUNDARY LINE; THENCE ALONG SAID EXISTING PROVO CITY BOUNDARY LINE THE FOLLOWING THREE (3) COURSES:** (1) N00°58'32"W 158.58 FEET; (2) N00°40'18"E 40.82 FEET; (3) EAST 344.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 110,935 SQUARE FEET OR 2.547 ACRES, MORE OR LESS.

BASIS OF BEARINGS

THE BASIS OF BEARING FOR THIS PLAT IS BETWEEN A FOUND BRASS CAP MONUMENT AT THE WEST QUARTER CORNER OF SECTION 17, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M AND A FOUND BRASS CAP MONUMENT AT THE SOUTHWEST CORNER OF SECTION 17, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M, SHOWN HEREON AS N00°42'40"W

SURVEYOR'S CERTIFICATE

I, TREVOR HATCH, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT, AND HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE MAP OF THE TACT OF LAND TO BE ANNEXED TO PROVO CITY, UTAH COUNTY, UTAH.

SIGNED THIS _____ DAY OF _____, 20___.

PROFESSIONAL LAND SURVEYOR
9031945
TREVOR J. HATCH
STATE OF UTAH

9031945
UTAH LICENSE NUMBER

TREVOR J. HATCH

ACCEPTANCE BY MAYOR

THIS IS TO CERTIFY THAT I, MICHELLE KAUFUSI, THE MAYOR OF THE CITY OF PROVO, HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO THE CITY OF PROVO AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH BOUNDARY COMMISSION ACT (1979) 10-01-04 AND 10-2-401 THRU 423, AS REVISED AND THAT I HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN HEREAFTER AS THE **ANNEXATION**.

SIGNED THIS _____ DAY OF _____, 20___.

APPROVED BY MAYOR- MICHELLE KAUFUSI

CITY ENGINEER

ATTEST
RECORDER

COUNTY SURVEYOR APPROVAL

THIS PLAT HAS BEEN REVIEWED BY THE COUNTY SURVEYOR AND IS HEREBY CERTIFIED AS A FINAL LOCAL ENTITY PLAT, PURSUANT TO UTAH CODE ANN. 17-23-20 AS AMENDED.

GARY RATCLIFFE
UTAH COUNTY SURVEYOR

Reeve & Associates, Inc.
5160 S 1500 W, RIVERDALE, UTAH 84405
TEL: (801) 621-3100 FAX: (801) 621-2666 www.reeve-assoc.com
LAND PLANNERS • CIVIL ENGINEERS • LAND SURVEYORS
TRAFFIC ENGINEERS • STRUCTURAL ENGINEERS • LANDSCAPE ARCHITECTS

Project Info.
Surveyor: T. HATCH
Designer: A. INABNIT
Begin Date: 04-11-19
Name:
ANNEXATION
Number: 7030-02
Revision:
Scale: 1"=60'
Checked:

Reeve & Associates, Inc. - Solutions You Can Build On

RECEIVED
By Amanda Ercanbrack at 4:37 pm, May 23, 2019

This is a statement providing information for the Property located in Provo Utah located at:

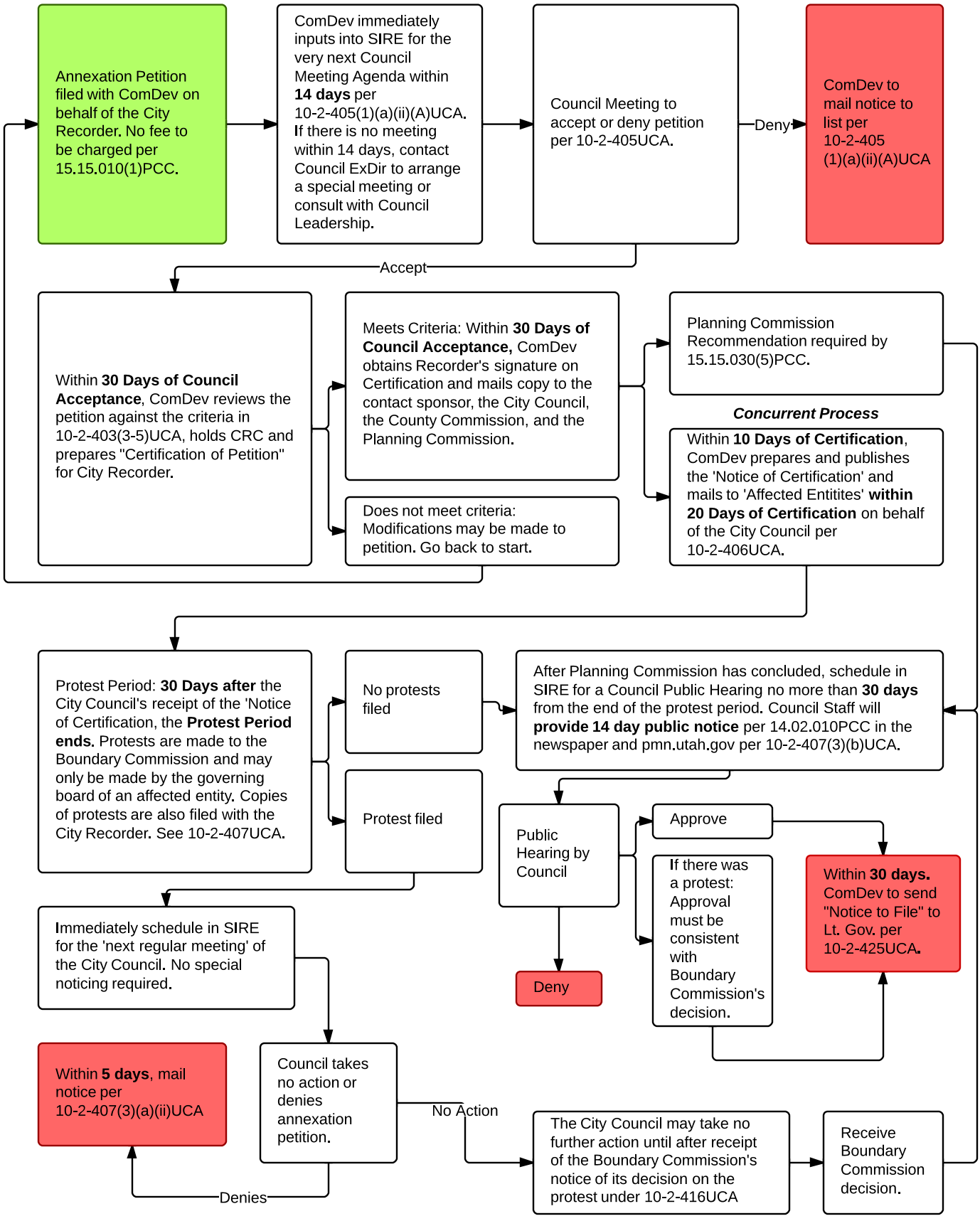
Legal Description: COM N 55.08 FT & W 351.78 FT FR E 1/4 COR. SEC. 18, T7S, R3E, SLB&M.; N 63 DEG 20' 6" E 400.91 FT; S 577.95 FT; S 42 DEG 47' 0" W 83.77 FT; ALONG A CURVE TO R (CHORD BEARS: N 84 DEG 28' 29" W 12.41 FT, RADIUS = 37.62 FT); N 74 DEG 58' 48" W 111.76 FT; ALONG A CURVE TO L (CHORD BEARS: N 42 DEG 43' 10" W 195.58 FT, RADIUS = 209 FT); ALONG A CURVE TO R (CHORD BEARS: N 56 DEG 47' 19" W 57.84 FT, RADIUS = 121 FT); N 253.99 FT TO BEG. AREA 3.848 AC.

This is for the proposed annexation for East Bay Self Storage. We have checked with the division of water rights and the title company there are no water rights associated with this property. Please let me know if you have any other questions

Thank you,

Jen Gordon
801-623-3937

Provo Annexation Petition Process



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

	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

RESOLUTION 2019-.

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)

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

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

WHEREAS, on June 18, 2019, the Governing Body 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 Governing Body of the RDA, the Governing Body of the Redevelopment Agency finds (i) the RDA should enter into a lease agreement for the parking stalls according to the terms described in Exhibit A, and (ii) the lease of the stalls by Blue Sky Development reasonably furthers the health, safety and general welfare of the citizens of Provo City.

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

PART I:

1. The Chief Executive Officer is authorized to enter into a lease of parking stalls to Blue Sky Development according to the terms in Exhibit A.

2. The Chief Executive Officer of the Agency or designee is authorized to sign any paperwork necessary to effectuate the deal and to make minor changes to the language and wording of the documents provided such changes do not involve the structure of the deal.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

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 twenty-four (24) 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 twenty-four (24) 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 Blue Sky (the "Project").

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

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 four (11-24);

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.

Commented [GM1]: These figures should be checked with Dan Follett and perhaps our broker as they may not be adequate.

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 55 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 55 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 Tenant'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. 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 two 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)

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JMCKNIGHT
Department: Public Works
Requested Meeting Date: 06-18-2019

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

RESOLUTION 2019-.

AN ORDINANCE AMENDING PROVO CITY CODE TO CORRECT AND UPDATE TITLE 10 (WATER RESOURCES). (19-072)

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

WHEREAS, the Provo Municipal Council previously approved the Provo City Public Works Department Development Guidelines (Guidelines) for 2019; and

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

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

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

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

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

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

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

WHEREAS, the changes to Chapter 10.04 are so extensive that it is proposed that the current version of that Chapter be repealed in its entirety and re-enacted as shown in Exhibit C; and

WHEREAS, on June 4, 2019 and June 18, 2019, the Municipal Council held a duly noticed public meeting to ascertain the facts regarding this matter, which facts are found in the meeting records; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code Chapters 10.02, 10.03, and 10.04 should be amended as set forth in Exhibits A, B, and C, 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 Chapter 10.02 is hereby amended as set forth in Exhibit A.

PART II:

Provo City Code Chapter 10.03 is hereby amended as set forth in Exhibit B.

PART III:

Provo City Code Chapter 10.04 is hereby repealed in its entirety as currently constituted and re-enacted as set forth in Exhibit C.

PART IV:

A. If a provision of this ordinance or the development guidelines conflicts with a provision of a previously adopted land use regulations, this amendment 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 RESOLUTION.

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 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.
10.02.080. Separate Service Lines Required.
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. 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.
10.02.220. 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 (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 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.

10.02.020. PROTECTION OF WATER TRANSMISSION LINE.

No person shall establish, construct, or maintain any structure nearer than twenty (25) feet to any Provo City water transmission main that is eighteen (18) inches in diameter or larger without first procuring written permission for the same from the Director.

10.02.030. WATER DEVELOPMENT STANDARDS.

All water lines and appurtenances in Provo shall be installed per Utah Administrative Code R309-500 through R309-550 and shall comply with all requirements and standards inProvo City Code Section 15.03.020

(General Development Standards) and those referenced in other applicable sections of city, state, and federal law.

10.02.040. Temporary Water Main Connections.

It shall be unlawful to install or utilize a temporary water main connection.

10.02.050. Reimbursement for Water Main Line Extensions.

Any person who incurs the expense of installing a 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 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 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 shown in the Consolidated Fee Schedule. The amount of money to be paid by the connecting party shall be the amount described in 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 water connection fees. In no event shall the right of reimbursement exceed the amount actually collected by the City from the connecting party.

(3) 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.

(4) 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.

(5) The reimbursement payment described in this Section shall be paid at the time the building permit is issued. The rate of reimbursement 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 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. Water mains which are in an approved easement on private property and are part of the City water distribution system shall be maintained by the City. It shall be unlawful to install a private water main unless the Owner enters into a Private Utility Maintenance Agreement with the City prior to installation. 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.

10.02.080. Separate Service Lines Required.

Where water is now supplied through one service line to more than one house or 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 line.

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 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. Pumping Water.

Individual home booster pumps shall not be allowed as indicated in R309-540-5(4)(c). 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.

10.02.220. Scarcity of Water - Mayor's Proclamation.

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

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

10.02.230. Water Service Outside of City Limits.

(1) Where there is a surplus of water, the City may at its discretion, sell such surplus to users outside of the City at a rate specified in the Consolidated Fee Schedule adopted by the Municipal Council. All main lines must be installed by the applicant, the type, and construction to be approved by the Director. Individual connections from the main lines will be made in accordance with all applicable City standards.

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

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

(4) Main line extension fees and water connection fees charged for the connection of property outside the city limits shall be the same as those within the city limits as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

10.02.240. Water User Fees.

Water user fees shall be charged as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

10.02.250. Water Connection Fees.

(1) Connection fees for water are shown on the Consolidated Fee Schedule adopted by the Municipal Council and are due prior to permits for site work being issued.

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

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 for the new or larger service(s) and the impact fee for the old or smaller service(s) as shown on the Consolidated Fee Schedule adopted by the Municipal Council. In no case shall the credit given be greater than the impact fee for the new or larger service(s) . (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 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.

10.03.080. 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. (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, 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 DEVELOPMENT STANDARDS.

All sewer lines and appurtenances in Provo shall be installed per Utah Administrative Code R317-3 and shall comply with all requirements and standards in Provo City Code Section 15.03.020 (General Development Standards) and those referenced in other applicable sections of city, state, and federal law.

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 shown in the Consolidated Fee Schedule. The amount of money to be paid by the connecting party shall be the amount described in 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) 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.

(4) The reimbursement payment described in this Section shall be paid at the time the building permit is issued. The rate of reimbursement 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. It shall be unlawful to install a private sewer main unless the owner enters into a Private Utility Maintenance Agreement with the City prior to installation. The City may lend technical assistance in locating the source of any groundwater infiltration.

10.03.060. Installation and Maintenance of Sewer Laterals.

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

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

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

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

10.03.080. Mandatory Hookup to Sewers.

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

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

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

10.03.090. Privies, Cesspools and Septic Tanks.

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

(2) Should the Director determine that a sewer main line extension is unreasonable, the Director may allow the temporary use of a septic tank, provided that the septic system does not threaten water quality in wells and water lines and meets all conditions relative to the use of septic tanks as established by the Utah County Health Department 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 required when 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 designed and constructed per city standards. Interceptors shall be located so as to be readily and easily accessible for cleaning and inspection, but shall not be allowed on City property or in the public right-of-way.

(2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. .

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 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 approval, 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)

10.03.170. Control Manhole for Sampling and Measurement of Wastes.

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

10.03.180. Standards for Measurements, Tests and Analyses.

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

10.03.190. Acceptance of Industrial Waste Under Special Agreement.

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

10.03.200. Right of Entry for Inspection.

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

10.03.210. Sewer Connection.

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

10.03.220. Credits for Existing Sewer Laterals.

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

10.03.230. Sewer User Fees.

(1) The schedule of charges to be imposed for regular monthly service rendered to the users of the sewer system of Provo City shall be based, insofar as possible, upon the amount of culinary water consumed by such use. The Director may, under abnormal circumstances, make adjustments as needed to ensure equitable service charges. The Director may make such adjustments where excessive quantities of culinary water are metered which are consumed on the premises and which do not enter the sewage system. The consumer will have the burden of proving such inequities by

showing that the quantity metered exceeds by at least twenty percent (20%) the total flow to the sewer system in order to merit consideration by the Director. Reductions shall be based on the cost listed on the adjusted meter rate. This provision shall apply to all of the following provisions:

(2) Service charges. All sewer accounts shall be charged a monthly minimum charge, plus a usage fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council. During the winter months of each year, an average monthly water consumption shall be 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 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 construct their water system in such a way that a complete separation is made between the part of the system that empties into the sewer and that which does not go into the sewer, and install separate water meters on each part of the water system. Such users shall be charged for sewer service as set forth in this Title.

10.03.260. Sewer Service Outside of City Limits.

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

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

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

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

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

Provo City Code, Chapter 10.04; with EPA Streamlining Changes
(March 7, 2019 edits made by Skyler Tulley)

Chapter 10.04. Pretreatment Program.

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10.04.010. Purpose and Policy

A. This Chapter sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for Provo City and enables Provo City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* (CFR) Part 403) and the Utah Administrative Code R317-8-8. The objectives of this Chapter are:
   (1) To prevent the introduction of pollutants into the POTW which will interfere with the operation of the system or contaminate the resulting sludge;
   (2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the 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) To promote reuse and recycling of wastewater and sludge from the POTW;
   (5) To provide fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; 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. This Chapter shall apply to all Users of the POTW. This Chapter authorizes the issuance of individual wastewater discharge permits; Provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

C. This Chapter shall apply to Provo City residents and to persons outside the City who are, by contract or agreement with the City, Users of the City POTW.

D. 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) 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).

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 cooling water" is water 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.

W. “Medical Waste” Isolation wastes, infectious agent, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

X. “Monthly Average” The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

Y. "National Prohibitive Discharge Standard or Prohibitive Discharge Standard" Absolute prohibitions against the discharges of certain substances; these prohibitions appear in Section 10.04.050 of this Chapter.

Z. "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.

AA. "New source"

(1) 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 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, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located: or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criterial of (1)(b) or (c) of this Section but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

BB. "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).

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.

10.04.050. Prohibited Discharge Standards

A. General Prohibitions. No User shall introduce 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;

(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;
(12) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye waste and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City of Provo's NPDES permit;
(13) Sludges, screening, or other residue from pretreatment of industrial wastes;
(14) Medical Wastes, except as specifically authorized by Provo City's Industrial Pretreatment Coordinator in an individual wastewater discharge permit;
(15) Bulk, expired, outdated or concentrated prescription or non-prescription drugs;
(16) Hazardous waste pharmaceuticals or Drug Enforcement Administration (DEA) controlled substances to the POTW by a healthcare facility or reverse distributor pursuant to 40 CFR Section 266.505 shall be prohibited;
(17) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
(18) 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;
(19) Any substance which will cause the POTW to violate its UPDES Permit or 40 CFR part 503 regulations.

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

D. Hauled Wastewater

(1) Hauled domestic waste may be introduced into the POTW only at locations designated by the Provo City Industrial Pretreatment Coordinator, and at times established by the Provo City Industrial Pretreatment Coordinator. Such waste shall not violate Sections 10.04.050 through 10.04.080 of this ordinance or any other requirements established by Provo City.
(2) Domestic waste haulers must provide a trucked-in waste certification form for every load. This form shall include, at a minimum, the name and address of the waste hauler company, driver name, names and address of sources of waste, volume, characteristics of waste and signature of driver stating they agree to follow rules, allowing the waste to be dumped.
(3) Provo City does not accept pit toilets (outhouses) and/or commercial (i.e. Industrial, automotive, car wash, or oil/grease) sump materials.
(4) The discharge of hauled domestic waste is subject to all other requirements of this ordinance.

10.04.060. National Categorical Pretreatment Standards

A. 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.

10.04.080. 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.

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. These limitations or requirements may include Best Management Practices (BMPs), by Chapter or in individual wastewater discharge permits.

10.04.100. Dilution

No 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 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.

10.04.130. Accidental Discharge/Slug Discharge Control Plans

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.

10.04.140. Wastewater Analysis

When requested by the Provo City Industrial Pretreatment Coordinator, a User must submit information 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.

10.04.150. 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. All Users required to obtain a Wastewater Contribution Permit must submit a permit application with Provo City. An application in the form prescribed by the City, and accompanied by a permit fee as adopted by the Municipal Council. All permittees that will be continuing to discharge are required to complete and submit an application at least 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:
   (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) 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).

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.

10.04.240. 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

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Provo City Industrial Pretreatment Coordinator shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, the Provo City Industrial Pretreatment Coordinator shall request the following information from the contributing municipality:
   (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
   (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such information as the Provo City Industrial Pretreatment Coordinator may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use Chapter which is as least as stringent as this Chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are as least as stringent as those set out in Section 10.04.080 of this Chapter. The requirement shall specify that such Chapter and limits must be revised as necessary to reflect changes made to Provo City's Chapter or Local Limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Provo City Industrial Pretreatment Coordinator; and which of these activities will be conducted jointly by the contributing municipality and the Provo City Industrial Pretreatment Coordinator.

(4) A requirement for the contributing municipality to provide the Provo City Industrial Pretreatment Coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limit on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Provo City Industrial Pretreatment Coordinator access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Provo City Industrial Pretreatment Coordinator; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

10.04.260. Baseline Monitoring Reports

(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

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

10.04.280. Reports on Compliance with Categorical Pretreatment Standard Deadline

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

10.04.290. Periodic Compliance Reports

A. All permitted Users must, at a frequency determined by the Provo City Industrial Pretreatment Coordinator submit no less than twice per year, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. 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 the Provo City Industrial Pretreatment Coordinator or the Pretreatment Standard necessary to determine the compliance status of the User.
B. All periodic compliance reports must be signed and certified in accordance with Section 10.04.390 of this Chapter.
C. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
D. If a User subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Provo City Industrial Pretreatment Coordinator, using the procedures prescribed in Section 10.04.360 of this Chapter, the result of this monitoring shall be included in the report.
E. The User may not be required to submit reports as stated above if:
    (1) The City performs all the required sampling and analyses,
    (2) The User does not sample the discharge and
    (3) The flow information is collected by the City.

10.04.300. Reports of Changed Conditions

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

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

10.04.360. 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. Except as indicated in Section B and C below, the User must collect wastewater using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Provo City Industrial Pretreatment Coordinator. Where time-proportional composite sampling or grab sampling is authorized by Provo City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 146 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 Provo 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 a baseline monitoring and 90-day compliance reports required in Section 10.04.260 and 10.04.280, 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 Provo City Industrial Pretreatment Coordinator may authorize a lower minimum. For the reports required by paragraphs Section 10.04.290, 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.

10.04.370. Date of Receipt of Reports

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

10.04.380. Recordkeeping

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

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

10.04.410. Search Warrants

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

10.04.420. Confidential Information

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

10.04.430. Publication of Users in Significant Noncompliance

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

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 10.04.050 through 10.04.100.
B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for the same pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 10.04.050 through 10.04.100. multiplied by the applicable TRC criteria (TRC=1.4 for BOD, TSS, fats, oils and grease, and TRC=1.2 for all other pollutants except pH);
C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 10.04.050 through 10.04.100. (Daily Maximum, long-term averages, Instantaneous Limit, or narrative standard) that the Provo City Industrial Pretreatment Coordinator 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 the public or the environment, or has resulted in the Provo City Industrial Pretreatment Coordinator's exercise of its emergency authority to halt or prevent such a discharge;
E. Failure to meet, within ninety (90) days of the scheduled date, or compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
G. Failure to accurately report noncompliance; or
H. Any other violation(s), which may include a violation of Best Management Practices, which the Provo City Industrial Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.

10.04.440. Notification of Violation

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 serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Provo City Industrial Pretreatment Coordinator. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the City Industrial Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.04.450. Consent Orders

The City Industrial Pretreatment Coordinator may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance 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

($10,000) dollars per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. In the event that a User discharges such pollutants which cause Provo City to violate any conditions of its UPDES Permit and Provo City is fined by the EPA or the State of Utah for such violations, then such Users shall be full liable for the total amount of the fines and civil penalties assessed against Provo City by the EPA or the State of Utah and administrative costs incurred.

C. The Provo City Industrial Pretreatment Coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damage incurred by Provo City.

D. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

E. Filing a suit for civil penalties shall not be a bar against, or prerequisite for, taking any other action against a User.

10.04.540. Criminal Prosecution

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

A. A User who willfully or negligently violates any provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not more than twenty-five thousand ($25,000) dollars per violation, per day, and/or imprisonment for not more than ninety (90) days, or both.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a class B misdemeanor and be subject to a penalty of not more than twenty-five thousand ($25,000) dollars per violation per day and/or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine of not more than twenty-five thousand ($25,000) per violation, per day, and/or imprisonment for not more than one (1) years, or both.

D. In the event of a second conviction, a User shall be punished by a fine not more than fifty thousand ($50,000) per violation, per day, and/or imprisonment for not more than two (2) years, or both.

11.04.550. Remedies Nonexclusive

The remedies provided for in this Chapter are not exclusive. The Provo City Industrial Pretreatment 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.

10.04.570. Severability

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

10.04.580. Conflict

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

10.04.590. Effective Date

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

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.

~~B.~~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;

~~(2)~~(3) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

~~(3)~~(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~~.~~

~~(4)~~(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.

~~C.~~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.~~

~~D.~~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.

10.04.0~~2~~40. 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.

~~(1)~~

~~(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.~~

~~"Authorized Representative of Industrial User" An authorized representative of an Industrial user may be:~~

~~(a) A principal executive officer of at least the level of vice-president, if the Industrial user is a corporation;~~

~~(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.

~~B.~~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 w~~W~~ater 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.

W. “Medical Waste” Isolation wastes, infectious agent, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

X. “Monthly Average” The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

Y. "National Prohibitive Discharge Standard or Prohibitive Discharge Standard" Absolute prohibitions against the discharges of certain substances; these prohibitions appear in Section 10.04.050 of this Chapter.

Z. "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.

AA. "New source"

(1) 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 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, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located: or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criterial of (1)(b) or (c) of this Section but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

BB. "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).

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-contract 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~~

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 waste-water.

"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 SolidsUPDES 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;

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

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

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

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

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

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

(18) 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;~~.~~

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

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

D. Hauled Wastewater

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

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

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

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

~~A. 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)~~

~~contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such Users of a POTW whether or not 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)~~

10.04.0~~5~~60. ~~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)~~

10.04.08~~7~~0. ~~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.

~~(1) 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.

~~(1) (Am 1991-41, Am 2005-17)~~

10.04.1~~13~~0. 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.

~~A.~~

~~(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.~~

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

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

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

~~(b) A concentration of pollutants of concern which causes the user to violate instantaneous, daily or monthly maximum discharge limitations.~~

~~(c) An adverse effect on wastewater facilities.~~

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

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

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

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

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

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

~~(b) A description of stored chemicals.~~

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

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

~~10.04.120. Purpose.~~

~~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. (Am 1991-41)~~

~~10.04.130. Charges and Fees.~~

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

~~(1) (a) fees for reimbursement of costs of setting up and operating the City's Pretreatment Program;~~

~~(2) (b) fees for sampling, monitoring, inspections, reinspections and surveillance procedures, including laboratory analysis;~~

~~(3) (c) fees for reviewing accidental discharge procedures and construction;~~

~~(4) (d) fees for permit applications;~~

~~(5) (e) fees for filing appeals;~~

~~(6) (f) fees for consistent removal (by the City) of pollutants otherwise subject to Federal Pretreatment Standards; or~~

~~(7) (g) other fees as the City may deem necessary to carry out the requirements contained herein.~~

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

10.04.140. Wastewater Analysis

When requested by the Provo City Industrial Pretreatment Coordinator, a User must submit information 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)~~

10.04.155~~5~~0. 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 ~~User~~Users required to obtain a Wastewater Contribution Permit ~~shall complete and file with the~~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 permitteesProposed 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.~~

~~(cd) 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)~~

10.04.24~~16~~0. ~~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

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Provo City Industrial Pretreatment Coordinator shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, the Provo City Industrial Pretreatment Coordinator shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such information as the Provo City Industrial Pretreatment Coordinator may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use Chapter which is as least as stringent as this Chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are as least as stringent as those set out in Section 10.04.080 of this Chapter. The requirement shall specify that such Chapter and limits must be revised as necessary to reflect changes made to Provo City's Chapter or Local Limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Provo City Industrial Pretreatment Coordinator; and which of these activities will be conducted jointly by the contributing municipality and the Provo City Industrial Pretreatment Coordinator.

(4) A requirement for the contributing municipality to provide the Provo City Industrial Pretreatment Coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limit on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Provo City Industrial Pretreatment Coordinator access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Provo City Industrial Pretreatment Coordinator; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. ~~(1) Permits Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. 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. 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.~~.

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

10.04.2617~~0~~. ~~Reporting Requirements for Permittee~~Baseline Monitoring Reports~~.~~

~~(1) (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~~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

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

10.04.280. Reports on Compliance with Categorical Pretreatment Standard Deadline

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

10.04.290. Periodic Compliance Reports

A. All permitted Users must, at a frequency determined by the Provo City Industrial Pretreatment Coordinator submit no less than twice per year, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. 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 the Provo City Industrial Pretreatment Coordinator or the Pretreatment Standard necessary to determine the compliance status of the User.

B. All periodic compliance reports must be signed and certified in accordance with Section 10.04.390 of this Chapter.

C. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

D. If a User subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Provo City Industrial Pretreatment Coordinator, using the procedures prescribed in Section 10.04.360 of this Chapter, the result of this monitoring shall be included in the report.

E. The User may not be required to submit reports as stated above if:

(1) The City performs all the required sampling and analyses,

(2) The User does not sample the discharge and

(3) The flow information is collected by the City.

10.04.300. Reports of Changed Conditions

B. Each User must notify the Provo City Industrial Pretreatment Coordinator of any changes to the User's operation or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change, including changes that may affect slug discharges to the POTW.

(1) The Provo City Industrial Pretreatment Coordinator may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 10.04.180 of this 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.

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

10.04.360. 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. Except as indicated in Section B and C below, the User must collect wastewater using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Provo City Industrial Pretreatment Coordinator. Where time-proportional composite sampling or grab sampling is authorized by Provo City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 146 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 Provo 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 a baseline monitoring and 90-day compliance reports required in Section 10.04.260 and 10.04.280, 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 Provo City Industrial Pretreatment Coordinator may authorize a lower minimum. For the reports required by paragraphs Section 10.04.290, 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.

10.04.370. Date of Receipt of Reports

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

10.04.380. Recordkeeping

A. Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying:

(1) All records of information obtained pursuant to any monitoring activities required by this Chapter,

(2) Any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and

(3) Documentation associated with Best Management Practices established under Section 10.04.080 (C).

B. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the sample; the dates analyses were performed; who performed the analyses; 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.

E. Unreasonable delays in allowing the Provo City Industrial Pretreatment Coordinator access to the User's premises shall be a violation of this Chapter.

F. Provo City may use a camera to photograph areas of the facility as necessary for carrying out the duties of the IPP including, but not limited to, documentation of User's compliance status and for reinforcement of written reports. The User shall be allowed to review copies of the photographs for confidentiality claims.

G. The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facility should be provided in accordance with the POTW's requirements and all applicable local construction standards and specifications. Such facilities shall be constructed and maintained in a manner that enables the Provo City Industrial Pretreatment Coordinator to perform independent monitoring activities.

H. All Significant Industrial Users will be inspected at least annually including review of facilities and reports.

10.04.410. Search Warrants

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

10.04.420. Confidential Information

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

10.04.430. Publication of Users in Significant Noncompliance

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

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 10.04.050 through 10.04.100.

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for the same pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 10.04.050 through 10.04.100. multiplied by the applicable TRC criteria (TRC=1.4 for BOD, TSS, fats, oils and grease, and TRC=1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 10.04.050 through 10.04.100. (Daily Maximum, long-term averages, Instantaneous Limit, or narrative standard) that the Provo City Industrial Pretreatment Coordinator 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 the public or the environment, or has resulted in the Provo City Industrial Pretreatment Coordinator's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, or compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Provo City Industrial Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.

10.04.440. Notification of Violation

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 serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Provo City Industrial Pretreatment Coordinator. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the City Industrial Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.04.450. Consent Orders

The City Industrial Pretreatment Coordinator may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance 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

($10,000) dollars per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. In the event that a User discharges such pollutants which cause Provo City to violate any conditions of its UPDES Permit and Provo City is fined by the EPA or the State of Utah for such violations, then such Users shall be full liable for the total amount of the fines and civil penalties assessed against Provo City by the EPA or the State of Utah and administrative costs incurred.

C. The Provo City Industrial Pretreatment Coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damage incurred by Provo City.

D. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

E. Filing a suit for civil penalties shall not be a bar against, or prerequisite for, taking any other action against a User.

10.04.540. Criminal Prosecution

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

A. A User who willfully or negligently violates any provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not more than twenty-five thousand ($25,000) dollars per violation, per day, and/or imprisonment for not more than ninety (90) days, or both.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a class B misdemeanor and be subject to a penalty of not more than twenty-five thousand ($25,000) dollars per violation per day and/or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine of not more than twenty-five thousand ($25,000) per violation, per day, and/or imprisonment for not more than one (1) years, or both.

D. In the event of a second conviction, a User shall be punished by a fine not more than fifty thousand ($50,000) per violation, per day, and/or imprisonment for not more than two (2) years, or both.

11.04.550. Remedies Nonexclusive

The remedies provided for in this Chapter are not exclusive. The Provo City Industrial Pretreatment 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.

~~(2) 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.

(A) 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 submittedThe 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 LimitsFor 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 RequirementsThe 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 (6090) 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 of 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) (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) (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) 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) (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) (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) (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) (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) (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.

(3) (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.

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

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

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

i. (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 PermitAny 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.

(E) (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.

(3) 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.

A. (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 maybe made on any agent or officer of a corporation.

B. (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:

(1) (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;

(2) (b) Take the evidence; and

(3) (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

C. (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.

D. (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.

A. 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.

A. (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) (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) (3) A fine not exceeding $25,000.00 per day may be assessed against any person who willfully or with gross negligence:~~

~~(1) (a) discharges pollutants in violation of Section 10.04.040, Provo City Code or in violation of any condition or limitation included in a permit issued under Section 10.04.150, Provo City Code;~~

~~(2) (b) violates Section 10.04.190, Provo City Code;~~

~~(3) (c) violates a pretreatment standard or toxic effluent standard for publicly-owned treatment works.~~

~~(4) (4) The City may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation in the civil proceeding against the person and/or entity found to have violated this Chapter or the orders, rules, regulations, and permits issued hereunder.~~

~~(5) (5) It shall be unlawful and a class B misdemeanor for any person to knowing violate any provision of this Chapter. (Am 1989-60, Am 1991-41, Am 1993-33, Am 2005-17, Am 2006-49)~~

~~10.04.280. Falsifying Information.~~

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

10.04.5729~~0~~0. Severability~~.~~

If any provision, paragraph, word, section or article of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.
~~(Am 1991-41)~~

10.04.5830~~0~~0. Conflict~~.~~

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

10.04.590. Effective Date

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

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: HSALZL
Department: Council
Requested Meeting Date: 06-18-2019

SUBJECT: A discussion of proposed amendments to Provo City Code Section 15.03.035 (Grading) to clarify and change requirements related to grading and grading permits. (19-002)

RECOMMENDATION: Information only. The Foothills Protection Committee is requesting this item be sent to Planning Commission for analysis and review.

BACKGROUND: The Foothills Protection Committee has met for the last several months to discuss areas they can assist in the preservation and protection of the Provo City Foothills. This particular ordinance amendment stems from the discussion that Council had during the April 23, 2019 Work Meeting. This is the proposed legislation relating to the initial step that was discussed by the Committee to prevent grading issues in the future. The three things which are being discussed are:

(1) Require a Project Plan Proposal with each grading permit
Currently, Provo City Code Section 15.03.035 (Grading) indicates that grading permits can be "obtained at the office of the Provo City Engineer after completion of an application for permit complying with any and all permit requirements." There are 12 requirements ~~from~~ in PCC § 15.03~~5~~.035(2) ~~that must be agreed~~ for developers to fulfill.~~,~~ ~~h~~However, if developers were required to provide a plan to fulfill thes~~r~~e ~~is a~~ requirements ~~for a~~at the project proposal stage, ~~it increases the chance that a~~ they will be less likely to abandon grading projects ~~will not be abandoned~~. ~~It requires an~~The additional effort on the part of those seeking a grading permit ~~and~~ gives additional information to Engineering in order to help them as they ~~approve~~ review projects.

(2) Increase bonding requirements for grading permit projects
The grading permit requirements found in PCC § 15.03~~5~~.035(4) currently require that:
- the work is completed by a licensed qualified contractor,
- payment of all required permit fees and bonds are received prior to commencement of any work, and
- the project complies with any special conditions required by the City Engineer.

The Foothills Protection Committee believes that the bonding requirements for grading permits should be increased. Any permit which requires cutting should be given special scrutiny to ensure that the projects are completed to the expected standards.

(3) Require a landscaping plan as part of the project proposal
If each project has a landscaping plan, this would show the City the contractor intends to beautify the project upon completion and leave the project in better condition than when they began. This would also provide the Engineering Division additional information on how the contractor intends to beautify the area upon completion of the project. The landscaping component of the project proposal would also likely result in an increase of the bonding requirement.

FISCAL IMPACT: No

PRESENTER'S NAME: George Handley

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 19-002

Planning Commission Hearing Staff Report
Hearing Date: February 13, 2019

***ITEM #3** Irv Eastham requests a General Plan Amendment from Public Facilities (PF) to Residential (R) to allow six (6) townhomes in a proposed LDR zone. The subject property is located at 862 E Quail Valley Drive and includes 0.78 acres. Edgemont Neighborhood. Robert Mills (801) 852-6407 PLGPA20190009

Applicant: Irv Eastham

Staff Coordinator: Robert Mills

Property Owner: Church Family LLC
Parcel ID#: 20:034:0049
Acreage: 0.78 acres
Number of Properties: 1

Number of Lots: 1

Current General Plan Designation: Public Facilities (PF)

Proposed General Plan Designation: Residential (R)

*Council Action Required: Yes

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is February 27, 2019.*

3. **Deny** the requested Project Plan. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: Vacant parcel.

Relevant History: The site is an infill property located between the existing office building to the east and the Timpview Seminary building to the West and has historically been under the same ownership of the office building. The ownership of the site is now separate from the office building.

Neighborhood Issues: A neighborhood meeting was held on January 15, 2019 and was attended by several members of the surrounding neighborhoods. Primary issues discussed in the meeting included the presumed association of the subject property with the office building, parking adequacy for both the proposed townhome project and the existing office building, the addition of possible future uses a general plan amendment and zone change would allow.

Summary of Key Issues:

- The site is an infill property that was included in the PF designated area of the General Plan Map because of its proximity to the existing Timpview High School site.
- The proposed map amendment will allow for the development of single-family residential uses on the site.

Staff Recommendation: Staff recommends approval of the requested General Plan Map Amendment with the following conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;
2. The applicant shall demonstrate, graphically and empirically, that the proposed map amendment and subsequent development of the property will not create a negative cumulative effect on the already burdened neighborhood; and
3. If development permits for the proposed site are not approved within three (3) years from the date of the approval, the General Plan Map Designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals.

OVERVIEW

The subject property is an infill parcel located between the existing office building on Quail Valley Drive and the Timpview High School Seminary. The applicant is proposing to amend the General Plan Land Use Map designation for the property from Public Facilities (PF) to Residential (R) to allow for a six-unit, single-family townhome development project.

The property has historically been associated with the adjacent parcel to the west, which is designated as Commercial (C) on the General Plan Land Use Map and was rezoned to Professional Office to allow an office building almost forty years ago. However, the subject property was recently acquired by a separate owner who desires to develop the property for residential use.

Provo City's General Plan was originally adopted August 26, 1997. A comprehensive update was completed in November 2004 and again in August 2010. A non-substantive update was also completed in December 2018. The Land Use Map has been amended over that time period as well.

Surrounding property General Plan Land Use Map designations include Public Facilities at the Timpview High School site (including the Seminary property), Commercial on the office building site, and all other surrounding property in the immediate vicinity is designated as Residential. The fact that the subject property is designated PF is somewhat of an anomaly because the property is held in private ownership and not part of a larger public or quasi-public use, i.e. a school, park, church, or other similar use.

Key Policies from the General Plan relating to the Edgemont Neighborhood include the following:

1. Maintain all existing one-family residential areas of the neighborhood as one-family, detached housing. Duplexes, twin homes, condominiums, and apartments are not compatible with the goals for this neighborhood. Housing should be developed at the scale of surrounding existing development. The neighborhood may consider design regulations to control housing scale in established residential areas to prevent incompatible infill development.
2. Limit rural agricultural tracts south of Timpview High School to one-family residential development. If developed as performance developments, they should be limited to one-family dwellings.
3. Prohibit existing commercial and office nodes from expanding into the Residential (R) General Plan designation.

FINDINGS OF FACT

1. The subject property is an irregularly-shaped lot currently designated as PF on the General Plan Land Use Map and is also zoned Public Facilities (PF).
2. Surrounding General Plan Map designations include: PF, C, and R.
3. There is no history of the site being developed and the site is not associated with any customary land use found in the PF zone, including Timpview High School or the Seminary.
4. The subject property is under separate ownership from the adjacent office building and parcel.
5. Although the site is irregular in shape, development, including single-family attached residential dwellings is feasible.
6. There are Covenants, Conditions, and Restrictions (CC&Rs) recorded for the adjacent office-use parcel; however, those CC&Rs do not encumber the subject property.
7. The subject property is in the Edgemont Neighborhood and key policies have been adopted in the General Plan for the neighborhood.
8. Goal 1.4.3 listed in the General Plan calls for dispersing the increasing demand for affordable housing throughout the City and the County.

Analysis

Section 14.02.020(1) of the Provo City Code states the following regarding amendments to the Planning and Zoning Title and to the General Plan:

> *"Amendments shall not be made . . . except to promote more fully the objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors."*

Additionally, guidelines for consideration of an amendment are set forth in Section 14.02.020(2) of the Code and are listed below. Staff analysis is provided after the individual guidelines in **bold**.

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

To allow residential development of the subject infill lot located between two different land uses.

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

The public purpose is served by the proposed map amendment because it will facilitate the addition of needed housing units into the City and provide additional housing types in an area primarily composed of single-family detached dwellings. It is possible that the project could change to something other than that proposed by the applicant, but the overall goal of increasing housing options in the area will be met and then regulated by the requirements

and limitations of the applicable zone.

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

As noted above, the proposed map amendment does help to implement the overall housing goal of the General Plan. Additional General Plan items specific to the Edgemont Neighborhood to consider include the following:

1. Maintain all existing one-family residential areas of the neighborhood as one-family, detached housing. Duplexes, twin homes, condominiums, and apartments are not compatible with the goals for this neighborhood. Housing should be developed at the scale of surrounding existing development. The neighborhood may consider design regulations to control housing scale in established residential areas to prevent incompatible infill development.

The proposed map amendment does not conflict with the goal to maintain all existing detached housing; however, it does conflict with the policy that residential dwellings other than single-family detached are not compatible with the neighborhood. The type of housing proposed for the site would be consistent in scale and nature to the surrounding office building and high school.

2. Limit rural agricultural tracts south of Timpview High School to one-family residential development. If developed as performance developments, they should be limited to one-family dwellings.

The subject lot is located northeast of Timpview High School.

3. Prohibit existing commercial and office nodes from expanding into the Residential (R) General Plan designation.

The proposed map amendment would help to prohibit the expansion of the existing office node by restricting the property to residential uses only. A previous prospective buyer suggested expanding the office use to the subject site by providing additional parking space for the existing office. That proposal would appear to be inconsistent with the intent of this neighborhood policy.

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

The proposed amendment relates to the map designation of an infill parcel in an established neighborhood. The proposed amendment should not negatively affect the "timing and sequencing" of any General Plan provision.

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

It seems unlikely that the proposed amendment would hinder or obstruct attainment of the articulated policies because it ultimately provides the potential for low-density, single-family development and reduces the possibility of the expansion of the commercial use on the site.

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

Land owners on the adjacent east and west side would not be impacted because of the more intense nature of those respective uses.

Some residents in the single-family neighborhoods across Quail Valley Drive, however, have expressed their concerns at the potential increase in traffic, congestion, and loss of available public on-street parking. A neighborhood meeting was held on January 15, 2019 in the Edgemont Elementary Library. Residents from the entire Northeast Area were invited to attend. The majority of neighbors who attended the meeting expressed concern over the existing office building and a new operation currently within the building that may not comply with the existing CC&Rs for that property. CC&Rs were recorded for the office property restricting the use to "executive office" use only and that no subsequent change to the zoning code could permit any additional uses. In the past, various operations have occurred within the office building that have violated the intent of the "executive office" use, a prime example was a call center that operated out of the building. Parking was often inadequate and created an unreasonable burden on surrounding land uses, especially when combined with the many activities and events at Timpview High School. Some of the neighbors allege the City is responsible for enforcement of those restrictive covenants, which may or may not be the case, regardless of the responsibility, enforcement has been very difficult throughout the duration of the their existence. Because of this, the neighbors would like assurances from the applicant that the map amendment will not continue to exacerbate the situation.

Because of those concerns and the uncertainty of future development potential, the majority of residents attending the meeting also opposed the proposed townhome project.

Staff acknowledges the concerns of the neighborhood regarding parking, safety, and congestion. It appears that the existing impacts are related to separate issues from the proposed amendment and project. Staff believes the impacts will not be further aggravated by the proposal to develop the property with townhouses because the proposed development is more than able to meet the requirements of the proposed residential zone. However, it is incumbent upon the applicant to show that the proposed map amendment and subsequent development of the property will not create a negative cumulative effect on the already burdened neighborhood. This should be incorporated as a condition of approval.

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

Given the broad-brush nature of how General Plan Map designations are

applied, and the fact that the subject property has been vacant for its known history, it's easy to conclude why the PF designation was applied. However, the parcel is privately-owned with no intended public use. Because the parcel is not associated with any typical public use, a designation to Residential will likely be beneficial to the surrounding neighborhoods by eliminating the possibility of the site being developed with a more undesirable use permitted within the PF zone.

(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 such conflict is anticipated as a result of the proposed map amendment.

RECOMMENDATION

Based on the Findings of Fact and Analysis, staff recommends the Planning Commission approve the requested General Plan Land Use Map amendment with the following conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;

2. The applicant shall demonstrate, graphically and empirically, that the proposed map amendment and subsequent development of the property will not create a negative cumulative effect on the already burdened neighborhood; and

3. If development permits for the proposed site are not approved within three (3) years from the date of the approval, the General Plan Map Designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals.

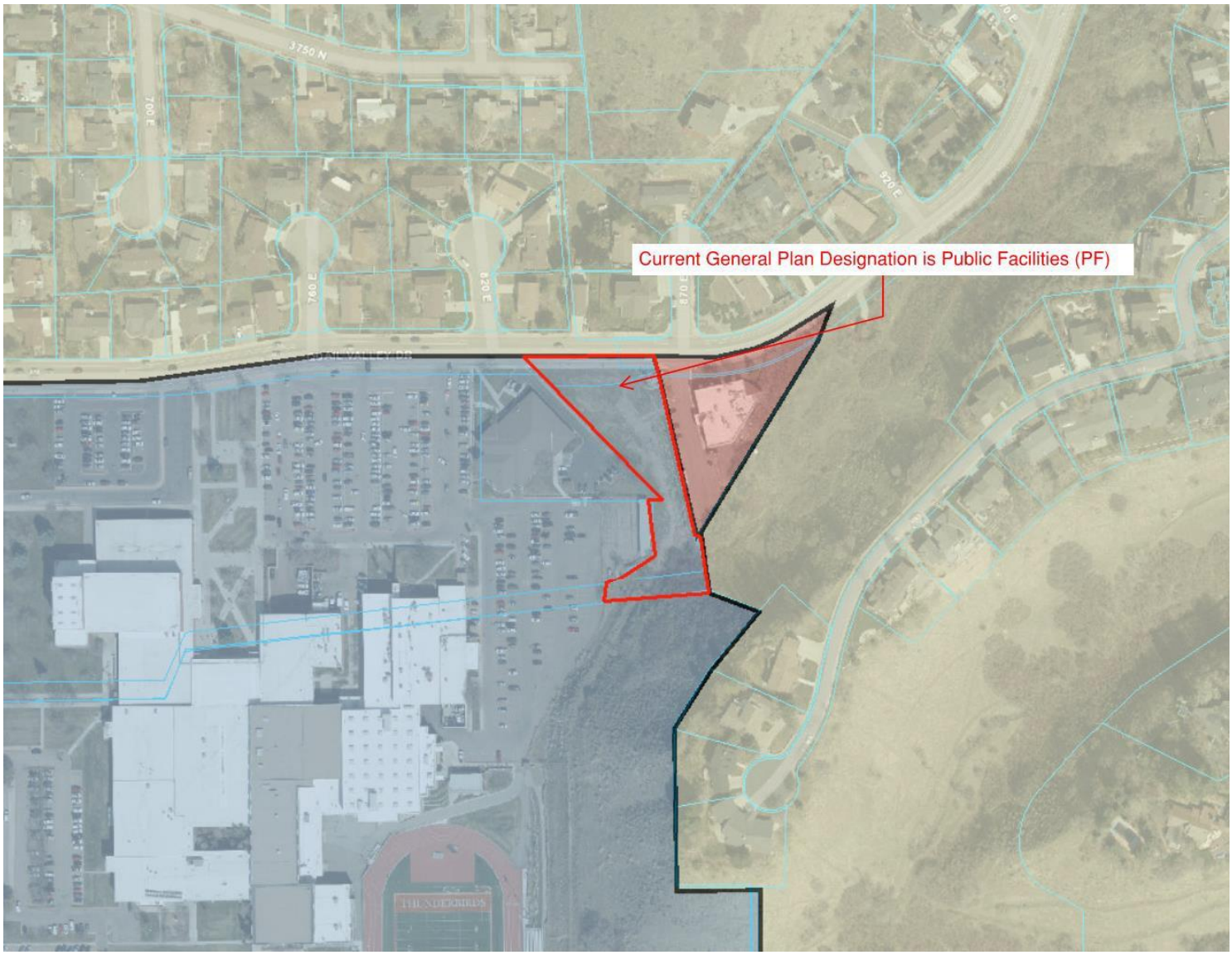
ATTACHMENTS

1. Location Map
2. Current General Plan Map
3. Proposed General Plan Map with Amendment
4. Current Zoning Map
5. Proposed Zoning Map
6. Site Plan
7. Proposed Building Elevations

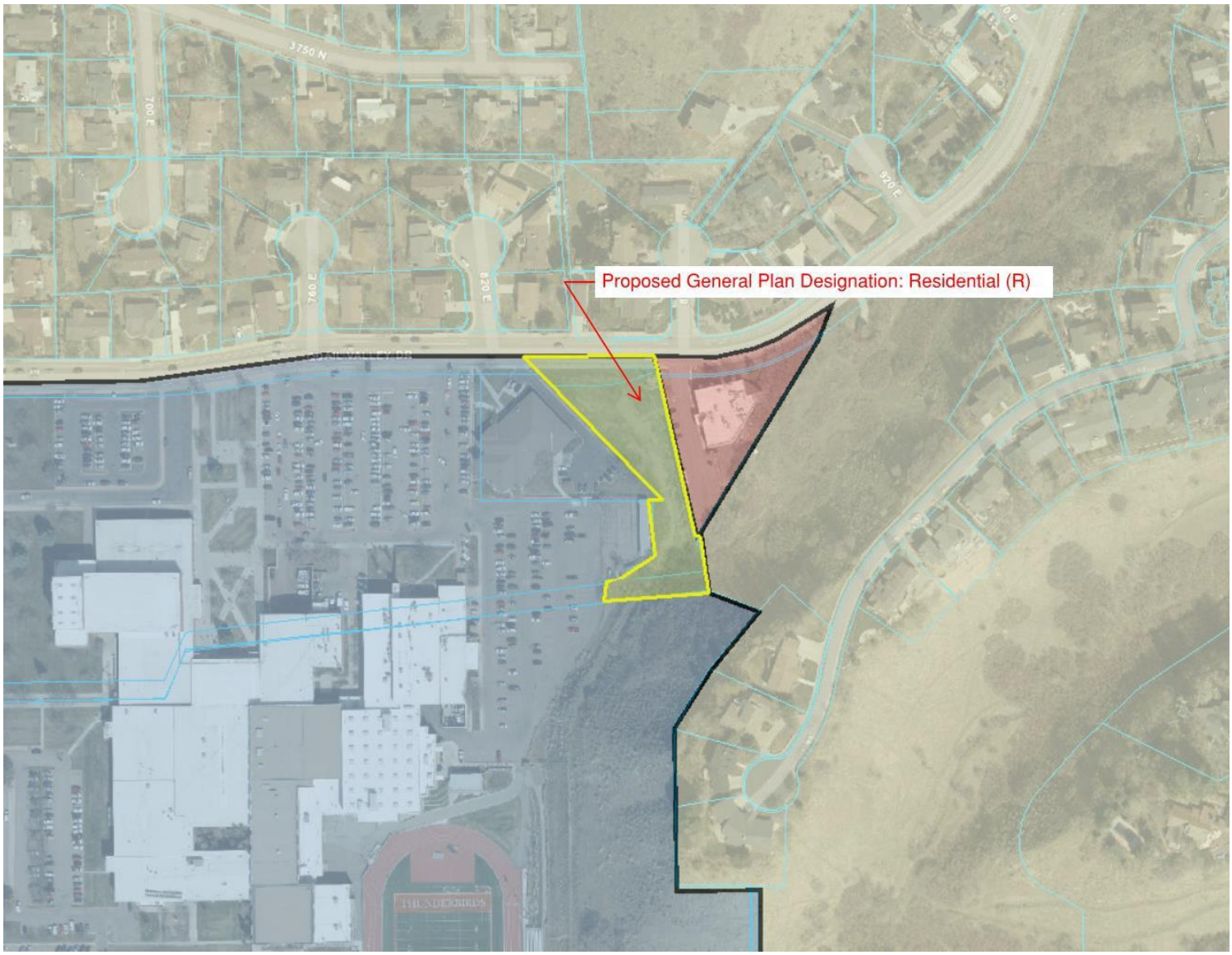
Attachment 1 – Location Map



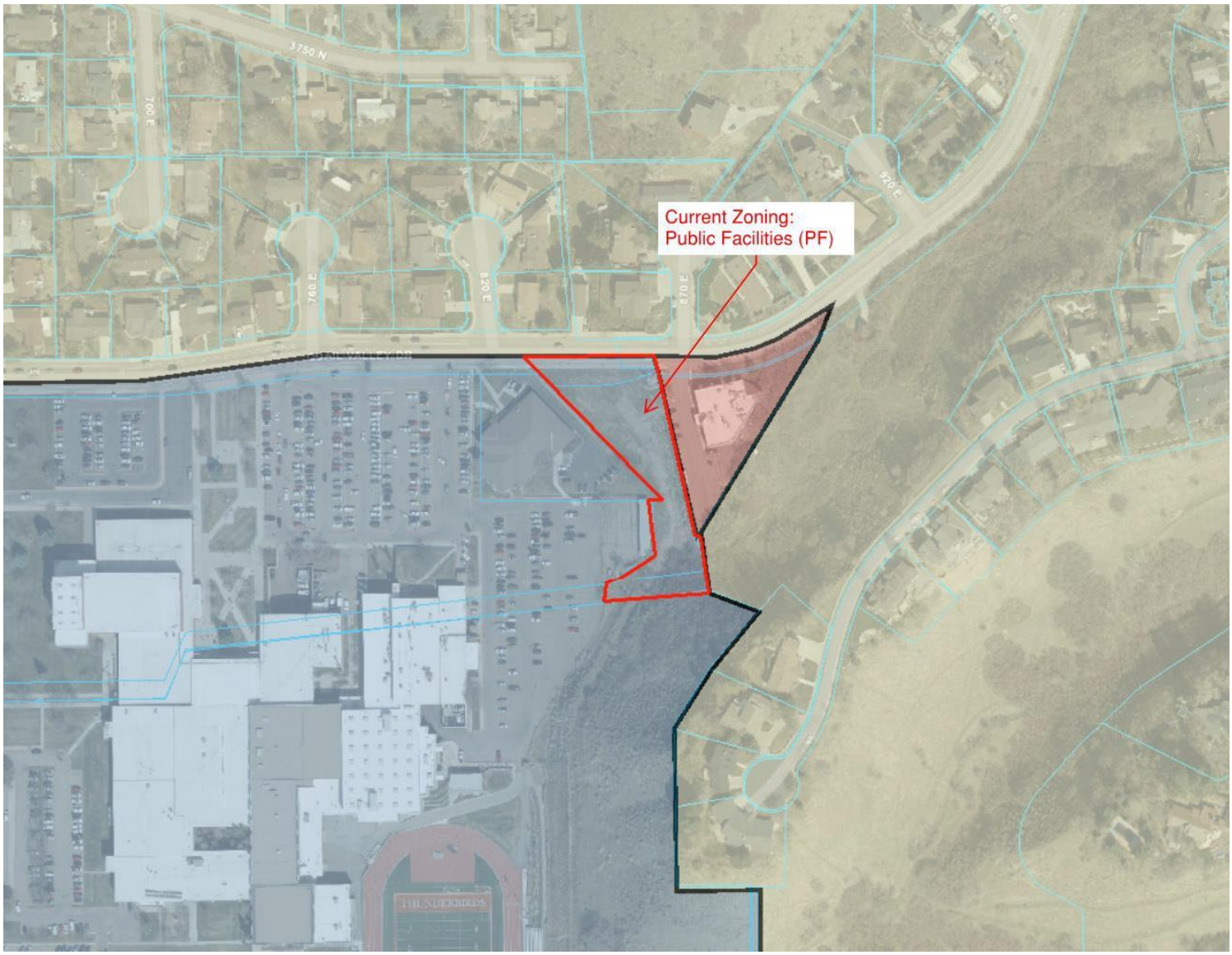
Attachment 2 – Current General Plan Map



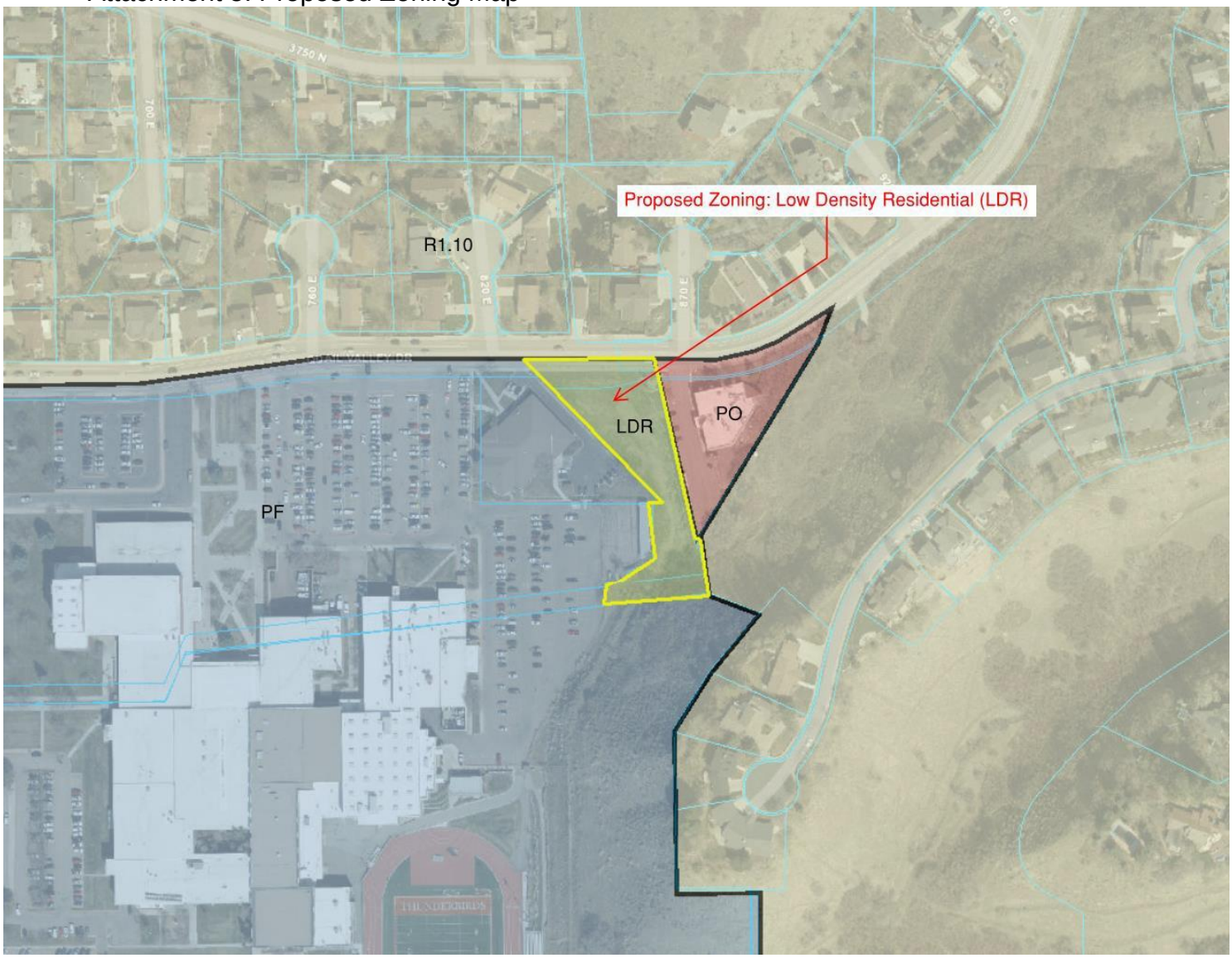
Attachment 3 – Proposed General Plan Map with Amendment



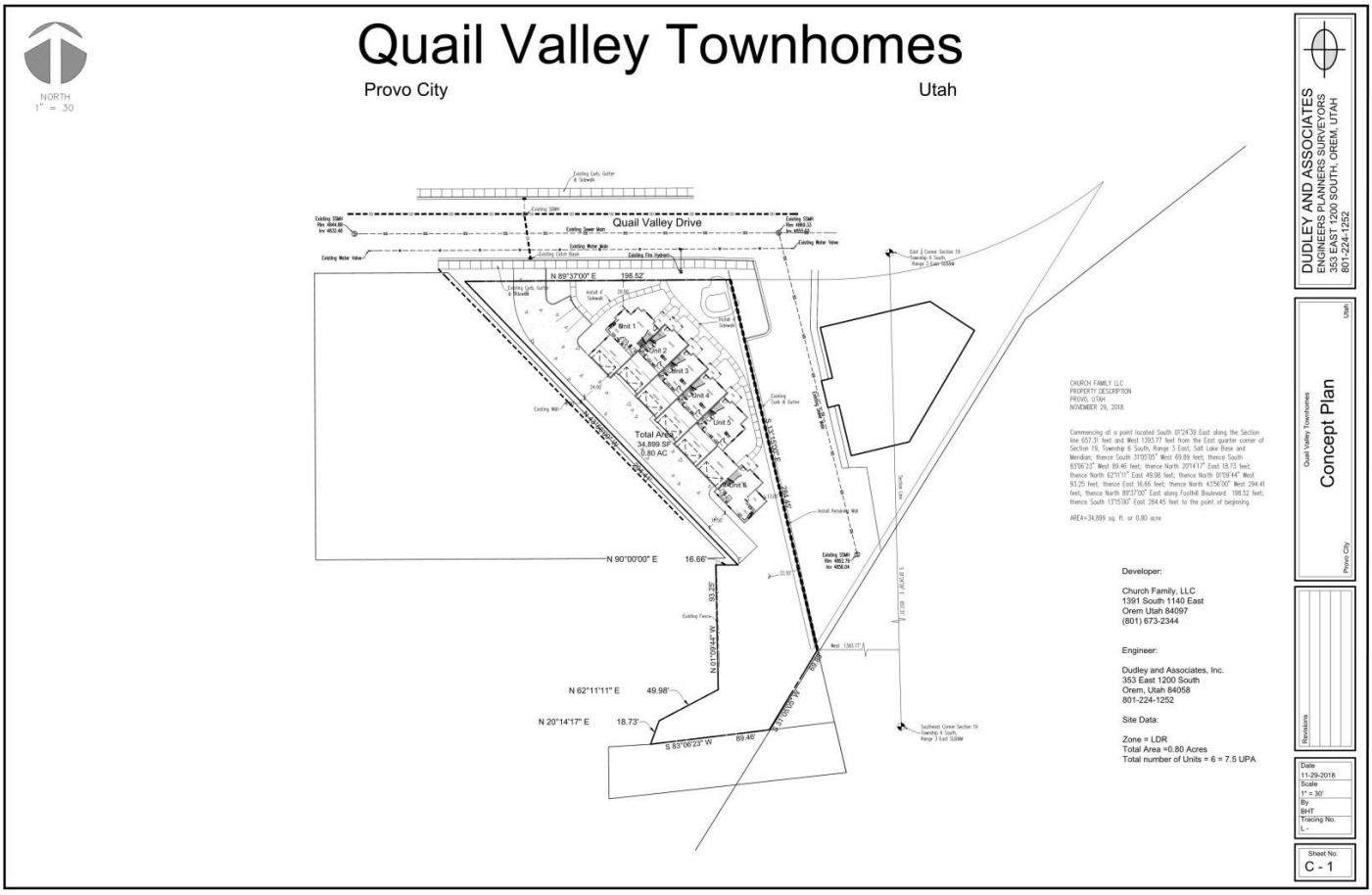
Attachment 4: Current Zoning Map



Attachment 5: Proposed Zoning Map



Attachment 6: Site Plan



Attachment 7: Proposed Building Elevations



CHURCH TOWNHOMES

HARRIS ARCHITECTURE

ORDINANCE 2019-.

AN ORDINANCE AMENDING THE GENERAL PLAN REGARDING A DESIGNATION CHANGE FROM PUBLIC FACILITIES (PF) TO RESIDENTIAL (R) FOR APPROXIMATELY 0.78 ACRES LOCATED AT APPROXIMATELY 862 EAST QUAIL VALLEY DRIVE. EDGEMONT NEIGHBORHOOD. (PLGPA20190009)

WHEREAS, it is proposed to amend the General Plan regarding a designation change from Public Facilities (PF) to Residential (R) for approximately 0.78 acres located at approximately 862 E Quail Valley Drive; and

WHEREAS, a General Plan Amendment to Residential would be consistent with the approval of a Low Density Residential (LDR) zone in the future; and

WHEREAS, on February 13, 2019, the Planning Commission held a duly noticed public meeting to consider the proposed amendment of the Provo City General Plan, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 6:1 with the following conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;
2. That the applicant shall demonstrate, graphically and empirically, that the proposed map amendment and subsequent development of the property will not create a negative cumulative effect on the already burdened neighborhood; and,
3. That if development permits for the proposed site are not approved within three (3) years from the date of the approval, the General Plan Map Designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals; and

WHEREAS, on June 18, 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 Planning Commission's recommendation and facts and comments presented to the Municipal Council, the Council finds (i) the General Plan text should be amended regarding a designation change from Public Facilities to Residential for approximately 0.78 acres located at approximately 862 East Quail Valley Drive, and (ii) the proposed amendment 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:

The Provo City General Plan text is hereby amended to reflect a designation change from Public Facilities (PF) to Residential (R) for approximately 0.78 acres located at approximately 862 East Quail Valley Drive as shown in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

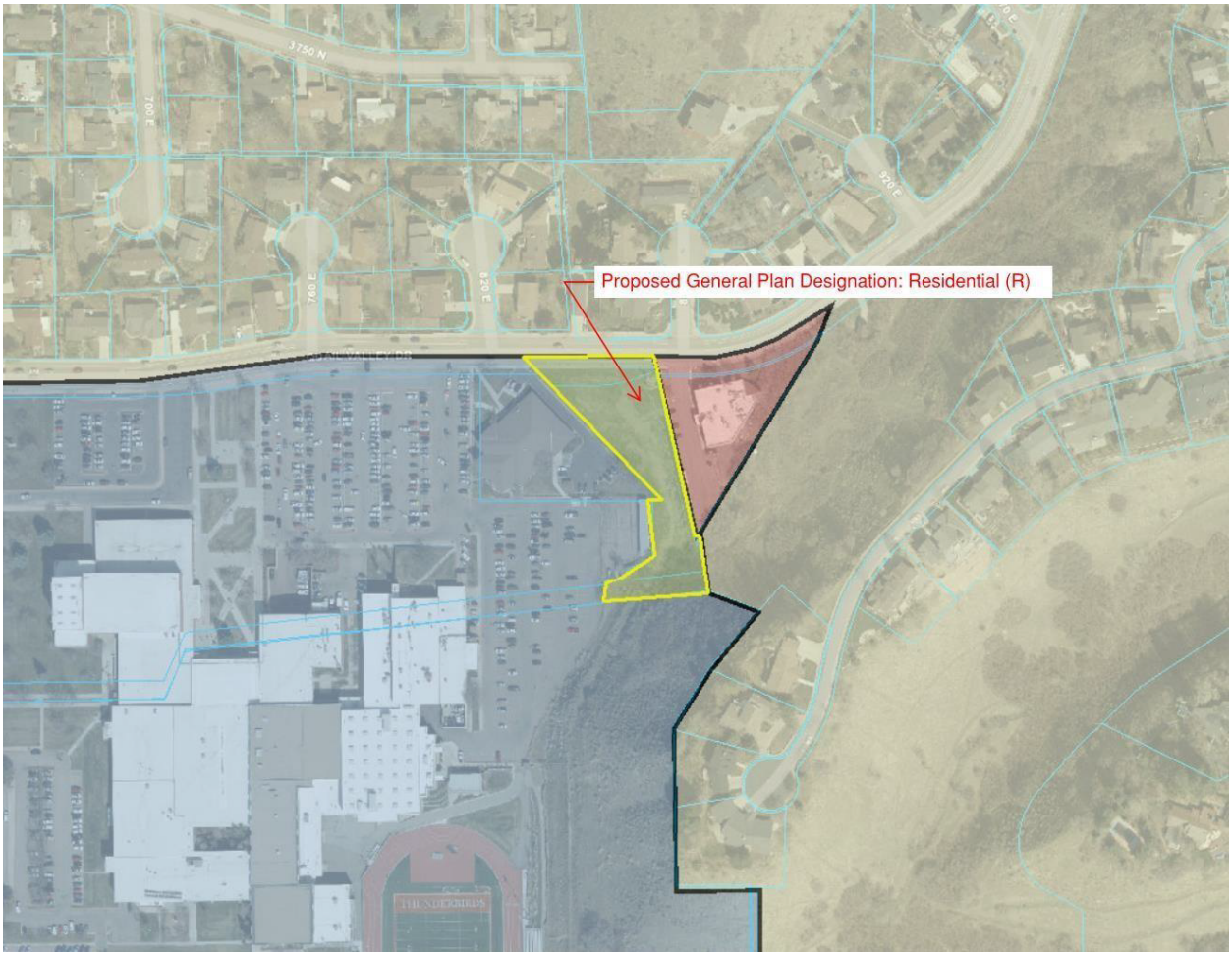
B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

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.

Exhibit A


Proposed General Plan Designation: Residential (R)
3750 N
700 E
760 E
820 E
936 E

Provo City Planning Commission

Report of Action

February 13, 2019

ITEM 3* Irv Eastham requests a General Plan Amendment from Public Facilities (PF) to Residential (R) to allow six (6) townhomes in a proposed LDR zone. The subject property is located at 862 E Quail Valley Drive and includes 0.78 acres. Edgemont Neighborhood. Robert Mills (801) 852-6407 PLGPA20190009

The following action was taken by the Planning Commission on the above described item at its regular meeting of February 13, 2019:

RECOMMEND APPROVAL

On a vote of 6:1, the Planning Commission recommended the Municipal Council approve the proposed General Plan Map Amendment from Public Facilities (PF) to Residential (R) to allow a six-unit townhome development in a proposed LDR zone with the following recommended conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;
2. The applicant shall demonstrate, graphically and empirically, that the proposed map amendment and subsequent development of the property will not create a negative cumulative effect on the already burdened neighborhood; and,
3. If development permits for the proposed site are not approved within three (3) years from the date of the approval, the General Plan Map Designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals. .

Motion By: Shannon Ellsworth
Second By: Robert Knudsen
Votes in Favor of Motion: David Anderson, Shannon Ellsworth, Deborah Jensen, Robert Knudsen, Russell Phillips, and, Jamin Rowan
Votes opposed: Andrew Howard
Deborah Jensen 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.

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:

- Staff gave a history of the site based on the available information.
- Staff explained that the neighborhood had been burdened by the surrounding land uses for a number of years.
- Staff explained that the proposed map amendment met the criteria enumerated in the code to justify the change; however staff felt the applicant needed to show that the proposed project would not negatively affect surrounding properties.

APPLICANT RESPONSE

- The applicant further explained the current use of the office building site as an incubator space for entrepreneurial students attending Brigham Young University.
- The applicant explained that when he purchased the property, he was not made aware of the restrictive covenants associated with the office building parcel because they had been recorded against a property nowhere near the site.
- The applicant explained that he wanted to work with the neighbors and understood their frustrations.
- The apartments will be owned by the applicant as a source of income to offset the costs of the building.

CITY DEPARTMENTAL ISSUES

The project will continue through the CRC process of Project Plan Approval if the General Plan Amendment and Rezone are approved.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on January 15, 2019. A staff summary of the meeting can be found in the staff report and a summary report provided by the neighborhood vice chair is attached to this Report of Action.

NEIGHBORHOOD AND PUBLIC COMMENT

- Neighborhood Chairs from the Edgemont and North Timpview neighborhoods addressed the Planning Commission. Both neighborhood chairs expressed that the proposed townhome project was not a desired use in the neighborhoods and the residents were concerned with the impacts the proposed use would bring. .

CONCERNS RAISED BY PUBLIC

- Four (4) members of the public spoke in opposition to the proposal. One (1) member of the public spoke in favor of the proposal. Concerns primarily centered on the introduction of a residential use other than single-family detached housing. Those who spoke in opposition mainly opposed the townhome concept, but would accept R1.10 Residential Zoning.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

Ms. Ellsworth noted that the site, including the adjacent office building, is out of place in the neighborhood; however, the proposed development seems like a good use for the property while minimizing potential impacts.

Mr. Rowan expressed frustration at the idea that housing densities should not be allowed in existing neighborhoods such as this and was unsympathetic toward the notion of a townhouse development like this would degrade the economic value of the surrounding properties.

Mr. Howard expressed that he did not feel the proposed development and associated General Plan Amendment and rezone were in the best interest of the neighborhood.

Ms. Jensen stated that it is unlikely the proposed development would significantly affect traffic patterns in the area; rather, more effective traffic calming would come from a street redesign to make it safer. .



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.).

Planning Commission Hearing Staff Report
Hearing Date: February 13, 2019

***ITEM #4** Irv Eastham requests a Zone Change from Public Facilities (PF) to Low Density Residential (LDR) for .78 acres, located at 862 E Quail Valley Drive. Edgemont Neighborhood. Robert Mills (801) 852-6407 PLRZ20180430

Applicant: Irv Eastham

Staff Coordinator: Robert Mills

Property Owner: Church Family LLC
Parcel ID#: 20:034:0049
Acreage: 0.78 acres
Number of Properties: 1

Number of Lots: 1

Current General Plan Designation: Public Facilities (PF)

Proposed General Plan Designation: Residential (R)

Current Zoning: Public Facilities (PF)

Proposed Zoning: Low Density Residential (LDR)

*Council Action Required: Yes

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is February 27, 2019.*

3. **Deny** the requested Project Plan. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: Vacant parcel.

Relevant History: The site is an infill property located between the existing office building to the east and the Timpview Seminary building to the West and has historically been under the same ownership of the office building. The ownership of the site is now separate from the office building.

Neighborhood Issues: A neighborhood meeting was held on January 15, 2019 and was attended by several members of the surrounding neighborhoods. Primary issues discussed in the meeting included the presumed association of the subject property with the office building, parking adequacy for both the proposed townhome project and the existing office building, the addition of possible future uses a general plan amendment and zone change would allow.

Summary of Key Issues:

- The site is an infill property that was included in the PF designated area of the General Plan Map because of its proximity to the existing Timpview High School site.
- The proposed map amendment will allow for the development of single-family residential uses on the site.

Staff Recommendation: Staff recommends approval of the requested Zoning Map Amendment with the following conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;
2. The applicant shall demonstrate, graphically and empirically, that the proposed zone change and subsequent development of the property with townhomes will not create a negative cumulative effect on the already burdened neighborhood; and
3. If development permits for the proposed site are not approved within three (3) years from the date of the approval, the Zoning Designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals.

OVERVIEW

The subject property is an infill parcel located between the existing office building on Quail Valley Drive and the Timpview High School Seminary. The applicant is proposing to amend the Zoning Map designation for the property from Public Facilities (PF) to Low Density Residential (LDR) to allow for a six-unit, single-family townhome development project.

The property has historically been associated with the adjacent parcel to the west, which is zoned Professional Office (PO) to allow an office building almost forty years ago. However, the subject property was recently acquired by a separate owner who desires to develop the property for residential use.

Key Policies from the General Plan relating to the Edgemont Neighborhood include the following:

1. Maintain all existing one-family residential areas of the neighborhood as one-family, detached housing. Duplexes, twin homes, condominiums, and apartments are not compatible with the goals for this neighborhood. Housing should be developed at the scale of surrounding existing development. The neighborhood may consider design regulations to control housing scale in established residential areas to prevent incompatible infill development.
2. Limit rural agricultural tracts south of Timpview High School to one-family residential development. If developed as performance developments, they should be limited to one-family dwellings.
3. Prohibit existing commercial and office nodes from expanding into the Residential (R) General Plan designation.

FINDINGS OF FACT

1. The subject property is an irregularly-shaped lot currently designated as PF on the General Plan Land Use Map and is also zoned Public Facilities (PF).
2. Surrounding General Plan Map designations include: PF, C, and R.
3. The applicant has submitted a General Plan Map amendment application for concurrent consideration.
4. There is no history of the site being developed and the site is not associated with any customary land use found in the PF zone, including Timpview High School or the Seminary.
5. The subject property is under separate ownership from the adjacent office building and parcel.
6. Although the site is irregular in shape, development, including single-family attached residential dwellings is feasible.
7. There are Covenants, Conditions, and Restrictions (CC&Rs) recorded for the adjacent office-use parcel; however, those CC&Rs do not encumber the subject property.

8. The subject property is in the Edgemont Neighborhood and key policies have been adopted in the General Plan for the neighborhood.
9. Goal 1.4.3 listed in the General Plan calls for dispersing the increasing demand for affordable housing throughout the City and the County.

Analysis

Section 14.02.020(1) of the Provo City Code states the following regarding amendments to the Planning and Zoning Title and to the General Plan:

> *"Amendments shall not be made . . . except to promote more fully the objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors."*

Additionally, guidelines for consideration of an amendment are set forth in Section 14.02.020(2) of the Code and are listed below. Staff analysis is provided after the individual guidelines in **bold**.

(a) Public purpose for the amendment in question.

To allow residential development of the subject infill lot located between two different land uses.

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

The public purpose is served by the proposed map amendment because it will facilitate the addition of needed housing units into the City and provide additional housing types in an area primarily composed of single-family detached dwellings. It is possible that the project could change to something other than the townhouses proposed by the applicant, but the overall goal of increasing housing options in the area will be met and then regulated by the requirements and limitations of the LDR zone.

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

As noted above, the proposed map amendment does help to implement the overall housing goal of the General Plan. Additional General Plan items specific to the Edgemont Neighborhood to consider include the following:

1. Maintain all existing one-family residential areas of the neighborhood as one-family, detached housing. Duplexes, twin homes, condominiums, and apartments are not compatible with the goals for this neighborhood. Housing should be developed at the scale of surrounding existing development. The neighborhood may consider design regulations to control housing scale in established residential areas to prevent incompatible infill development.

The proposed map amendment does not conflict with the goal to maintain all existing detached housing; however, it does conflict with the policy that residential dwellings other than single-family detached are not compatible

with the neighborhood. The type of housing proposed for the site would be consistent in scale and nature to the surrounding office building and high school.

2. Limit rural agricultural tracts south of Timpview High School to one-family residential development. If developed as performance developments, they should be limited to one-family dwellings.

The subject lot is located northeast of Timpview High School.

3. Prohibit existing commercial and office nodes from expanding into the Residential (R) General Plan designation.

The proposed map amendment would help to prohibit the expansion of the existing office node by restricting the property to residential uses only. A previous prospective buyer suggested expanding the office use to the subject site by providing additional parking space for the existing office. That proposal would appear to be inconsistent with the intent of this neighborhood policy.

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

The proposed amendment relates to the zoning of an infill parcel in an established neighborhood. The proposed amendment should not negatively affect the "timing and sequencing" of any General Plan provision.

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

It seems unlikely that the proposed zoning would hinder or obstruct attainment of the articulated policies because it ultimately provides the potential for low-density, single-family development and reduces the possibility of the expansion of the commercial use on the site.

(f) Adverse impacts on adjacent land owners.

Land owners on the adjacent east and west side would not be impacted because of the more intense nature of those respective uses.

Some residents in the single-family neighborhoods across Quail Valley Drive, however, have expressed their concerns at the potential increase in traffic, congestion, and loss of available public on-street parking. A neighborhood meeting was held on January 15, 2019 in the Edgemont Elementary Library. Residents from the entire Northeast Area were invited to attend. The majority of neighbors who attended the meeting expressed concern over the existing office building and a new operation currently within the building that may not comply with the existing CC&Rs for that property. CC&Rs were recorded for the office property restricting the use to "executive office" use only and that no subsequent change to the zoning code could permit any additional uses. In the past, various operations have occurred within the office building that have

violated the intent of the "executive office" use, a prime example was a call center that operated out of the building. Parking was often inadequate and created an unreasonable burden on surrounding land uses, especially when combined with the many activities and events at Timpview High School. Some of the neighbors allege the City is responsible for enforcement of those restrictive covenants, which may or may not be the case, regardless of the responsibility, enforcement has been very difficult throughout the duration of the their existence. Because of this, the neighbors would like assurances from the applicant that the zone change will not continue to exacerbate the situation.

Because of those concerns and the uncertainty of future development potential, the majority of residents attending the meeting also opposed the proposed townhome project.

Staff acknowledges the concerns of the neighborhood regarding parking, safety, and congestion. It appears that the existing impacts are related to separate issues from the proposed amendment and project. Staff believes the impacts will not be further aggravated by the proposal to develop the property with townhouses because the proposed development is more than able to meet the requirements of the proposed LDR zone. <u>However, it is incumbent upon the applicant to show that the proposed zone change and subsequent development of the property with townhomes will not create a negative cumulative effect on the already burdened neighborhood. This should be incorporated as a condition of approval.</u>

(g) <u>Verification of correctness in the original zoning or General Plan for the area in question.</u>

Given the broad-brush nature of how General Plan Map designations are applied, and the fact that the subject property has been vacant for its known history, it's easy to conclude why the PF designation was applied. However, the parcel is privately-owned with no intended public use. Because the parcel is not associated with any typical public use, a designation to Residential will likely be beneficial to the surrounding neighborhoods by eliminating the possibility of the site being developed with a more undesirable use permitted within the PF zone.

(h) <u>In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.</u>

No such conflict is anticipated as a result of the proposed map amendment.

<u>RECOMMENDATION</u>

Based on the Findings of Fact and Analysis, staff recommends the Planning Commission approve the requested zone change with the following conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;

2. The applicant shall demonstrate, graphically and empirically, that the proposed zone change and subsequent development of the property with townhomes will not create a negative cumulative effect on the already burdened neighborhood; and
3. If development permits for the proposed site are not approved within three (3) years from the date of the approval, the General Plan Map Designation and the zoning designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals.

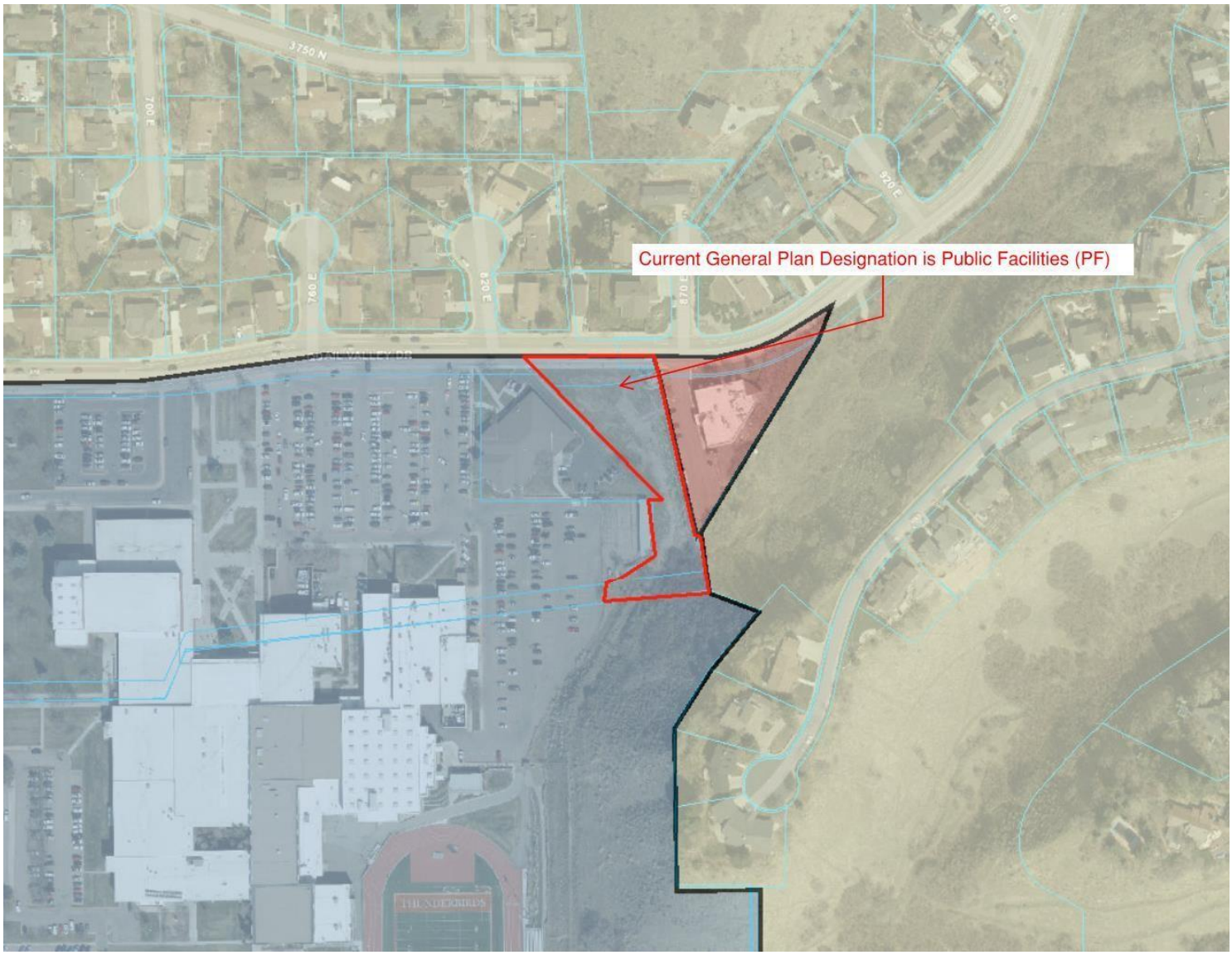
ATTACHMENTS

1. Location Map
2. Current General Plan Map
3. Proposed General Plan Map with Amendment
4. Current Zoning Map
5. Proposed Zoning Map
6. Site Plan
7. Proposed Building Elevations

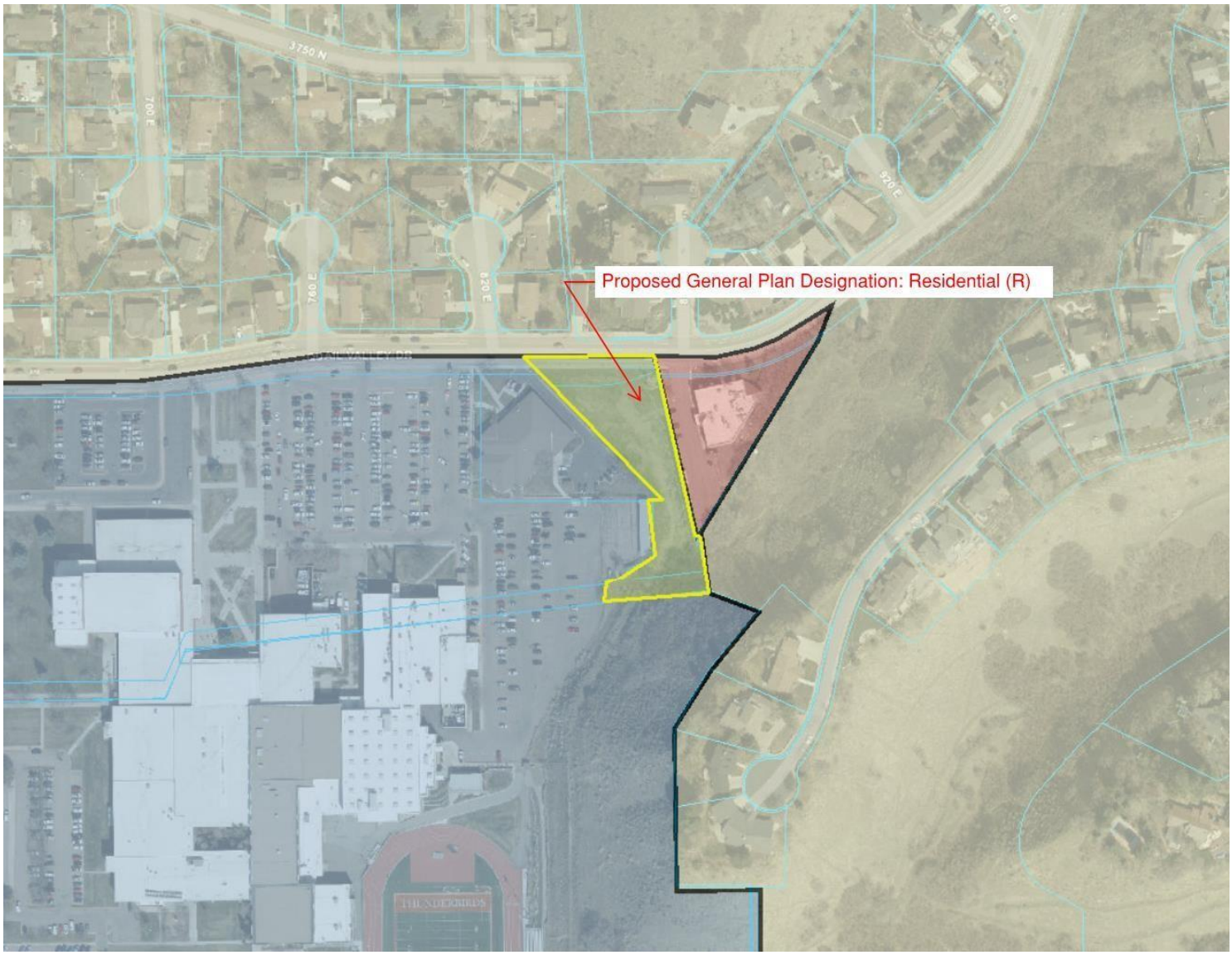
Attachment 1 – Location Map



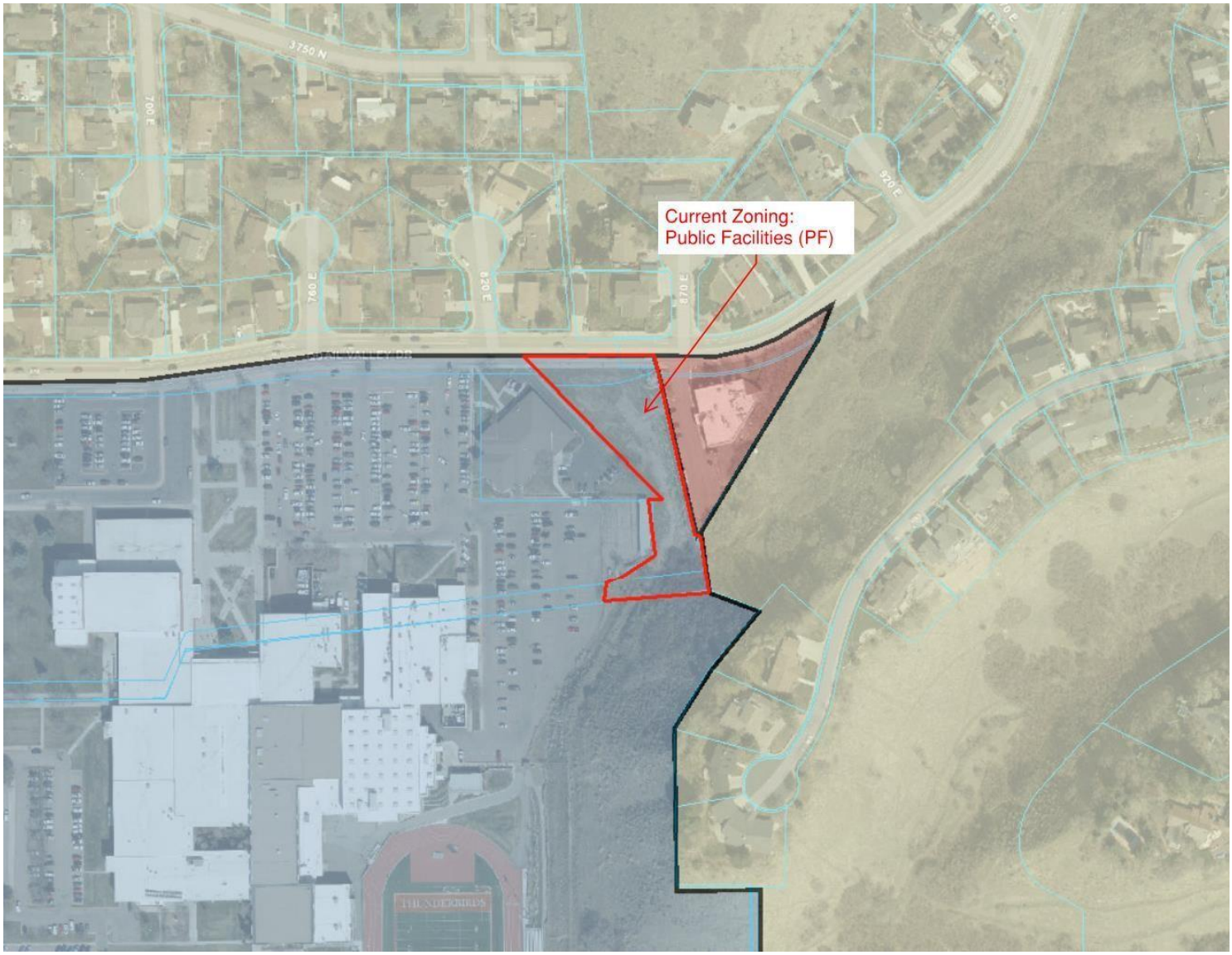
Attachment 2 – Current General Plan Map



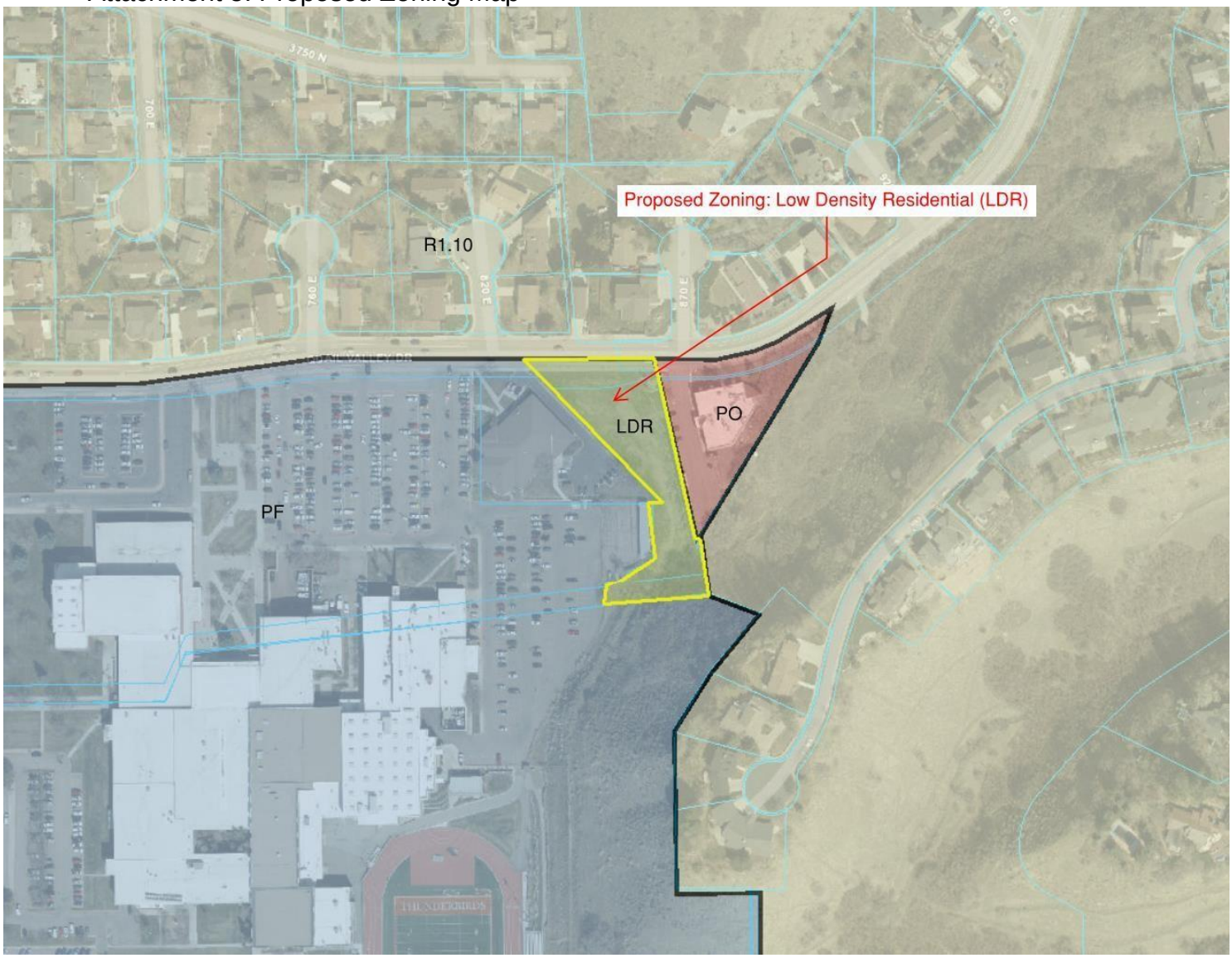
Attachment 3 – Proposed General Plan Map with Amendment



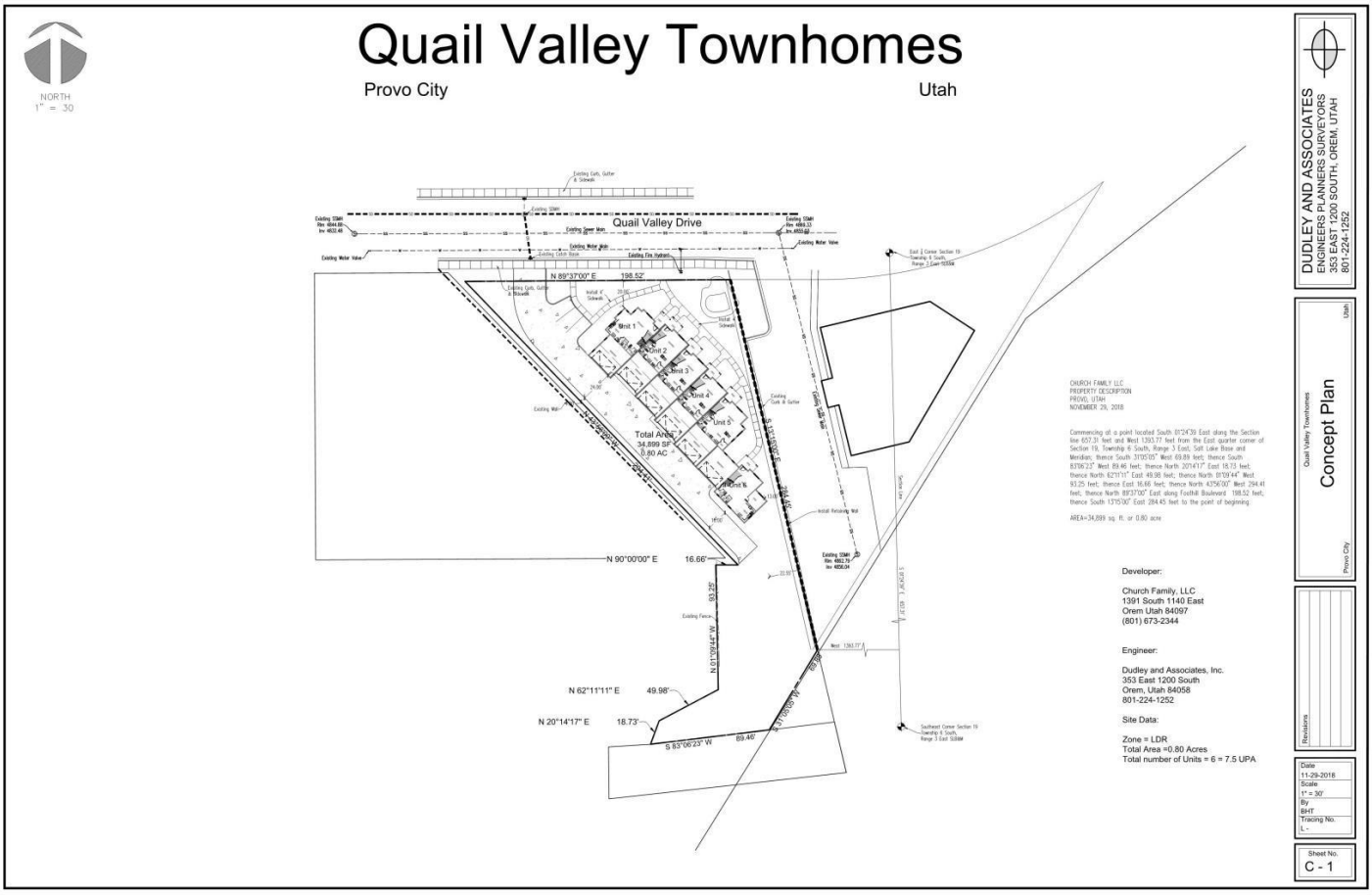
Attachment 4: Current Zoning Map



Attachment 5: Proposed Zoning Map



Attachment 6: Site Plan



Attachment 7: Proposed Building Elevations



ORDINANCE 2019-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 0.78 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 862 E QUAIL VALLEY DRIVE, FROM PUBLIC FACILITIES (PF) TO LOW DENSITY RESIDENTIAL (LDR). EDGEMONT NEIGHBORHOOD. (PLRZ20180430)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 0.78 acres of real property, generally located at 862 East Quail Valley Drive (as shown on Exhibit A), be amended from Public Facilities (PF) to Low Density Residential (LDR); and

WHEREAS, on February 13, 2019, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council in a 6:1 vote; and

WHEREAS, the Planning Commission's recommendation was based on the project design presented to the Commission; and

WHEREAS, on June 18, 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 Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo, Utah, should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property shown in the attached Exhibit A 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:

The classification on the Zone Map of Provo, Utah is hereby amended from the Public Facilities (PF) Zone to the Low Density Residential (LDR) Zone for approximately 0.78 acres of real property generally located at 862 East Quail Valley Drive, as described in the attached Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

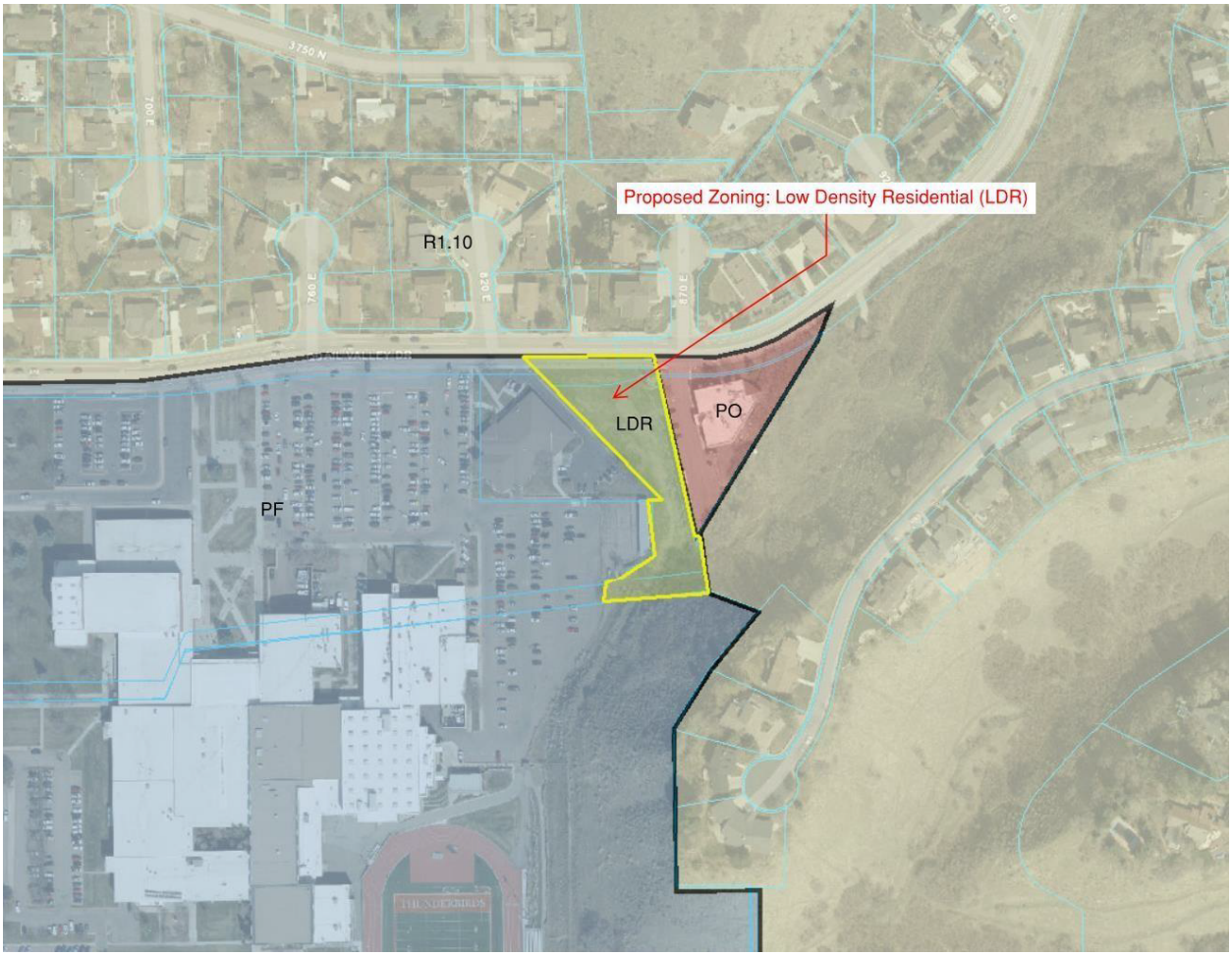
B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City, Utah be updated and codified 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

Exhibit A



Provo City Planning Commission

Report of Action

February 13, 2019

ITEM 4* Irv Eastham requests a Zone Change from Public Facilities (PF) to Low Density Residential (LDR) to allow six (6) townhomes in a proposed LDR zone. The subject property is located at 862 E Quail Valley Drive and includes 0.78 acres. Edgemont Neighborhood. Robert Mills (801) 852-6407 PLRZ20180430

The following action was taken by the Planning Commission on the above described item at its regular meeting of February 13, 2019:

RECOMMEND APPROVAL

On a vote of 6:1, the Planning Commission recommended the Municipal Council approve the proposed Zone Change from Public Facilities (PF) to Low Density Residential (LDR) to allow a six-unit townhome development in a proposed LDR zone with the following recommended conditions:

1. That all CRC comments are adequately resolved prior to building permit approval of any proposed development;
2. The applicant shall demonstrate, graphically and empirically, that the proposed map amendment and subsequent development of the property will not create a negative cumulative effect on the already burdened neighborhood; and,
3. If development permits for the proposed site are not approved within three (3) years from the date of the approval, the General Plan Map Designation for the subject property will revert to the current PF designation. If it can be shown that development permits are actively being pursued, a time extension may be granted by the Community Development Director commensurate with the anticipated time needed to secure such approvals. .

Motion By: Shannon Ellsworth
Second By: Jamin Rowan
Votes in Favor of Motion: David Anderson, Shannon Ellsworth, Deborah Jensen, Robert Knudsen, Russell Phillips, and, Jamin Rowan
Votes opposed: Andrew Howard
Deborah Jensen 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.

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:

- Staff gave a history of the site based on the available information.
- Staff explained that the neighborhood had been burdened by the surrounding land uses for a number of years.
- Staff explained that the proposed rezone request met the criteria enumerated in the code to justify the change; however staff felt the applicant needed to show that the proposed project would not negatively affect surrounding properties.

APPLICANT RESPONSE

- The applicant further explained the current use of the office building site as an incubator space for entrepreneurial students attending Brigham Young University.
- The applicant explained that when he purchased the property, he was not made aware of the restrictive covenants associated with the office building parcel because they had been recorded against a property nowhere near the site.
- The applicant explained that he wanted to work with the neighbors and understood their frustrations.
- The apartments will be owned by the applicant as a source of income to offset the costs of the building.

CITY DEPARTMENTAL ISSUES

The project will continue through the CRC process of Project Plan Approval if the General Plan Amendment and Rezone are approved.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on January 15, 2019. A staff summary of the meeting can be found in the staff report and a summary report provided by the neighborhood vice chair is attached to this Report of Action.

NEIGHBORHOOD AND PUBLIC COMMENT

- Neighborhood Chairs from the Edgemont and North Timpview neighborhoods addressed the Planning Commission. Both neighborhood chairs expressed that the proposed townhome project was not a desired use in the neighborhoods and the residents were concerned with the impacts the proposed use would bring. .

CONCERNS RAISED BY PUBLIC

- Four (4) members of the public spoke in opposition to the proposal. One (1) member of the public spoke in favor of the proposal. Concerns primarily centered on the introduction of a residential use other than single-family detached housing. Those who spoke in opposition mainly opposed the townhome concept, but would accept R1.10 Residential Zoning.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

Ms. Ellsworth noted that the site, including the adjacent office building, is out of place in the neighborhood; however, the proposed development seems like a good use for the property while minimizing potential impacts.

Mr. Rowan expressed frustration at the idea that housing densities should not be allowed in existing neighborhoods such as this and was unsympathetic toward the notion of a townhouse development like this would degrade the economic value of the surrounding properties.

Mr. Howard expressed that he did not feel the proposed development and associated General Plan Amendment and rezone were in the best interest of the neighborhood.

Ms. Jensen stated that it is unlikely the proposed development would significantly affect traffic patterns in the area; rather, more effective traffic calming would come from a street redesign to make it safer. .



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.).

Dear Planning Commission Members,

I have several concerns with the proposed development at 862 E Quail Valley, which I will try to address succinctly.

The first concern I have is in relation to a very similar situation in our neighborhood in front of Centennial Middle School. We have over half an acre of land, zoned Public Facilities, that has been out of the hands of the school district since the 1970s. It is now owned by a private investor. I have concerns that if this rezone is approved, it will set a precedent going forward. Despite bids from the School District to reacquire this piece of property by Centennial, they were unable to compete with investors. The School District's bids were fair valuations based on a similar PF property, but the owners at the time deemed the value of the parcel to be higher, presumably because they believed a rezone would increase its value. As a result, the property went into private ownership because the school district could not compete.

Our school board representative, Melanie Hall, put out a survey in our neighborhood and over 400 households signed stating that they were in favor of this parcel remaining zoned Public Facilities. If investors see the possibilities in rezoning Public Facility properties that abut or were originally part of a school plot, it makes it difficult for the School District to reacquire them because the value then gets inflated. They can't compete with a rezone that will allow for a 2 million dollar housing development. I know at least one school board member has written to Robert Mills and stated the desire to keep this property zoned Public Facility. I have been told that the School District has looked into buying this property on Quail Valley in the past, but the cost was too high. An investor only has to justify an inflated price for PF property to themselves. The school district cannot justify it to the community which holds them accountable.

Another issue I have is looking to the future. Centennial was originally built for 600 students. We now have double that population at 1200 students and we are nowhere near a rebuild of the school. Although they have added on, the infrastructure- the hallways, the bathrooms, the lunch room- are still intended for 600 students. It's a tight squeeze. I recognize that we are trying to make room for population growth with higher density housing. What I feel is sometimes neglected is that our schools need to be able to accommodate that growth. Centennial hasn't needed that half an acre property for some time, but now we could. The principal has stated we could have a portable housing 3-4 classes on that half an acre parcel if the School District owned it. I believe the same will be said for this property on Quail Valley at some point.

Who knows what the future of Timpview will hold. We don't know if the bond will pass, but we can certainly assume that the population growth will put an added burden on that school. I would hate to see potential wiggle room intentionally zoned Public Facility get developed, only to be needed later down the road. It would be shortsighted to assume that it won't be. I also know that this area is going to have a considerable parking problem if and when Timpview gets rebuilt as construction will be taking place in their parking lot. This is really bad timing to try and bring another construction project to that area.

The last issue I have with this proposed rezone is that the placement is at best awkward. We are already in a situation where the neighborhood is reporting that they are struggling with the impacts that surround it, namely the business to the east and the school and a busy road on a hill with a blind turn. I can't see why it would be a good idea to add another impact to that area. We should be accepting higher density where it makes sense and can be accommodated. Sandwiching as many town homes as will fit between a seminary building, a high school, and a commercial property doesn't make sense aesthetically or logistically. Public Transit is not viable here. This property could be used to alleviate the impacts the neighborhood is experiencing, rather than elevating them. Going forward I hope to see the School District reacquire this property at a fair price given its PF zoning for future needs at Timpview.

Thank you for your consideration,

Rachel Luke

Rock Canyon Neighborhood Chair

Existing Curb, Gutter & Sidewalk

Quail Valley Drive

Existing Curb, Gutter & Sidewalk

N 89°37'00" E 198.52'

20.00'

Install 4' Sidewalk

Install 4' Sidewalk

Unit 1

Unit 2

Unit 3

Unit 4

Total Area
34,899 SF
0.80 AC

24.00'

Existing Wall

N 43°56'00" W 294.41'

Existing Curb & Gutter

S 13°15'00" E 284.45'

Open Space

Install Retaining Wall

Existing 1x1 Phone Box

N 90°00'00" E 16.66'

93.25'

Existing Fence

N 01°09'44" W

Open Space

N 62°11'11" E 49.98'

N 20°14'17" E 18.73'

S 83°06'23" W 89.46'

S 31°05'05" W 69.89'

East 1/4 Corner Section 19
Township 6 South,
Range 3 East SLB&M

Section Line

S 01°24'39" E 657.31'

West 1393.77'

Southeast Corner Section 19
Township 6 South,
Range 3 East SLB&M

Planning Commission Hearing
Staff Report
Hearing Date: June 12, 2019

***ITEM 1** The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as other related code sections pertaining to the S and A overlay zones. City-wide application. Brian Maxfield (801) 852-6429 PLOTA20190120

Applicant: Community Development

Staff Coordinator: Brian Maxfield

Property Owner: N/A
Parcel ID#: City-Wide
Acreage: N/A
Number of Properties: N/A

Current Zoning: NA

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is May 8, 2019 at 6:00 P.M.*

2. **Recommend denial**. *This action would not be consistent with the recommendation of the Staff Report. The Planning Commission should state new findings.*

Relevant History: This item continued at the April 24th and May 22nd meetings of the 2019 Planning Commission. Prior to the May 22nd meeting the proposed amendment was discussed in detail at the Planning Commission's Study Session.

Neighborhood Issues: This is a City-Wide issue. Several Neighborhood Chairs have inquired about the proposed amendment, and Paul Evans of the Pleasant View neighborhood submitted comments that were distributed to the Planning Commission and then reviewed in detail at the Planning Commission study session of May 22, 2019.

Summary of Key Issues: Appropriateness of new allowances regarding detached units and requirements for licensing.

Related Items: None

Staff Recommendation:
Recommend Approval of the proposed Ordinance Amendment to consolidate the two current sections of the Zoning Ordinance, as well as the related amendments, as contained in Exhibit "B."`

This action would be consistent with the recommendations of the Staff Report.

OVERVIEW

This item is an Ordinance Text Amendment to consolidate Chapter 14.30 S - Supplementary Residential Overlay Zone with Chapter 14.46 A - Accessory Apartment Overlay Zone, as well as adopt related amendments. This item was first heard at the April 24, 2019 Planning Commission meeting where it was continued to the May 22, 2019 meeting. The amendment was discussed in detail at the May 22, 2019 Planning Commission's Study Session along with the comments submitted by Paul Evans, the Pleasant View Neighborhood Chair. The item was then continued at the May 22nd meeting, to allow time for Staff to present the changes discussed at the study session.

Staff has made changes to the proposed amendment based on comments at the May 22, 2019 study session. These are indicated by the double-underline in blue within the attached Exhibit "B" to set it apart from that of Exhibit "A" that was included in the previous staff report and at the study session. The new changes are of two kinds: The first includes formatting and grammatical changes. These changes are indicated in Exhibit "B," but are not presented in this report.

The second group includes changes that add wording meant to clarify the intent of particular sections. These are further described in the following paragraphs numbered 1 to 3, along with staff's newly proposed changes shown in blue double-underline.

1. Adds "Apartment" after the word "Accessory" in the Title.

Chapter 14.30

~~S -~~ Supplementary Residential and Accessory Apartment Overlay Zones.

2. Addition of the term "Accessory Dwelling Unit (ADU)" to the definition section as an equivalent term for "Accessory Apartment."

14.06.020. Definitions.

For the purposes of this Title, certain words and phrases have the following meanings:

"**Accessory Apartment**" or **"Accessory Dwelling Unit (ADU)"** means a subordinate residential living area created ~~with~~in conjunction with a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located; and

(b) ~~has an interior connection between the one family dwelling and accessory apartment~~ meets the requirements of Provo City Code Chapter 14.30.

3. Clarification changes added under Subsection "(2) Accessory Apartment Development Standards," located under "Section 14.30.030. Permitted Uses." They are detailed below with their intent and the fully amended text following.

- **(2)(b)(i)**: Changes wording that was awkward as it sounded as if parking might occur on the second floor of a garage or that the required covered parking had the possibility of being converted to living space;
- **(2)(b)(iv)(1)**: Clarifies the minimum lot standard applies to an accessory apartment rather than an accessory structure;
- **(2)(b)(iv)(2)**: Clarifies that a detached accessory apartment is also an accessory structure – basically, a detached accessory apartment can be either a stand-alone accessory structure, or else attached to an existing accessory structure;
- **(2)(b)(iv)(3)**: Clarifies that any accessory structure that is solely an accessory apartment or else an existing accessory structure to which an accessory apartment is added, must have a minimum setback of 10 feet from any property line, regardless of where the apartment is located within the structure;
- **(2)(b)(iv)(7)**: Basically allows shipping containers only as structural components, but must be clad with materials similar to the principal dwelling, and be architecturally compatible with the principal dwelling;
- **(2)(c)**: Clarifies the external evidence of the second unit being "from a street view" and also states "yard areas" instead of "exterior" of the property needed to be maintained.
- **(2)(k)(iii)**: Clarifies that any fee charged for a Rental Dwelling License is for the processing of the license, and not for the inspection of the unit; and,
- **(2((k)(vi)**: Expands the term "Community Development" to "the Community Development Department."

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one-family dwellings,~~ subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling.~~:~~

(b) Location. ~~The a~~Accessory apartments may be located only: ~~in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;~~

(i) Over an attached garage, provided the ~~parking within the garage is not eliminated or converted to living space or stairs, or~~ accessory unit does not otherwise disrupt~~s~~ required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory ~~structure~~ apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet ~~and no~~ nor less than 200 square feet in area;

(3) ~~The~~ A detached accessory ~~structure~~ apartment or a detached accessory structure containing an accessory apartment shall ~~be setback from any property line a minimum of 10 feet~~ have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~; and~~

(k) Rental Dwelling License ~~Accessory Apartment Permit~~. In accordance with Provo City Code Chapter 6.26, ~~A~~any person operating ~~constructing or causing the construction of a one-family dwelling that has~~ an

accessory apartment under this Chapter ~~or any person remodeling or causing the remodeling of a one family dwelling for an accessory apartment, or any person desiring an accessory apartment~~, shall obtain a~~n accessory apartment permit~~ Rental Dwelling License (RDL) ~~from the Community Development Department~~. Such license ~~permit~~ shall be in addition to any building permits that may be necessary. Before a~~n~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

....

(iii) Pay an ~~inspection~~ application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

....

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an ~~the (S)~~ overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

CONCLUSIONS

Staff believes the proposed amendment, especially in regards to an allowance for detached accessory dwelling units, will work to provide additional and needed affordable housing options for areas in the City that allow accessory dwelling units. As the proposed amendment only affects areas that now allow at least one of the current options, it is not believed the joining of the two overlay zones will create new impacts on adjoining residential areas. Newly proposed areas will need to be examined and evaluated for resulting impacts as part of their approval process.

RECOMMENDATION

Recommend Approval of the proposed Ordinance Amendment to consolidate the two current sections of the Zoning Ordinance, as well as the related amendments, as contained in Exhibit “B.”

EXHIBIT "B"

Zoning Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as related amendments to Chapters 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5),14.12A.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) regarding Permitted Accessory Uses; 14.32.050. Lot Area Per Dwelling Unit; 14.32.220(5) Caretaker Dwellings as an Accessory Use; 14.34.310-1 Minimum Floor Area; 14.34.440 Second Kitchen in One-family Dwellings; 14.37.060 Parking Spaces Required; 14.37.080 General Provisions; 14.37.100 Parking Design Standards; and 15.04.050 Density and Open Space Determination.

6.02.010. Definitions.

The following terms as used in this Title shall have the meanings indicated:

. . .

"**Rental dwelling**" means~~, except as provided in Subsection (c) of this definition,~~ a building or portion of a building used or designated for use as a residence by one (1) or more persons that is:

(a) Available to be rented, loaned, leased, or hired out for a period of one (1) month or longer; or

(b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one (1) month or longer.

~~(c) An accessory apartment in an owner-occupied one-family dwelling shall not be deemed a rental dwelling.~~

"**Short-term rental dwelling**" means a building or portion of a building, or a mobile or a manufactured home used, designated or designed for use as a residence by one (1) or more persons that is:

(a) Available to be rented, loaned, leased, or hired out for a period of less than one (1) month; or

(b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of less than one (1) month.

6.26.010. Definitions.

Words and phrases contained herein which are defined in Chapters 6.01 or 6.02 of this Title, or Chapter 14.06 of Title 14, as amended, shall have the meanings set forth in such chapters. If there is a conflict between definitions contained in Title 14 and definitions contained in this Title, the definitions in this Title shall govern for the purposes of interpreting this Title.

14.06.020. Definitions.

For the purposes of this Title, certain words and phrases have the following meanings:

"**Accessory Apartment**" or **"Accessory Dwelling Unit (ADU)"** means a subordinate residential living area created ~~with~~in conjunction with a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located; and

(b) ~~has an interior connection between the one family dwelling and accessory apartment~~ meets the requirements of Provo City Code Chapter 14.30.

. . .

"**Family,**" unless otherwise expressly provided in this Title, means:

(a) One (1) individual living alone; or

(b) One (1), but not more than one (1) at the same time, of the following groups of individuals described in Subsection (b)(i) or (ii) of this definition who together occupy a one-family dwelling unit as one (1) nonprofit housekeeping unit and who share common living, sleeping, cooking and eating facilities:

(i) A head of household and:

(A) All persons related to the head of household as a spouse, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild by blood, marriage, adoption, guardianship, or any other duly authorized custodial relationship; and

(B) Not more than two (2) additional related or unrelated persons, including, but not limited to, personal care or personal service providers; or

(ii) Three (3) related or unrelated individuals and any children of either individual, if any.

(c) In applying this definition the existence of more than one (1) kitchen in a dwelling unit shall create a presumption that two (2) housekeeping units exist in the dwelling.

(d) "Family" does not include:

(i) Baching singles, as defined in this Section, even if related as set forth in Subsection (b)(i)(A) of this definition;

(ii) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;

(iii) Any number of individuals whose association is temporary or seasonal in nature; or

(iv) Any number of individuals who are in a group living arrangement as a result of criminal offenses.

. . .

14.10.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted

principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30.030.

. . .

14.11.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(h) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.3046.030~~, Provo City Code~~.

. . .

14.12.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2.5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.3046.030~~, Provo City Code~~.

. . .

14.12A.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R3 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.3046.030~~, Provo City Code~~.

. . .

14.13.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R4 zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14. 3046.030~~, Provo City Code~~.

. . .

14.14.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(f) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30~~46~~.030~~, Provo City Code~~.

. . .

Chapter 14.30
~~S -~~ Supplementary Residential and Accessory Apartment Overlay Zones.

14.30.010. Purpose and Objectives.
14.30.020. Use in Combination.
14.30.030. Permitted Uses.
14.30.040. Development Standards.
14.30.050. Area of Zone.
14.30.060. Petition for Zone Adoption.
14.30.070. Parking Requirements.
14.30.080. Nonconforming Uses.
14.30.090. Termination of Nonconforming Uses - Recovery of Investment.

14.30.010. Purpose and Objectives.

(1) The purpose of the Supplementary Residential (S) overlay zone is to recognize the unique character of Provo City as a "university community" and to accommodate supplementary living accommodations in some appropriate one-family residential areas of the community. These provisions are intended to meet community demands for residential accommodations for semi-transient residents in areas of the community adjacent to major educational and institutional uses. This overlay zone is designed to provide an alternative living environment for said semi-transient residents to that normally found within the higher density multiple residential zones. The (S) overlay zone will therefore protect and enhance the desirable aesthetic characteristics of the underlying one-family residential zone. An R1 zone with a Supplementary Residential (S) overlay as described in this Chapter is intended to continue the very low density of an R1 zone. The sole function of the overlay is to permit alternate methods of housing the occupancy otherwise permitted in an R1 zone.

(2) The Accessory Apartment (A) overlay zone is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory apartment in conjunction with one-family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartments; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.

14.30.020. Use in Combination.

(1) The ~~Supplementary Residential (S)~~ overlay zones described in this Chapter may be used only in combination with other zones as follows:

(a) the Supplementary Residential (S) overlay zone may be used only in combination with the ~~R1 (~~One-~~f~~Family Residential~~)~~ (R1) zone; and ~~as designated herein~~

(b) the Accessory Apartment (A) overlay zone may be used only in combination with the Agricultural (A1), Residential Agricultural (RA), or One-Family Residential (R1) zones.

(2) The provisions of the ~~(S)~~ overlay zones shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the ~~(S)~~ overlay zones and the provisions of the R1 zone with which it is combined, the provisions of the ~~(S)~~ overlay zones shall be deemed controlling. The ~~(S)~~ overlay zones shall not be applied to any land area as an independent zone.

14.30.030. Permitted Uses.

(1) Permitted Principal Uses. Principal ~~U~~uses permitted in the ~~Supplementary Residential (S)~~ overlay zones described in this Chapter shall be limited to the following:

(a) Those uses listed as permitted principal uses in the underlying ~~R1~~ zone with which the overlay zone has been combined in accordance with Section 14.30.020; and

(b) Accessory apartments which meet the development standards of Subsection (2) of this Section, with a valid Rental Dwelling License.

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one family dwellings,~~ subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling.~~;~~

(b) Location. ~~The a~~Accessory apartments may be located only: ~~in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;~~

(i) Over an attached garage, provided the ~~parking within the garage is not eliminated or converted to living space or stairs, or~~ accessory unit does not otherwise disrupt~~s~~ required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory ~~structure~~ apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet ~~and no~~ nor less than 200 square feet in area;

(3) ~~The~~ A detached accessory ~~structure~~ apartment or a detached accessory structure containing an accessory apartment shall ~~be setback from any property line a minimum of 10 feet~~ have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~; and~~

(d) Occupancy. A one-family dwelling with an accessory apartment, which is authorized by and conforms to the requirements set forth in this section, shall, for purposes of this subsection, consist of two component parts: the one-family dwelling; and the accessory apartment. Those two parts shall be occupied as follows:

(i) Except as otherwise provided in subsection (iv), either ~~T~~the one-family dwelling or the accessory apartment shall be the owner's primary residence as defined in Provo City Code Chapter 14.06~~, Provo City Code~~. If this requirement is not met, no accessory apartment shall be permitted. ~~The dwelling must be owner-occupied by:~~

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the head of household by marriage or adoption as a parent, child, grandparent, brother, sister, uncle, aunt, nephew, niece, great grandparent or great grandchild.~~

~~For purposes of this Subsection, two (2) or more of the persons must share the legal relationship of husband and wife, or parent and child or grandparent and child. Such parent or grandparent must actually reside in the subject dwelling as their primary residence.~~

(ii) The occupancy of the one-family dwelling shall be limited to one "family" as that term is defined in Provo City Code Chapter 14.06, except that if the accessory apartment is also occupied, the occupancy of the one-family dwelling shall not include the ~~(C) T~~two additional related or

unrelated individuals described in Provo City Code Section 14.06.020(b)(i)(B)~~are not permitted under Subsection (2)(d)(i)(A) or (B) of this Section~~.

(iii) Except as permitted by subsection (4)(a) of this Section, t~~T~~he accessory apartment ~~within the structure~~ shall not ~~may~~ be occupied by ~~no~~ more than ~~four~~ two (~~4~~2) related or unrelated adults, with or without minor children.

(iv~~ii~~) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning the temporary absence and meets the following criteria:

(A) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

(B) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.

(C) Owner occupancy shall have the meaning set forth in Section 14.06.020, Provo City Code.

(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.

(e) Parking. A one-family dwelling with an accessory apartment shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.

(f) Utility Meters. A one-family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.

(g) Addresses. The accessory apartment shall have its own address.

(h) Outside Entrances. Outside entrances to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.

(j) Kitchens. A one-family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.

(k) Rental Dwelling License ~~Accessory Apartment Permit~~. In accordance with Provo City Code Chapter 6.26, ~~A~~any person operating ~~constructing or causing the construction of a one-family dwelling that has~~ an accessory apartment under this Chapter ~~or any person remodeling or causing the remodeling of a one-family dwelling for an accessory apartment, or any person desiring an accessory apartment~~, shall obtain a~~n accessory apartment permit~~ Rental Dwelling License (RDL) ~~from the Community Development Department~~. Such license ~~permit~~ shall be in addition to any building permits that may be necessary. Before a~~n~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.

(iii) Pay an ~~inspection~~ application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(iv) Noncompliance with the standards of this Section shall be just cause for the denial or revocation of a~~n~~ Rental Dwelling License for an accessory apartment ~~permit~~. Revocation shall be in accordance with the license regulations in ~~decided based upon the findings of fact at an administrative hearing before a hearing officer, per Chapter 3.06,~~ Provo City Code Chapters 6.01 and 6.26.

(v) Notwithstanding, Provo City Code Section 6.01.090, ~~T~~the approval of a ~~permit~~ Rental Dwelling License for an accessory apartment shall automatically expire ~~three~~ one (~~3~~1) year~~s~~ after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new

owner may apply for an extension of such Rental Dwelling License ~~accessory apartment permit~~.

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an ~~the (S)~~ overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

~~(l) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.~~ (l) Minimum unit size. An accessory apartment is only permitted if the one-family dwelling unit, not including the accessory apartment, is no smaller than 1200 square feet.

(m) Bedrooms. An accessory apartment shall not have more than two bedrooms, except that an accessory apartment for which a Conditional Use Permit has been granted under subsection (4) of this Section to allow occupancy by no more than four (4) related or unrelated adults may have no more than four bedrooms.

(3) Permitted Accessory Uses. Accessory uses permitted in the overlay zones shall be limited to those uses listed as permitted accessory uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020.

(4) Conditional Uses. Except as provided in this subsection (4), conditional uses permitted in the overlay zones shall be limited to those uses listed as permitted conditional uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020. In addition, the following uses and structures are permitted in the Supplementary Residential (S) overlay zone, but only after a Conditional Use Permit has been approved and subject to the terms and conditions thereof:

(a) In the Supplementary Residential (S) overlay zone only, accessory apartments that are occupied by no more than four (4) related or unrelated adults, with or without minor children, if, and only if, such use:

(i) meets the parking requirements of Subsection (2)(e), including particularly the requirement that the number of off-street parking spaces may not be less than the number of vehicles being maintained on the premises at any time; and

(ii) meets all other development standards of Subsection (2), other than the occupancy limit in Subsection (2)(d)(ii).

14.30.040. Development Standards.

Each one-family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the overlay zone is combined. ~~All development standards required in the Supplementary Residential (S) overlay zone shall be the same as those required by the provisions of the underlying zone with which the (S) zone is combined.~~

14.30.050. Area of Zone.

An overlay zone described in this Chapter may only be applied to a contiguous ~~The Supplementary Residential (S) overlay zone shall be applied to a~~ land area of at least ~~ten (10)~~ four (4) acres ~~or more~~ that ~~which~~ contains at least ~~forty (40)~~ sixteen (16) existing dwelling structures~~,~~ and ~~which~~ that is at least fifty percent (50%) developed. The land area to which any overlay zone described in this Chapter is applied shall be free from islands or peninsulas or any other unreasonable boundary line configurations. Additions to an existing ~~(S)~~ overlay zone are allowed so long as the resulting contiguous land area of an overlay ~~shall be by petition which~~ conforms to all provisions of this Section ~~Chapter except acreage, and number of dwellings~~.

14.30.060. Petition for Zone Adoption.
(Rep 2007-32)

14.30.070. Parking Requirements.
(Am 1990-31, Rep 2013-49)

14.30.080. Nonconforming Uses.
(Am 2000-15, Rep 2013-49)

14.30.090. Termination of Nonconforming Uses - Recovery of Investment.
(Enacted 2000-15, Rep 2013-49)

14.32.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the RC zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(g) Accessory apartment in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Chapter ~~Section~~ 14.30~~46.030, Provo City Code~~.

. . .

14.32.050. Lot Area Per Dwelling Unit.

On a given lot or parcel, the number of dwelling units (density) shall not be increased beyond the density which legally existed on April 2, 2002 except as provided in this Section.

(a) Legally existing dwelling units may be replaced with an identical or lesser number of units so long as such replacement meets all other applicable requirements of this Title.

(b) Notwithstanding the density limitation of Subsection (a), an accessory apartment which meets the requirements of this Title may be created in conjunction with ~~within~~ a one-family dwelling even if the date of creation is after April 2, 2002.

14.34.220. Caretaker Dwellings as an Accessory Use.

In zones that specifically allow caretaker dwellings as permitted accessory use, such dwellings may be established only if such dwellings:

. . .

(5) have no associated ~~contain no~~ accessory apartment;

. . .

Table 14.34.310-1 Minimum Floor Area

. . .

1 For dwellings with an associated accessory apartment, located in the RC or A-overlay or S-overlay zone, the minimum floor areas shown may include the principal living area and the accessory living area, except that any living area within a basement may not be counted toward the minimum main floor area requirement.

. . .

14.34.440. Second Kitchen in One-family Dwellings.

(1) One (1) or more additional kitchen(s) in a one-family dwelling unit shall be allowed only in an A1, RA, R1, or RC zone, including a Performance Development Overlay (PD) zone used in combination with these zones, if all of the following requirements are met:

. . .

(2) An additional kitchen shall not be established in a one-family dwelling unit which ~~contains~~ is associated with an accessory apartment, whether or not such apartment was established pursuant to Provo City Code Chapter 14.30 (Supplementary Residential ~~(S)~~ and Accessory Overlay Zones) ~~or Chapter 14.46 (Accessory Apartment (A) Overlay Zone), Provo City Code~~.

14.37.060. Parking Spaces Required.

Except as otherwise provided in this Title, the number of off-street parking spaces for varied uses/areas shall be as follows:

Use	residential
. . .	
RESIDENTIAL DWELLINGS	
. . .	
One and two family	

Parking Spaces Required

The greater of t~~T~~hree (3) spaces per unit~~, plus~~ or one (1) space per vehicle or recreational vehicle owned or operated by residents. In the R1.10 zone two (2) spaces must be covered; a minimum of one (1) space must be covered for single dwellings in all other residential zones; and two (2) of the six (6) spaces required for duplexes must be covered in their respective zones. See also 14.37.080(1)(c)(i).

14.37.080. General Provisions.

The following general provisions shall apply to off-street parking requirements in this Chapter.

(1) Location. Off-street parking facilities shall be located as hereinafter specified:

. . .

(c) No off-street parking shall be permitted in a required front yard or street side yard, as otherwise stipulated in the respective zones, with the following exceptions:

(i) Parking spaces for a one-family dwelling, a one-family dwelling associated with an accessory apartment, and a two-family dwelling may be located on a driveway in a required front yard, provided:

(A) Such driveway leads to the minimum number of required covered off-street parking spaces which are located behind any required front setback, and

(B) Both parking spaces in each tandem parking area are designated to serve the same dwelling unit.

. . .

14.37.100. Parking Design Standards.

All off-street parking facilities shall be built consistent with Figures 14.37.100(a) through 14.37.100(d) as set forth at the end of this Section and in conformance with the following design standards except as otherwise provided in Subsection (16) of this Section:

. . .

(9) Tandem parking (front to rear) shall not be permitted, except for a one-family dwelling, one-family dwelling associated with an accessory apartment, and a two-family dwelling when the front and back spaces in each tandem parking area are both designated to serve the same dwelling unit, and the

number of covered spaces required in the respective zone are located behind the front setback.

. . .

~~Chapter 14.46~~
~~A - Accessory Apartment Overlay Zone.~~

~~14.46.010. Purposes and Objectives.~~
~~14.46.020. Use in Combination.~~
~~14.46.030. Permitted Uses.~~
~~14.46.040. Additional Development Standards.~~
~~14.46.050. Area of Zone.~~
~~14.46.060. Petition for Zone Adoption.~~
~~14.46.070. Nonconforming Uses.~~

~~14.46.010. Purposes and Objectives.~~

~~The Accessory Apartment overlay zone ("A overlay") is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of accessory apartment in one family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartment; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.~~

~~14.46.020. Use in Combination.~~

~~(1) The Accessory Apartment (A) overlay zone may be used in combination with any of the following zones: A1, RA, R1. The provisions of the (A) overlay zone shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the (A) overlay zone and the provisions of any zone with which it is combined, the provisions of the (A) overlay zone shall be deemed controlling. The (A) overlay zone shall not be applied to any land area as an independent zone.~~

~~(2) The Accessory Apartment overlay zone designation (A) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. When applied to a land area, said combined designation shall be~~

~~shown on the zone map of Provo City as set forth in the following example: When the Accessory Apartment (A) overlay zone is combined with the one-family Residential (R1) Zone having an eight thousand (8,000) square foot minimum lot size, it shall be designated upon the zone map of Provo City as "R1.8(A)."~~

~~14.46.030. Permitted Uses.~~

~~(1) Uses permitted in the Accessory Apartment (A) overlay zone shall be limited to the following:~~

~~(a) Those uses listed as permitted uses in the underlying zone; and~~

~~(b) Accessory apartments which meet the development standards of Subsection (2) of this Section.~~

~~(2) Accessory apartments shall be allowed only in one-family dwellings, subject to the following development standards:~~

~~(a) Number. No more than one (1) accessory apartment shall be permitted in each one-family dwelling.~~

~~(b) Location. The accessory apartment may be created:~~

~~(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space, stairs or otherwise disrupts required covered parking; or~~

~~(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas; or~~

~~(iii) By an addition to the house, containing an internal connection between the accessory apartment and the principal part of the dwelling unit; provided, that the addition will not alter the one-family character of the building.~~

~~(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family residence dwelling. There shall be no external evidence of occupancy by more than one (1) family, such as two (2) front doors. The exterior of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~

~~(d) Occupancy. For purposes of a one family dwelling with an accessory apartment, which is authorized by and conforms to the requirements stated in this Section, the following occupancy rules shall apply:~~

~~(i) The dwelling shall be the owner's primary residence as defined in Chapter 14.06, Provo City Code. The dwelling must be owner occupied by:~~

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the head of household by marriage or adoption as a parent, child, grandparent, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild. For purposes of this Subsection, two (2) or more of the persons must share the legal relationship of husband and wife, or parent and child or grandparent and child. Such parent or grandparent must actually reside in the subject dwelling as their primary residence.~~

~~(C) Two additional unrelated individuals are not permitted under Subsection (2)(d)(i)(A) or (B) of this Section.~~

~~(ii) The accessory apartment within the structure may be occupied by no more than two (2) related or unrelated adults, with or without minor children.~~

~~(iii) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning the temporary absence and meets the following criteria:~~

~~(A) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception), or~~

~~(B) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.~~

~~(C) Owner occupancy shall have the meaning set forth in Section 14.06.020, Provo City Code.~~

~~(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.~~

~~(e) Parking. A one-family dwelling with an accessory apartment shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.~~

~~(f) Utility Meters. A one-family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.~~

~~(g) Addresses. The accessory apartment and the principal part of the dwelling unit shall each have its own address.~~

~~(h) Outside Entrances. Any new outside entrance to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.~~

~~(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.~~

~~(j) Kitchens. A one-family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.~~

~~(k) Accessory Apartment Permit. Any person constructing or causing the construction of a one-family dwelling that has an accessory apartment or any person remodeling or causing the remodeling of a one-family dwelling for an accessory apartment, or any person desiring an accessory apartment, shall obtain an accessory apartment permit from the~~

~~Community Development Department. Such permit shall be in addition to any building permits that may be necessary. Before an accessory apartment permit is issued, the applicant shall:~~

~~(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.~~

~~(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.~~

~~(iii) Pay an application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

~~(iv) Noncompliance with the standards of this Section shall be just cause for the revocation or denial of an accessory apartment permit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer per Chapter 3.06, Provo City Code.~~

~~(v) The approval of a permit for an accessory apartment shall automatically expire three (3) years after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such accessory apartment permit.~~

~~(vi) The owner shall record a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment is constructed and occupied. This deed restriction shall run with the land as long as the property is in the (A) overlay zone, or otherwise contains an accessory apartment as provided in this Chapter.~~

~~(l) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.~~

~~14.46.040. Additional Development Standards.~~

~~Each one family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the (A) zone is combined.~~

~~14.46.050. Area of Zone.~~

~~Within any A1, RA, or R1 zone, the Accessory Apartment (A) overlay zone shall be applied only to a land area of four (4) acres or more which contains at least sixteen (16) existing dwelling structures, and which is at least fifty percent (50%) developed. Such land area shall be free from islands or peninsulas or any other unreasonable boundary line configurations.~~

~~14.46.060. Petition for Zone Adoption.~~

~~(New 1993-13, Am 1999-56, Rep 2007-14)~~

~~14.46.070. Nonconforming Uses.~~

~~Properties nonconforming as to use and occupancy, created by the application of this zone, shall be issued, upon request, a certificate of nonconforming use, which shall permit the continued use of the property as is; provided, that the use complied with all regulations at the time the occupancy was established, and that all necessary permits were obtained.~~

15.04.050. Density and Open Space Determination.

. . .

(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the

provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory dwelling units. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory dwelling units, meeting the standards of Provo City Code Chapter 14.3046, ~~Provo City Code~~, may be located above or below a main dwelling unit or above a garage.

PROVO CITY CONSOLIDATED FEE SCHEDULE

. . .

COMMUNITY DEVELOPMENT

. . .

Other Community Development Fees

Accessory Apartment ~~Licensing Inspection~~ License Processing Fee	$_____
Bond Release Processing Fee	$100.00
Time Extension	$100.00
Demolition Permit	$100.00
Relocation of a Building	$100.00
Unauthorized Changes to an Approved Plan	$500.00

. . .

Current Secondary Unit Allowances			
	A Overlay	**S Overlay**	**Elderly (65or +)**
Zoning	A-Overlay and RC	S-Overlay	Any Single-Family
Rental Dwelling License	No	No	Registration Only
Inspection Required	At time of Establishment	At time of Establishment	No
Occupancy Allowance	Family or 2 Singles	Family or 4 Singles	Family or 2 Singles
One Unit must be Occupied by Owner	Yes	Yes	Yes
Principal Unit Occupancy by Owner	Yes	Yes	No
Location within a home	Anywhere	Basement or above ground level	Anywhere
Interior Connection Required	Yes	Yes	Yes
Detached Dwelling	No	No	No
Number of Kitchens	2	2	Not Limited
Parking	Minimum 4	Minimum 4	Same as Dwelling

Combined A- and S-Overlay Changes			
	A Overlay	**S Overlay**	**Elderly (65 or +)**
Zoning	A-Overlay and RC	S-Overlay	Any Single-Family
Rental Dwelling License	**Yes**	**Yes**	Registration Only
Inspection Required	**Every 3 years**	**Every 3 years**	No
Occupancy Allowance	Family or 2 Singles	Family or **2** Singles*	Family or 2 Singles
One Unit must be Occupied by Owner	Yes	Yes	Yes
Principal Unit Occupancy by Owner	**No**	**No**	No
Location within a home	Anywhere	**Anywhere**	Anywhere
Interior Connection Required	Yes	Yes	Yes
Detached Dwelling	**Yes**	**Yes**	No
Number of Kitchens	2	2	Not Limited
Parking	Minimum 4	Minimum 4	Same as Dwelling

From: R Paul Evans [mailto:evansp@byu.edu]
Sent: Monday, May 27, 2019 6:43 PM
Subject: Proposed S and A overlay consolidation and amendment

A Basis for Creating an FAQ for the Proposed S and A Overlay Zone Amendment

Yes, there are things that will remain the same.
Yes, there are things that will change.
Yes, there are things that are still unknown.

Regardless, a change is proposed and neighbors will wonder. There is a need to explain and educate.

Below are some questions that I hope spark the creation of an FAQ sheet or handbook for citizens whose properties will be included in the proposed consolidation and amendment of the S and A overlay zones. Allowing detached apartments is a significant change. Equally significant is the requirement of a rental dwelling license when only a permit and one time inspection was previously required.

The handbook prepared by Salt Lake City after permitting accessory dwelling units (ADU) in all residential zones (or within 1/4 mile of rapid transit?) is a good jumping off point for what Provo City will need. http://www.slcdocs.com/Planning/Guides/ADU_handbook.pdf

Cheers,

R. Paul Evans
Chair, Provo City Pleasant View Neighborhood

OVEROCCUPANCY

1. Will the provision for detached accessory apartments increase the percentage of one family homes in existing S- and A-overlay zones that legally establish accessory apartments?

   There will be an increase in the percentage of homes in existing S- and A-overlay zones that will have an accessory apartment due to the provision of allowing for detached accessory apartments. The amount of increase has not been quantified.

2. Does the presence of an accessory apartment increase the frequency of one family residential properties illegally used as multifamily (e.g., duplex) properties that are not owner occupied.

   An increase in homes that have an accessory apartment will result in an increase in homes that will have illegal use as absentee owner defacto duplexes or multifamily properties. The amount of increase has not been quantified.

3. Do the definitions of "family" and "owner occupied" in Provo City Code require updates to assist enforcement by Provo City of one family occupancy in S- and A-overlay zones?

   Provo City planning and zoning enforcement consider that the current definitions of "family" and "owner occupied" in Provo City Code are sufficient to pursue successful enforcement.

4. Does Provo City have adequate enforcement and planning staff to protect and enhance the desirable aesthetic characteristics of one family zones with an S- or A-overlay zone?

   The current staffing is sufficient and adequate to protect and enhance the desirable aesthetic characteristics of one family zones with an S- or A-overlay zone.

5. Can a property have either a home occupancy conditional use, whether minor or major, or, an accessory apartment? The concentrated impacts of both uses in one property is not seen as enhancing, let alone, protecting the one-family residential zoning.

   Provo City Code does not permit a major home occupation permit (significant business activity operating in the home) and an accessory apartment. A minor home occupation permit (little or imperceptible business activity in a home) is allowed with an accessory apartment.

DESIRABLE AESTHETIC CHARACTERISTICS

6. Is the owner life cycle of one family residential properties in residential zones with the S- or A-overlay different than comparable one family residential properties in residential zones without the S- and A-overlay in Provo City?

   The impact of accessory apartments on the owner life cycle of one family properties in residential zones is not known. Without knowing, it is not possible to evaluate impacts on the desirable aesthetic characteristics of one family neighborhoods.

7. Are property value changes of one family residential properties in residential zones with the S- or A-overlay different than comparable one family residential properties in residential zones without the S- and A-overlay in Provo City?

   Differences in property value changes due to accessory apartments is unknown. Without knowing, it is not possible to evaluate impacts on the desirable aesthetic characteristics of one family neighborhoods.

8. Provo City planning staff conclude that the proposed consolidation and amendment of the S- and A-overlay zones will "work to provide additional and needed affordable housing opportunities within the City, without creating an extensive impact on adjoining residential areas." What are three examples of adjoining residential areas in Provo City where there would be no "extensive impact"?

There are no examples of adjoining residential areas in Provo City that will have no “extensive impact”.

9. What minimal and moderate impacts are expected on residential areas adjoining S- or A-overlay zones?

There are no examples of minimal and moderate impacts.

10. What are 5 minimal, 5 moderate, and 5 extensive impacts expected on a residential area to which the S- or A-overlay is applied?

There are no examples of minimal and moderate impacts.

[Note: The Planning Commission staff conclude that there will not be extensive impact on adjoining residential areas. Questions 8-10 are intended to explore what are considered to be less than extensive impacts. In doing so, the impacts, minimal or moderate, will be clear to all within an S- and A-overlay zone, and, those adjoining residential areas. The metrics of these questions were meant to elicit a more comprehensive understanding beyond the word "extensive." Examples of what is and what is not extensive impact, and examples of what is and what is not minimal impact are, collectively, a clearer view of the impact.]

PARKING

11. One family residential properties with or without the S- and A-overlay require a legal off-street parking stall for every vehicle maintained at a residence. What is the recent Provo City track record for enforcing the requirement of a legal off-street parking stall for every vehicle maintained at a one family home?

There is no track record.

12. What is the definition of a "vehicle maintained on the residence"?

There is no definition.

13. Provo City Code does not permit parking in an on street place longer than 72 hours.

"Any vehicle or trailer left parked in a public highway or street in the same place continuously for seventy-two (72) hours and which has not been moved a minimum of four hundred (400) feet prior to returning to the same location." 9.31.050(1)(f). What is the recent Provo City track record for enforcing the 72 hour limit?

There is no track record.

14. How is "same place" different than "same location"?

There is no difference between “same place” and “same location”

RENTAL DWELLING LICENSE

The requirement for a Rental Dwelling License is a proposed new regulation included in this change to zoning ordinance. Many who have S overlay and A overlay accessory apartments are not familiar with the requirements associated with a Rental Dwelling License. The details and implications of a Rental Dwelling License must be fully discussed and examined.

15. The current S- and A-Overlay does NOT require a rental dwelling license. This proposed consolidation and amendment of the S- and A-overlay zone requires that property owners obtain a rental dwelling license from Provo City. Will properties with current legal accessory apartments be required to obtain a rental dwelling license upon adoption of this ordinance or will the properties be grandfathered as legal nonconforming?

    The answer to this is unclear.

16. If legal nonconforming or grandfathered, then how will Provo City track the legal nonconforming status of properties?

    The answer to this is unclear.

17. A. If not considered legal nonconforming or grandfathered upon adoption of this ordinance, will existing legal accessory apartment properties be required to meet all standards (building code, contemporaneous inspection, etc.) before issuance of rental dwelling license?

    Yes

    B. If yes, will the property owner be informed of the amortization options to meet the "newly" imposed requirements and thus delay the decade in which the improvements must be completed?

    The answer to this is unclear.

18. What is the process by which a new owner may apply for an extension of an existing Rental Dwelling License?

    The answer to this is unclear.

    [Note: Although enabled by the proposed amendments in 14.30.030(2)(k)(iv), there is no reference to elsewhere in Provo City Code where the extension process is enabled. If the license is signed by one entity, how can a different entity extend the license? This seems like a transference of the license.]

19. An inspection is required every three years. What is inspected, the entire property? Just the accessory apartment? What are the criteria examined to pass the inspection. What are the remedies to a failed inspection?

20. In Planning Commission and Municipal Council meetings, Provo City Community Development staff have stated that only a handful of select issues related to life and safety will be absolutely required regardless of when an accessory apartment was legally established during the process of issuing a rental dwelling license and completing an inspection. What is the list of issues?

21. Some homes have created additional living spaces in the past without building permit and in violation of building code and zoning code. If application is made, will these illegal living areas be required to meet Building Code as of the date of application? Why or why not?

APPROVAL OF ACCESSORY APARTMENTS

22. What is the closest allowed distance between a detached accessory apartment and a property line?

    10 feet

23. Are there any conditions in which a newly established detached accessory apartment can be closer than the minimum distance? If so, what are the conditions?

    Yes. The conditions are unknown.

24. What is the maximum height from current grade that a detached accessory apartment can be built?

    Unknown

25. Who will determine if the architecture of a proposed detached accessory apartment is consistent with the property? Who can appeal the decision? How can the decision be appealed?

26. Will adjacent property owners and the neighborhood be notified when an application for a detached accessory apartment is received by Provo City?

27. What is the reasoning for prohibiting accessory apartments from the ground level or basement of an attached or detached garage?

28. Who determines whether an addition alters the one family character of the building, and, what are the criteria used to make such a determination?

    The answer to this is unclear.

29. What is the definition of "principal part of the dwelling unit"?

The answer to this is unclear.

30. Will properties that had no prior established accessory apartment and/or properties that become zoned with the S- or A-overlay be required to have an accessory apartment that meets current building codes? [this is a repeat, but, the issue deserves a second look]

31. What is the definition of an accessory structure?

The answer to this is unclear.

32. Can an accessory structure also be an accessory building? If so, then is there a difference between buildable and nonbuildable area accessory structure setbacks?

The answer to this is unclear.

33. Is it permissible to place a shipping container inside of an architecturally compatible shell/structure?

The answer to this is unclear.

34. Is it permissible to affix material on the outside of a shipping container to render the structure compatible with the architecture of the main dwelling?

The answer to this is unclear.

35. What is the definition of "exterior of the property"? Is the intent perhaps front yard?

The answer to this is unclear.

36. How is an ordinance violation different from an "outstanding ordinance violation"?

The answer to this is unclear.

Provo City Planning Commission

Report of Action

June 12, 2019

*Item 1 The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as related amendments to Chapters 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5),14.12A.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) regarding Permitted Accessory Uses; 14.32.050. Lot Area Per Dwelling Unit; 14.32.220(5) Caretaker Dwellings as an Accessory Use; 14.34.310-1 Minimum Floor Area; 14.34.440 Second Kitchen in One-family Dwellings; 14.37.060 Parking Spaces Required; 14.37.080 General Provisions; 14.37.100 Parking Design Standards; and 15.04.050 Density and Open Space Determination. City-wide application. Brian Maxfield (801) 852-6429 PLOTA20190120

The following action was taken by the Planning Commission on the above described item at its regular meeting of June 12, 2019:

RECOMMENDED APPROVAL

On a vote of 5:1, the Planning Commission recommended approval of this item to the Municipal Council with a strong recommendation that the staff and Council: Further explore options for parking reductions or developing a process whereby individual property owners might go to reduce requirements depending on their situation; and, to test several properties to better understand potential improvements that would be required for a 20 to 30 year-old accessory apartment to get a Rental Dwelling License.

Motion By: Jamin Rowan
Second By: Dave Anderson
Votes in Favor of Motion: Jamin Rowan; Dave Anderson; Shannon Ellsworth; Robert Knudsen; Deborah Jensen
Votes Opposed: Maria Winden
Deborah Jensen was present as Chair.

The motion 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.

RELATED ACTIONS
None

STAFF PRESENTATION
Staff presented the proposed changes made to the document in response to the comments from the study session.

CITY DEPARTMENTAL ISSUES
None

NEIGHBORHOOD MEETING DATE
This is a City-wide item

NEIGHBORHOOD AND PUBLIC COMMENT

Paul Evans, chair of the Pleasant View Neighborhood, stated he appreciated the changes made, but that his largest concern is still regarding the new requirement for a rental dwelling license. He suggested the city take a handful of properties to try out the Rental Dwelling Licensing requirements before this ordinance amendment is adopted. The city should have a list of what would be required with a license. The city should also consider flexibility in the off-street parking requirements to not require more off-street parking spaces that are needed for a particular property.

CONCERNS RAISED BY PUBLIC

The concerns related by Paul Evans were attached to the staff report.

PLANNING COMMISSION DISCUSSION

Members of the Planning Commission stated they thought the trial run for RDL licensing would be a good idea. Discussion followed regarding the need for accessory apartments to meet minimum health and safety standards. The Planning Commission also discussed the question of if there is always a need to automatically include on-site parking spaces without understanding if there is an actual need based on the occupancy of the dwelling. And, could the parking requirement be controlled through the licensing? Several Commissioners expressed hesitation in requiring four off-street parking spaces if they are not needed and they were concerned with unnecessary paving of yard space. Comments were also made that much of the parking problem occurs because parking requirements haven't been enforced as well as they should be, such as long-term on-street parking and things like boats and trailers parked in the street.

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.

ITEM 1*

The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as other related code sections pertaining to the S and A Overlay Zones.

City-wide application

PLOTA20190120

Current Secondary Unit Allowances			
	A Overlay	**S Overlay**	**Elderly (65or +)**
Zoning	A-Overlay and RC	S-Overlay	Any Single-Family
Rental Dwelling License	No	No	Registration Only
Inspection Required	At time of Establishment	At time of Establishment	No
Occupancy Allowance	Family or 2 Singles	Family or 4 Singles	Family or 2 Singles
One Unit must be Occupied by Owner	Yes	Yes	Yes
Principal Unit Occupancy by Owner	Yes	Yes	No
Location within a home	Anywhere	Basement or above ground level	Anywhere
Interior Connection Required	Yes	Yes	Yes
Detached Dwelling	No	No	No
Number of Kitchens	2	2	Not Limited
Parking	Minimum 4	Minimum 4	Same as Dwelling

Combined A- and S-Overlay Changes			
	A Overlay	**S Overlay**	**Elderly (65 or +)**
Zoning	A-Overlay and RC	S-Overlay	Any Single-Family
Rental Dwelling License	**Yes**	**Yes**	Registration Only
Inspection Required	**Every 3 years**	**Every 3 years**	No
Occupancy Allowance	Family or 2 Singles	Family or **2** Singles*	Family or 2 Singles
One Unit must be Occupied by Owner	Yes	Yes	Yes
Principal Unit Occupancy by Owner	**No**	**No**	No
Location within a home	Anywhere	**Anywhere**	Anywhere
Interior Connection Required	Yes	Yes	Yes
Detached Dwelling	**Yes**	**Yes**	No
Number of Kitchens	2	2	Not Limited
Parking	Minimum 4	Minimum 4	Same as Dwelling

1. Adds “Apartment” after the word “Accessory” in the Title.

Chapter 14.30

~~S~~ Supplementary Residential and Accessory Apartment Overlay Zones.

2. Addition of the term “Accessory Dwelling Unit (ADU)” to the definition section as an equivalent term for “Accessory Apartment.”

14.06.020. Definitions.

For the purposes of this Title, certain words and phrases have the following meanings:

“**Accessory Apartment**” or **“Accessory Dwelling Unit (ADU)”** means a subordinate residential living area created ~~with~~in conjunction with a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located; and

(b) ~~has an interior connection between the one family dwelling and accessory apartment~~ meets the requirements of Provo City Code Chapter 14.30.

3. Clarification changes added under Subsection “(2) Accessory Apartment Development Standards,” located under “Section 14.30.030. Permitted Uses.” They are detailed below with their intent and the fully amended text following.
    - **(2)(b)(i)**: Changes wording that was awkward as it sounded as if parking might occur on the second floor of a garage or that the required covered parking had the possibility of being converted to living space;
    - **(2)(b)(iv)(1)**: Clarifies the minimum lot standard applies to an accessory apartment rather than an accessory structure;
    - **(2)(b)(iv)(2)**: Clarifies that a detached accessory apartment is also an accessory structure – basically, a detached accessory apartment can be either a stand-alone accessory structure, or else attached to an existing accessory structure;
    - **(2)(b)(iv)(3)**: Clarifies that any accessory structure that is solely an accessory apartment or else an existing accessory structure to which an accessory apartment is added, must have a minimum setback of 10 feet from any property line, regardless of where the apartment is located within the structure;
    - **(2)(b)(iv)(7)**: Basically allows shipping containers only as structural components, but must be clad with materials similar to the principal dwelling, and be architecturally compatible with the principal dwelling;
    - **(2)(c)**: Clarifies the external evidence of the second unit being “from a street view” and also states “yard areas” instead of “exterior” of the property needed to be maintained.
    - **(2)(k)(iii)**: Clarifies that any fee charged for a Rental Dwelling License is for the processing of the license, and not for the inspection of the unit; and,
    - **(2((k)(vi)**: Expands the term “Community Development” to “the Community Development Department.”

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one-family dwellings,~~ subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling.~~;~~

(b) Location. ~~The a~~Accessory apartments may be located only: ~~in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;~~

(i) Over an attached garage, provided the ~~parking within the garage is not eliminated or converted to living space or stairs, or~~ accessory unit does not otherwise disrupt~~s~~ required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory ~~structure~~ apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet ~~and no~~ nor less than 200 square feet in area;

(3) ~~The~~ A detached accessory ~~structure~~ apartment or a detached accessory structure containing an accessory apartment shall ~~be setback from any property line a minimum of 10 feet~~ have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~; and~~

(iii) Pay an ~~inspection~~ application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

....

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an ~~the (S)~~ overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

6.02.010. Definitions.

The following terms as used in this Title shall have the meanings indicated:

. . .

"**Rental dwelling**" means~~, except as provided in Subsection (c) of this definition,~~ a building or portion of a building used or designated for use as a residence by one (1) or more persons that is:

(a) Available to be rented, loaned, leased, or hired out for a period of one (1) month or longer; or

(b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one (1) month or longer.

~~(c) An accessory apartment in an owner-occupied one-family dwelling shall not be deemed a rental dwelling.~~

"**Short-term rental dwelling**" means a building or portion of a building, or a mobile or a manufactured home used, designated or designed for use as a residence by one (1) or more persons that is:

(a) Available to be rented, loaned, leased, or hired out for a period of less than one (1) month; or

(b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of less than one (1) month.

6.26.010. Definitions.

Words and phrases contained herein which are defined in Chapters 6.01 or 6.02 of this Title, or Chapter 14.06 of Title 14, as amended, shall have the meanings set forth in such chapters. If there is a conflict between definitions contained in Title 14 and definitions contained in this Title, the definitions in this Title shall govern for the purposes of interpreting this Title.

14.06.020. Definitions.

For the purposes of this Title, certain words and phrases have the following meanings:

"**Accessory Apartment**" means a subordinate residential living area created ~~with~~in conjunction with a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located; and

(b) ~~has an interior connection between the one family dwelling and accessory apartment~~meets the requirements of Provo City Code Chapter 14.30.

. . .

"**Family,**" unless otherwise expressly provided in this Title, means:

(a) One (1) individual living alone; or

(b) One (1), but not more than one (1) at the same time, of the following groups of individuals described in Subsection (b)(i) or (ii) of this definition who together occupy a one-family dwelling unit as one (1) nonprofit housekeeping unit and who share common living, sleeping, cooking and eating facilities:

(i) A head of household and:

(A) All persons related to the head of household as a spouse, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild by blood, marriage, adoption, guardianship, or any other duly authorized custodial relationship; and

(B) Not more than two (2) additional related or unrelated persons, including, but not limited to, personal care or personal service providers; or

(ii) Three (3) related or unrelated individuals and any children of either individual, if any.

(c) In applying this definition the existence of more than one (1) kitchen in a dwelling unit shall create a presumption that two (2) housekeeping units exist in the dwelling.

(d) "Family" does not include:

(i) Baching singles, as defined in this Section, even if related as set forth in Subsection (b)(i)(A) of this definition;

(ii) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;

(iii) Any number of individuals whose association is temporary or seasonal in nature; or

(iv) Any number of individuals who are in a group living arrangement as a result of criminal offenses.

. . .

14.11.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(h) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30~~46~~.030~~, Provo City Code~~.

. . .

14.12.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2.5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30~~46~~.030~~, Provo City Code~~.

. . .

14.12A.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R3 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30~~46~~.030~~, Provo City Code~~.

. . .

14.13.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R4 zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41~~, Provo City Code~~;

. . .

(g) Accessory dwelling unit in an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14. 30~~46~~.030~~, Provo City Code~~.

. . .

14.14.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210~~, Provo City Code~~;

. . .

(f) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30~~46~~.030~~, Provo City Code~~.

. . .

Chapter 14.30

S - Supplementary Residential and Accessory Overlay Zones.

14.30.010. Purpose and Objectives.
14.30.020. Use in Combination.
14.30.030. Permitted Uses.
14.30.040. Development Standards.
14.30.050. Area of Zone.
14.30.060. Petition for Zone Adoption.
14.30.070. Parking Requirements.
14.30.080. Nonconforming Uses.
14.30.090. Termination of Nonconforming Uses - Recovery of Investment.

14.30.010. Purpose and Objectives.

(1) The purpose of the Supplementary Residential (S) overlay zone is to recognize the unique character of Provo City as a "university community" and to accommodate supplementary living accommodations in some appropriate one-family residential areas of the community. These provisions are intended to meet community demands for residential accommodations for semi-transient residents in areas of the community adjacent to major educational and institutional uses. This overlay zone is designed to provide an alternative living environment for said semi-transient residents to that normally found within the higher density multiple residential zones. The (S) overlay zone will therefore protect and enhance the desirable aesthetic characteristics of the underlying one-family residential zone. An R1 zone with a Supplementary Residential (S) overlay as described in this Chapter is intended to continue the very low density of an R1 zone. The sole function of the overlay is to permit alternate methods of housing the occupancy otherwise permitted in an R1 zone.

(2) The Accessory Apartment (A) overlay zone is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of accessory apartment in conjunction with one-family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartments; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.

14.30.020. Use in Combination.

(1) The ~~Supplementary Residential (S)~~ overlay zones described in this Chapter may be used only in combination with other zones as follows:

(a) the Supplementary Residential (S) overlay zone may be used only in combination with the ~~R1 (~~One-~~f~~Family Residential~~)~~ (R1) zone; and ~~as designated herein~~

(b) the Accessory Apartment (A) overlay zone may be used only in combination with the Agricultural (A1), Residential Agricultural (RA), or One-Family Residential (R1) zones.

(2) The provisions of the ~~(S)~~ overlay zones shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the ~~(S)~~ overlay zones and the provisions of the R1 zone with which it is combined, the provisions of the ~~(S)~~ overlay zones shall be deemed controlling. The ~~(S)~~ overlay zones shall not be applied to any land area as an independent zone.

14.30.030. Permitted Uses.

(1) Permitted Principal Uses. Principal ~~U~~uses permitted in the ~~Supplementary Residential (S)~~ overlay zones described in this Chapter shall be limited to the following:

(a) Those uses listed as permitted principal uses in the underlying ~~R1~~ zone with which the overlay zone has been combined in accordance with Section 14.30.020; and

(b) Accessory apartments which meet the development standards of Subsection (2) of this Section, with a valid Rental Dwelling License.

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one-family dwellings,~~ subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling.~~;~~

(b) Location. ~~The a~~Accessory apartments may be located only: ~~in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;~~

(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space or stairs, or otherwise disrupts required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The accessory structure shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet and no less than 200 square feet;

(3) The accessory structure shall be setback from any property line a minimum of 10 feet;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and does not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence of occupancy by more than one (1) family, such as two (2) front doors. The exterior of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~; and~~

(d) Occupancy. A one-family dwelling with an accessory apartment, which is authorized by and conforms to the requirements set forth in this section, shall, for purposes of this subsection, consist of two component parts: the one-family dwelling and the accessory apartment. Those two parts shall be occupied as follows:

(i) Except as otherwise provided in subsection (iv), either ~~T~~the one-family dwelling or the accessory apartment shall be the owner's primary residence as defined in Provo City Code Chapter 14.06~~, Provo City Code~~. If this requirement is not met, no accessory apartment shall be permitted. ~~The dwelling must be owner-occupied by:~~

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the head of household by marriage or adoption as a parent, child, grandparent, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild.~~

~~For purposes of this Subsection, two (2) or more of the persons must share the legal relationship of husband and wife, or parent and child or grandparent and child. Such parent or grandparent must actually reside in the subject dwelling as their primary residence.~~

(ii) The occupancy of the one-family dwelling shall be limited to one "family" as that term is defined in Provo City Code Chapter 14.06, except that if the accessory apartment is also occupied, the occupancy of the one-family dwelling shall not include the ~~(C) T~~two additional related or unrelated individuals described in Provo City Code Section 14.06.020(b)(i)(B)~~are not permitted under Subsection (2)(d)(i)(A) or (B) of this Section~~.

(iii) Except as permitted by subsection (4)(a) of this Section, tThe accessory apartment within the structure shall notmay be occupied by no more than twofour (24) related or unrelated adults, with or without minor children.

(iviii) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning the temporary absence and meets the following criteria:

(A) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

(B) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.

(C) Owner occupancy shall have the meaning set forth in Section 14.06.020, Provo City Code.

(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.

(e) Parking. A one-family dwelling with an accessory apartment shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.

(f) Utility Meters. A one-family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.

(g) Addresses. The accessory apartment shall have its own address.

(h) Outside Entrances. Outside entrances to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.

(j) Kitchens. A one-family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.

(k) Rental Dwelling License~~Accessory Apartment Permit~~. In accordance with Provo City Code Chapter 6.26, ~~A~~any person operating~~constructing or causing the construction of a one-family dwelling that has~~ an accessory apartment under this Chapter~~or any person remodeling or causing the remodeling of a one-family dwelling for an accessory apartment, or any person desiring an accessory apartment~~, shall obtain a~~n accessory apartment permit~~ Rental Dwelling License from the Community Development Department~~. Such license~~permit~~ shall be in addition to any building permits that may be necessary. Before a~~n~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.

(iii) Pay an inspection~~application~~ fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(iv) Noncompliance with the standards of this Section shall be just cause for the denial or revocation of a~~n~~ Rental Dwelling License for an accessory apartment ~~permit~~. Revocation shall be in accordance with the license regulations in ~~decided based upon the findings of fact at an administrative hearing before a hearing officer, per Chapter 3.06,~~ Provo City Code Chapters 6.01 and 6.26.

(v) Notwithstanding, Provo City Code Section 6.01.090, ~~T~~the approval of a ~~permit~~Rental Dwelling License for an accessory apartment shall automatically expire one~~three~~ (1~~3~~) year~~s~~ after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such Rental Dwelling License~~accessory apartment permit~~.

(vi) The owner shall cooperate with Community Development in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an~~the (S)~~ overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

~~(l) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building~~

~~Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.~~ (l) Minimum unit size. An accessory apartment is only permitted if the one-family dwelling unit, not including the accessory apartment, is no smaller than 1200 square feet.

(m) Bedrooms. An accessory apartment shall not have more than two bedrooms, except that an accessory apartment for which a Conditional Use Permit has been granted under subsection (4) of this Section to allow occupancy by no more than four (4) related or unrelated adults may have no more than four bedrooms.

(3) Permitted Accessory Uses. Accessory uses permitted in the overlay zones shall be limited to those uses listed as permitted accessory uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020.

(4) Conditional Uses. Except as provided in this subsection (4), conditional uses permitted in the overlay zones shall be limited to those uses listed as permitted conditional uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020. In addition, the following uses and structures are permitted in the Supplementary Residential (S) overlay zone, but only after a Conditional Use Permit has been approved and subject to the terms and conditions thereof:

(a) In the Supplementary Residential (S) overlay zone only, accessory apartments that are occupied by no more than four (4) related or unrelated adults, with or without minor children, if, and only if, such use:

(i) meets the parking requirements of Subsection (2)(e), including particularly the requirement that the number of off-street parking spaces may not be less than the number of vehicles being maintained on the premises at any time; and

(ii) meets all other development standards of Subsection (2), other than the occupancy limit in Subsection (2)(d)(ii).

14.30.040. Development Standards.

Each one-family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the overlay zone is combined.~~All development standards required in the Supplementary Residential (S) overlay zone shall be the same as those required by the provisions of the underlying zone with which the (S) zone is combined.~~

14.30.050. Area of Zone.

An overlay zone described in this Chapter may only be applied to a contiguous ~~The Supplementary Residential (S) overlay zone shall be applied to a~~ land area of at least ~~ten (10)~~ four (4) acres ~~or more~~ that~~which~~ contains at least ~~forty (40)~~sixteen (16) existing dwelling structures~~,~~ and ~~which~~that is at least fifty percent (50%) developed. The land area to which any overlay zone described in this Chapter is applied shall be free from islands or peninsulas or any other unreasonable boundary line

configurations. Additions to an existing ~~(S)~~ overlay zone are allowed so long as the resulting contiguous land area of an overlay~~shall be by petition which~~ conforms to all provisions of this Section~~Chapter except acreage, and number of dwellings~~.

14.30.060. Petition for Zone Adoption.
(Rep 2007-32)

14.30.070. Parking Requirements.
(Am 1990-31, Rep 2013-49)

14.30.080. Nonconforming Uses.
(Am 2000-15, Rep 2013-49)

14.30.090. Termination of Nonconforming Uses - Recovery of Investment.
(Enacted 2000-15, Rep 2013-49)

14.32.020. Permitted Uses.

. . .

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the RC zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

. . .

(g) Accessory apartment in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Chapter ~~Section~~ 14.30~~46.030, Provo City Code~~.

. . .

14.32.050. Lot Area Per Dwelling Unit.

On a given lot or parcel, the number of dwelling units (density) shall not be increased beyond the density which legally existed on April 2, 2002 except as provided in this Section.

(a) Legally existing dwelling units may be replaced with an identical or lesser number of units so long as such replacement meets all other applicable requirements of this Title.

(b) Notwithstanding the density limitation of Subsection (a), an accessory apartment which meets the requirements of this Title may be created in conjunction with~~within~~ a one-family dwelling even if the date of creation is after April 2, 2002.

14.34.220. Caretaker Dwellings as an Accessory Use.

In zones that specifically allow caretaker dwellings as permitted accessory use, such dwellings may be established only if such dwellings:

. . .

(5) have no associated~~contain no~~ accessory apartment;

. . .

Table 14.34.310-1 Minimum Floor Area

. . .

1 For dwellings with an associated accessory apartment, located in the RC or A-overlay or S-overlay zone, the minimum floor areas shown may include the principal living area and the accessory living area, except that any living area within a basement may not be counted toward the minimum main floor area requirement.

. . .

14.34.440. Second Kitchen in One-family Dwellings.

(1) One (1) or more additional kitchen(s) in a one-family dwelling unit shall be allowed only in an A1, RA, R1, or RC zone, including a Performance Development Overlay (PD) zone used in combination with these zones, if all of the following requirements are met:

. . .

(2) An additional kitchen shall not be established in a one-family dwelling unit which ~~contains~~ is associated with an accessory apartment, whether or not such apartment was established pursuant to Provo City Code Chapter 14.30 (Supplementary Residential ~~(S)~~and Accessory Overlay Zones) ~~or Chapter 14.46(Accessory Apartment (A) Overlay Zone), Provo City Code~~.

Commented [BJ1]: As pointed out by Mike Roan this appears to conflict with 14.30.030(2)(j), but that conflict also appears to be longstanding. Do we want to delete this subsection?

14.37.060. Parking Spaces Required.

Except as otherwise provided in this Title, the number of off-street parking spaces for varied uses/areas shall be as follows:

Use	Parking Spaces Required
. . .	
RESIDENTIAL DWELLINGS	
. . .	
One and two family residential	The greater of t~~T~~hree (3) spaces per unit~~, plus~~or one (1) space per vehicle or recreational vehicle owned or operated by residents. In the R1.10 zone two (2) spaces must be covered; a minimum of one (1) space must be covered for single dwellings in all other residential zones; and two (2) of the six (6) spaces required for duplexes must be covered in their respective zones. See also 14.37.080(1)(c)(i).

14.37.080. General Provisions.

The following general provisions shall apply to off-street parking requirements in this Chapter.

(1) Location. Off-street parking facilities shall be located as hereinafter specified:

. . .

(c) No off-street parking shall be permitted in a required front yard or street side yard, as otherwise stipulated in the respective zones, with the following exceptions:

(i) Parking spaces for a one-family dwelling, a one-family dwelling associated with an accessory apartment, and a two-family dwelling may be located on a driveway in a required front yard, provided:

(A) Such driveway leads to the minimum number of required covered off-street parking spaces which are located behind any required front setback, and

(B) Both parking spaces in each tandem parking area are designated to serve the same dwelling unit.

. . .

14.37.100. Parking Design Standards.

All off-street parking facilities shall be built consistent with Figures 14.37.100(a) through 14.37.100(d) as set forth at the end of this Section and in conformance with the following design standards except as otherwise provided in Subsection (16) of this Section:

. . .

(9) Tandem parking (front to rear) shall not be permitted, except for a one-family dwelling, one-family dwelling associated with an accessory apartment, and a two-family dwelling when the front and back spaces in each tandem parking area are both designated to serve the same dwelling unit, and the number of covered spaces required in the respective zone are located behind the front setback.

. . .

Chapter 14.46
A - Accessory Apartment Overlay Zone.

14.46.010. Purposes and Objectives.
14.46.020. Use in Combination.
14.46.030. Permitted Uses.
14.46.040. Additional Development Standards.
14.46.050. Area of Zone.
14.46.060. Petition for Zone Adoption.
14.46.070. Nonconforming Uses.

14.46.010. Purposes and Objectives.

The Accessory Apartment overlay zone ("A overlay") is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of accessory apartment in one-family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartment; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.

14.46.020. Use in Combination.

(1) The Accessory Apartment (A) overlay zone may be used in combination with any of the following zones: A1, RA, R1. The provisions of the (A) overlay zone shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the (A) overlay zone and the provisions of any zone with which it is combined, the provisions of the (A) overlay zone shall be deemed controlling. The (A) overlay zone shall not be applied to any land area as an independent zone.

(2) The Accessory Apartment overlay zone designation (A) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. When applied to a land area, said combined designation shall be shown on the zone map of Provo City as set forth in the following example: When the Accessory Apartment (A) overlay zone is combined with the one-family Residential (R1) Zone having an eight thousand (8,000) square foot minimum lot size, it shall be designated upon the zone map of Provo City as "R1.8(A)."

14.46.030. Permitted Uses.

(1) Uses permitted in the Accessory Apartment (A) overlay zone shall be limited to the following:

(a) Those uses listed as permitted uses in the underlying zone; and

(b) Accessory apartments which meet the development standards of Subsection (2) of this Section.

(2) Accessory apartments shall be allowed only in one-family dwellings, subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in each one-family dwelling.

(b) Location. The accessory apartment may be created:

(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space, stairs or otherwise disrupts required covered parking; or

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas; or

(iii) By an addition to the house, containing an internal connection between the accessory apartment and the principal part of the dwelling unit; provided, that the addition will not alter the one-family character of the building.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family residence dwelling. There shall be no external evidence of occupancy by more than one (1) family, such as two (2) front doors. The exterior of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.

(d) Occupancy. For purposes of a one-family dwelling with an accessory apartment, which is authorized by and conforms to the requirements stated in this Section, the following occupancy rules shall apply:

(i) The dwelling shall be the owner's primary residence as defined in Chapter 14.06, Provo City Code. The dwelling must be owner-occupied by:

(A) One (1) person living alone; or

(B) The head of household and all persons related to the head of household by marriage or adoption as a parent, child, grandparent, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild. For purposes of this Subsection, two (2) or more of the persons must share the legal relationship of husband and wife, or parent and child or grandparent and child. Such parent or grandparent must actually reside in the subject dwelling as their primary residence.

(C) Two additional unrelated individuals are not permitted under Subsection (2)(d)(i)(A) or (B) of this Section.

(ii) The accessory apartment within the structure may be occupied by no more than two (2) related or unrelated adults, with or without minor children.

(iii) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning the temporary absence and meets the following criteria:

(A) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception), or

(B) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.

(C) Owner occupancy shall have the meaning set forth in Section 14.06.020, Provo City Code.

(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.

(e) Parking. A one-family dwelling with an accessory apartment shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.

(f) Utility Meters. A one-family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.

(g) Addresses. The accessory apartment and the principal part of the dwelling unit shall each have its own address.

(h) Outside Entrances. Any new outside entrance to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.

(j) Kitchens. A one-family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.

(k) Accessory Apartment Permit. Any person constructing or causing the construction of a one-family dwelling that has an accessory apartment or any person remodeling or causing the remodeling of a one-family dwelling for an accessory apartment, or any person desiring an accessory apartment, shall obtain an accessory apartment permit from the Community Development Department. Such permit shall be in addition to any building permits that may be necessary. Before an accessory apartment permit is issued, the applicant shall:

(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.

(iii) Pay an application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(iv) Noncompliance with the standards of this Section shall be just cause for the revocation or denial of an accessory apartment permit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer per Chapter 3.06, Provo City Code.

(v) The approval of a permit for an accessory apartment shall automatically expire three (3) years after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such accessory apartment permit.

(vi) The owner shall record a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment is constructed and occupied. This deed restriction shall run with the land as long as the property is in the (A) overlay zone, or otherwise contains an accessory apartment as provided in this Chapter.

(l) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:

(i) The accessory apartment complies with this Title; and

(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.

14.46.040. Additional Development Standards.

Each one-family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the (A) zone is combined.

14.46.050. Area of Zone.

Within any A1, RA, or R1 zone, the Accessory Apartment (A) overlay zone shall be applied only to a land area of four (4) acres or more which contains at least sixteen (16) existing dwelling structures, and which is at least fifty percent (50%) developed. Such land area shall be free from islands or peninsulas or any other unreasonable boundary line configurations.

14.46.060. Petition for Zone Adoption.

(New 1993-13, Am 1999-56, Rep 2007-14)

14.46.070. Nonconforming Uses.

Properties nonconforming as to use and occupancy, created by the application of this zone, shall be issued, upon request, a certificate of nonconforming use, which shall permit the continued use of the property as is; provided, that the use complied with all regulations at the time the occupancy was established, and that all necessary permits were obtained.

15.04.050. Density and Open Space Determination.

. . .

(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory dwelling units. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory dwelling units, meeting the standards of Provo City Code Chapter 14.3046~~, Provo City Code~~, may be located above or below a main dwelling unit or above a garage.

PROVO CITY CONSOLIDATED FEE SCHEDULE

. . .

COMMUNITY DEVELOPMENT

. . .

Other Community Development Fees

Accessory Apartment Licensing Inspection Fee	$_____
Bond Release Processing Fee	$100.00
Time Extension	$100.00
Demolition Permit	$100.00
Relocation of a Building	$100.00
Unauthorized Changes to an Approved Plan	$500.00

. . .

ORDINANCE 2019-.

AN ORDINANCE TO AMEND PROVO CITY CODE TO CONSOLIDATE CHAPTER 14.30 (S-SUPPLEMENTARY RESIDENTIAL OVERLAY ZONE) WITH CHAPTER 14.46 (A-ACCESSORY APARTMENT OVERLAY ZONE) AND ADOPT RELATED AMENDMENTS. CITY-WIDE APPLICATIONS. (PLOTA20190120)

WHEREAS, it is proposed to amend Provo City Code to consolidate Chapter 14.30 (S-Supplementary Residential Overlay Zone) with Chapter 14.46 (A-Supplementary Residential Overlay Zone) and adopt related amendments to Chapters 6.01 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5), 14.12S.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) (Regarding Permitted Accessory Uses); 14.32.050 (Lot Area per Dwelling Unit); 14.32.220(5) (Caretaker Dwellings as an Accessory Use); 14.34.310-1 (Minimum Floor Area); 14.34.440 (Second Kitchen in One-Family Dwellings); 14.37.060 (Parking Spaces Required); 14.37.080 (General Provisions); 14.37.100 (Parking Design Standards); and 15.04.050 (Density and Open Space Determination); and

WHEREAS, on June 12, 2019, the Planning Commission held a duly noticed public meeting to consider the proposed ordinance amendment to the Provo City Code and after such meeting the Planning Commission recommended approval to the Municipal Council by a vote of 5:1; and

WHEREAS, on June 18, 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 Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the ordinance amendment to the Provo City Code should be amended as proposed, and (ii) the proposed amendment 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:

The Provo City Code Chapter 14.30 is hereby amended as set in Exhibit A.

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.

Planning Commission Hearing Staff Report
Hearing Date: June 12, 2019

ITEM 4* Brady Deucher requests a Zone Change from R1.10 to a new Entry Level Housing (ELH) Project Redevelopment Option Zone for approximately 2.125 acres located at 11320 S State Street. Spring Creek Neighborhood. Robert Mills (801) 852-6407 PLRZ20190100

Applicant: Brady Deucher

Staff Coordinator: Robert Mills

Property Owner: DPI DURRVANA LC
Parcel ID#: 22:051:0061
Acreage: 2.12 acres
Number of Properties: 1

Number of Lots: 1

Current General Plan Designation: Mixed Use (M)

Current Zoning: R1.10 Residential (R1.10)

Proposed Zoning: 14.50(30) 50 East Project Redevelopment Option (PRO) Zone, to be amended later to the 14.50(30) Entry-Level Housing (ELH) Project Redevelopment Option (PRO) Zone

*Council Action Required: Yes

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is June 26, 2019.*

3. **Deny** the requested Project Plan. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: Vacant parcel.

Relevant History: The site is an infill property located between the new Provo School District bus barn site and the proposed Autumn View Townhome project in southeast Provo. The site has remained vacant for a number of years.

Neighborhood Issues: A neighborhood meeting was held on April 4, 2019 at the Provo Rec Center wherein this project was discussed. Staff attended the meeting and observed that those in attendance seemed to be in support; however, no official report of the neighborhood meeting was received.

The project was previously discussed at the May 22, 2019 Planning Commission meeting wherein the commissioners felt it would be appropriate to continue the item so that additional information could be provided regarding the request to reduce parking.

Summary of Key Issues:

1. The site is an infill property that has been identified for Medium Density Residential zoning in the Southeast Neighborhood Plan.
2. The proposed project will add 64 two-bedroom condominiums which meet the guidelines set by the Federal Housing Administration (FHA) to receive FHA mortgages and can be considered entry-level housing.
3. The proposed condominium buildings will be four stories in height and include four units per floor.

Staff Recommendation: Staff recommends approval of the requested Zoning Map amendment with the following conditions:

1. That at least sixty percent (60%) of the units will be owner-occupied;
2. That each unit will be limited to a family or not more than two adult individuals;
3. The project site is limited to development of only 64 units although the underlying zone would allow development of approximately 185 dwelling units; and,
4. The project site shall be developed with 130 standard parking stalls even though the underlying zoning would only require 90 parking stalls.

OVERVIEW

The subject property is an infill parcel located between the existing Provo School District bus barn site to the south, State Street to the east, a Provo City Power substation to the west, and the previously approved Autumn View townhome project to the north. The site has been vacant for a number of years and is located in an area intended for medium density development according to the Southeast Provo neighborhood plan.

The proposed rezone will allow a new multi-family housing project consisting of 64 two-bedroom condominium units divided among four (4) four-story buildings with four (4) units per floor.

The proposed zone, 14.50(30) 50 East Project Redevelopment Option (PRO) Zone, (The applicant intends to amend the existing Pro Zone to the 14.50(30) Entry-Level Housing (ELH) Project Redevelopment Option (PRO) Zone) allows a maximum density of one (1) dwelling unit per 500 square feet of lot area. In this case the total lot area for the project site is approximately 92,347 square feet, which would allow 184 units. However, the applicant has proffered a Development Agreement which limits the number of units to be developed on this site to 64.

The applicant is proposing to provide 130 parking stalls, which is above the minimum number of parking stalls required by the proposed Pro Zone. The proposed zone requires a parking ratio of 0.7 parking stalls per bedroom. In this case, the applicant is proposing that all units will have two (2) bedrooms which would have a parking ratio of 1.4 parking stalls per unit; for a total of 90 required stalls. The applicant desires to have a minimum of two (2) parking stalls per unit and has also proffered this requirement in the proposed Development Agreement.

The building fronting State Street will be oriented to have the entrances face State Street and the other buildings will also be oriented north to south on the site.

The applicant has proposed requirements in a Development Agreement that would require the entire project to maintain at least 60 percent (60%) of the units remain owner occupied. **This restriction is problematic in that Homeowner Associations are typically ill-equipped to enforce covenants regarding home ownership and Provo has no mechanism or process to monitor the rate of owner-occupancy over time.** While staff believes there is benefit in the proffer to sell 60% of the units to owner-occupants, the on-going guarantee of owner occupancy is unlikely to be enforced by the city.

The applicant has previously proposed restrictions in the Development Agreement that would limit the occupancy of the units to two (2) adults and any children, rather than the three (3) unrelated adults that the zoning would normally permit; however, that provision was not included in current Development Agreement. This was likely an inadvertent omission.

FINDINGS OF FACT

1. The subject property is a mostly regular-shaped lot currently designated as Mixed Use (M) on the General Plan Land Use Map.

2. The subject property is zoned R1.10.
3. Surrounding General Plan Map designations include Mixed Use.
4. There is no history of the site being developed and the site is not associated with any other adjoining land uses or properties.
5. The proposed development will comply with the requirements of the proposed Pro Zone. The Development Agreement will limit the number of units and require 130 parking stalls, which is more than the zone would require.
6. Two off-street parking stalls will be provided for each unit with two additional parking stalls provided in the development.

Analysis

The proposed PRO Zone is consistent with the future land use map of the Southeast Neighborhoods plan and the proposed 64-unit condominium project seems to be a suitable use for the infill property. The property is in an area that has been identified by the City Council and the neighborhood as a place for medium density multi-family housing. The proposed project is consistent with that intent.

As noted above, the proposed PRO Zone would allow one (1) dwelling unit per 500 square feet of lot area, which would equal approximately 184 dwelling units. Additionally, the parking ratio for the proposed PRO Zone is 0.7 parking stalls per bedroom; which would only require 90 parking stalls for the proposed condo project. Staff believes that such a density and parking ratio would be contextually inappropriate for the neighborhood given its proximity from other services. However, the applicant has proffered a Development Agreement in conjunction with the zone change request that would limit the number of dwelling units on the site to a maximum of 64 and would also require that the project provide a minimum of 130 standard parking stalls, which is a ratio of 2.03 stalls per unit.

The proposed provisions of the Development Agreement justify the application of the PRO Zone to the subject site because the number of units is more consistent with the medium density intention of the area and each unit will have a minimum of two (2) parking spaces.

It is important to note that in the previous application and development agreement proffered, the applicant agreed to limit the occupancy of the dwellings to no more than one family or two non-related adults. This restriction appears to have been inadvertently omitted from this iteration; however, staff feels this should be incorporated in the final Development Agreement to justify the proposed parking ratio.

Staff has reviewed the project and believes it will enhance the Spring Creek Neighborhood and will be consistent with the intent of the recommendations of the Southeast Provo Neighborhood Plan. The applicant has gone to great lengths to create a housing product that can be backed by the FHA and make it easier for buyers in this particular market to purchase real estate and the proposed requirement to maintain 60% of the units as owner-occupied ensures that future buyers will be able to also have their mortgages backed by the FHA.

Section 14.02.020(1) of the Provo City Code states the following regarding amendments to the Planning and Zoning Title and to the General Plan:

"Amendments shall not be made . . . except to promote more fully the objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors."

Additionally, guidelines for consideration of an amendment are set forth in Section 14.02.020(2) of the Code and are listed below. Staff analysis is provided after the individual guidelines in **bold**.

(a) Public purpose for the amendment in question.

To allow residential development of the subject infill lot which will be consistent with the future land use map found in the neighborhood plan.

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

The public purpose is served by the proposed map amendment because it will facilitate the addition of needed housing units into the City, specifically entry-level housing units that which typically assist in housing affordability.

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

As noted above, the proposed map amendment does help to implement the overall housing goal 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.

The proposed amendment relates to the zoning of an infill parcel in an established neighborhood. The proposed amendment should not negatively affect the "timing and sequencing" of any General Plan provision.

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

It seems unlikely that the proposed zoning would hinder or obstruct attainment of the articulated policies because it is aligned with the intent of the neighborhood plan.

(f) Adverse impacts on adjacent land owners.

The proposed use is consistent with other uses in the area and will likely not create any negative impacts because of the similarity in uses.

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

The proper zoning and general plan designation for the area has been thoroughly debated for several years and the desired zoning has been agreed upon. The proposed zoning is consistent with that intent.

(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 such conflict is anticipated as a result of the proposed map amendment.

RECOMMENDATION

Based on the Findings of Fact and Analysis, staff recommends the Planning Commission approve the requested zone change with the following conditions:

1. That at least sixty percent (60%) of the units will be owner-occupied;
2. That each unit will be limited to a family or not more than two adult individuals;
3. The project site is limited to development of only 64 units although the underlying zone would allow development of approximately 185 dwelling units; and,
4. The project site shall be developed with 130 standard parking stalls even though the underlying zoning would only require 90 parking stalls.

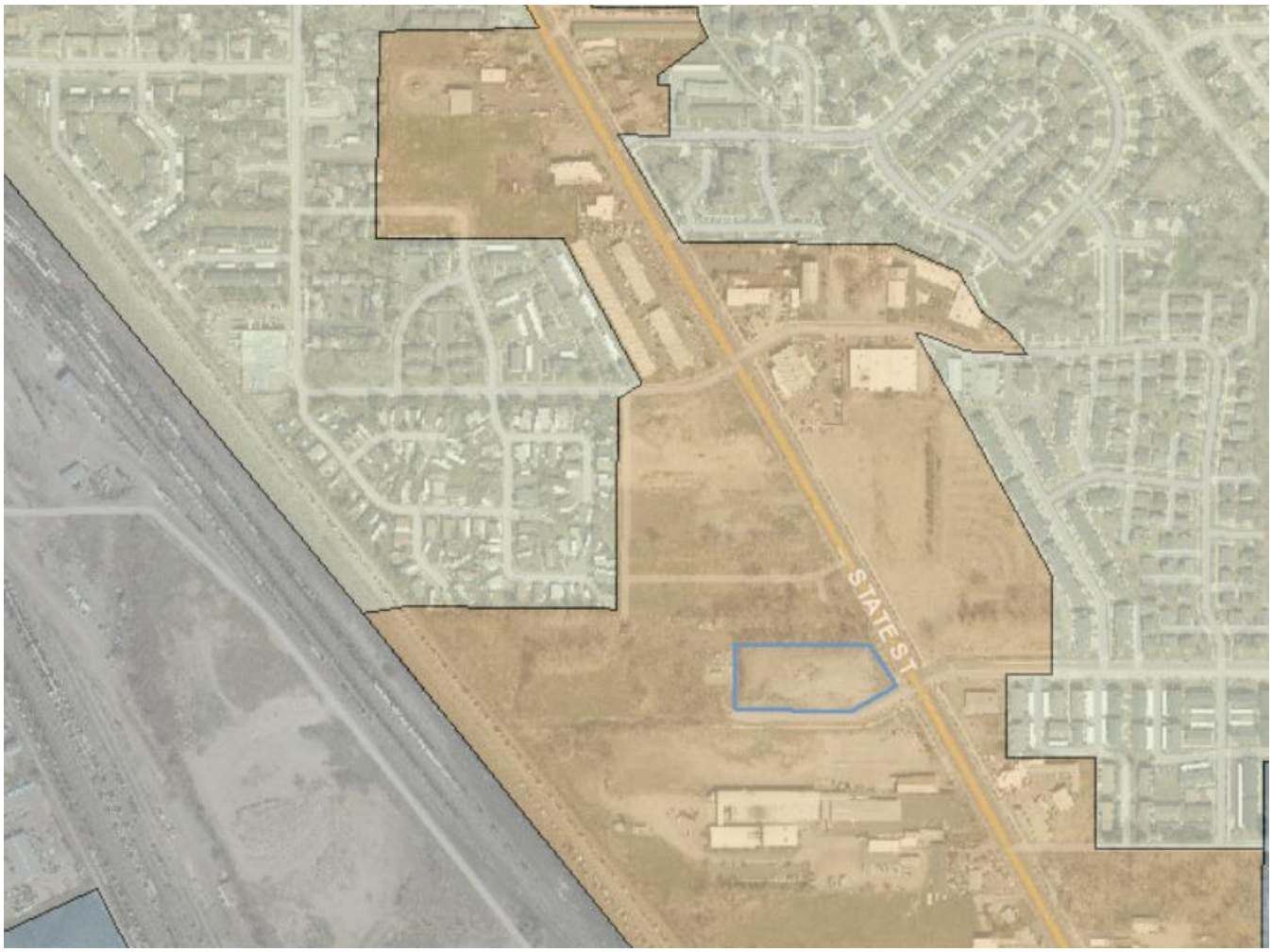
ATTACHMENTS

1. Location Map
2. Current General Plan Map
3. Southeast Neighborhood Plan Future Land Use Map
4. Current Zoning Map
5. Proposed Zoning Map
6. Site Plan
7. Development Agreement
8. Legal Description
9. Proposed 14.50(30) Entry-Level Housing (ELH) Project Redevelopment Option (PRO) Zone

Attachment 1 – Location Map



Attachment 2 – Current General Plan Map



Attachment 3 – Future Land Use Map

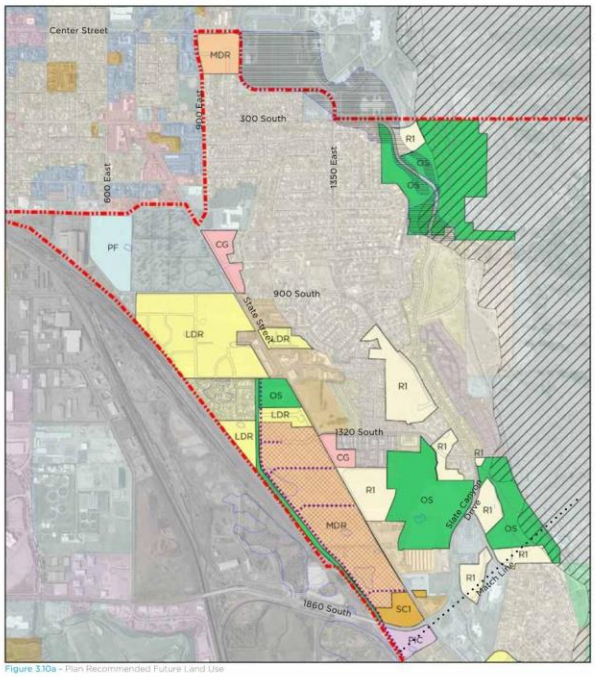


Figure 3.10a - Plan Recommended Future Land Use

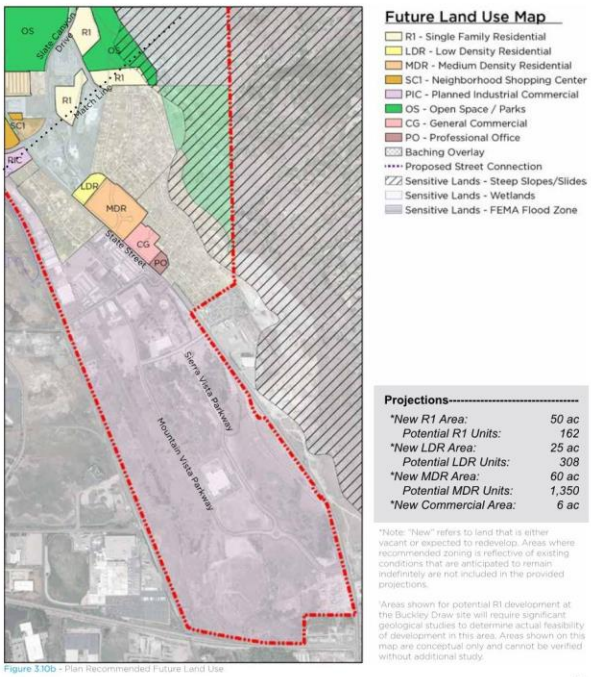


Figure 3.10b - Plan Recommended Future Land Use

Future Land Use Map

- R1 - Single Family Residential
- LDR - Low Density Residential
- MDR - Medium Density Residential
- SCI - Neighborhood Shopping Center
- PIC - Planned Industrial Commercial
- OS - Open Space / Parks
- CG - General Commercial
- PO - Professional Office
- Baching Overlay
- Proposed Street Connection
- Sensitive Lands - Steep Slopes/Slides
- Sensitive Lands - Wetlands
- Sensitive Lands - FEMA Flood Zone

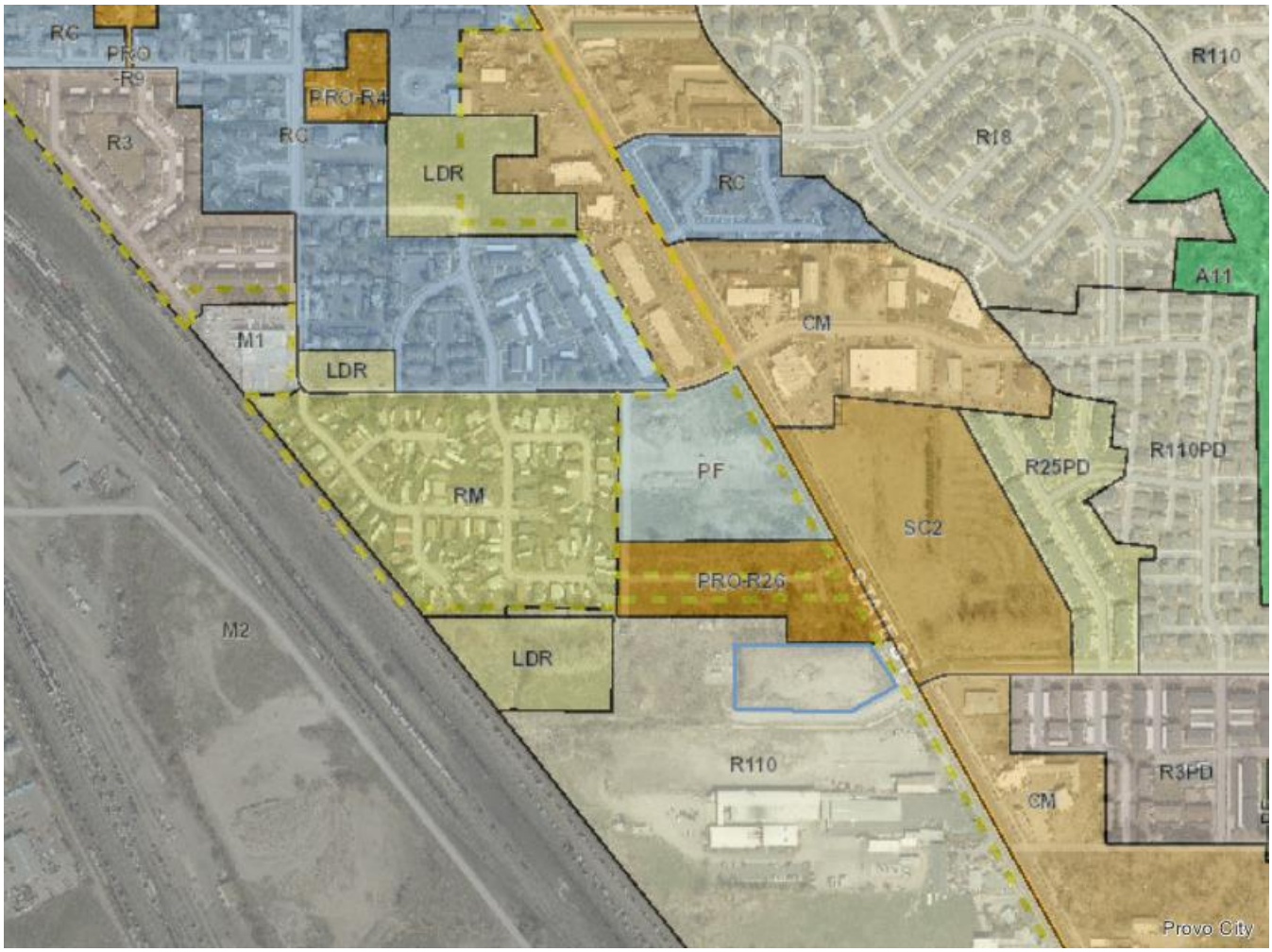
Projections

*New R1 Area:	50 ac
Potential R1 Units:	162
*New LDR Area:	25 ac
Potential LDR Units:	308
*New MDR Area:	60 ac
Potential MDR Units:	1,350
*New Commercial Area:	6 ac

*Note: "New" refers to land that is either vacant or expected to redevelop. Areas where recommended zoning is reflective of existing conditions that are anticipated to remain indefinitely are not included in the provided projections.

^Areas shown for potential R1 development at the Buckley Draw site will require significant geological studies to determine actual feasibility of development in this area. Areas shown on this map are conceptual only and cannot be verified without additional study.

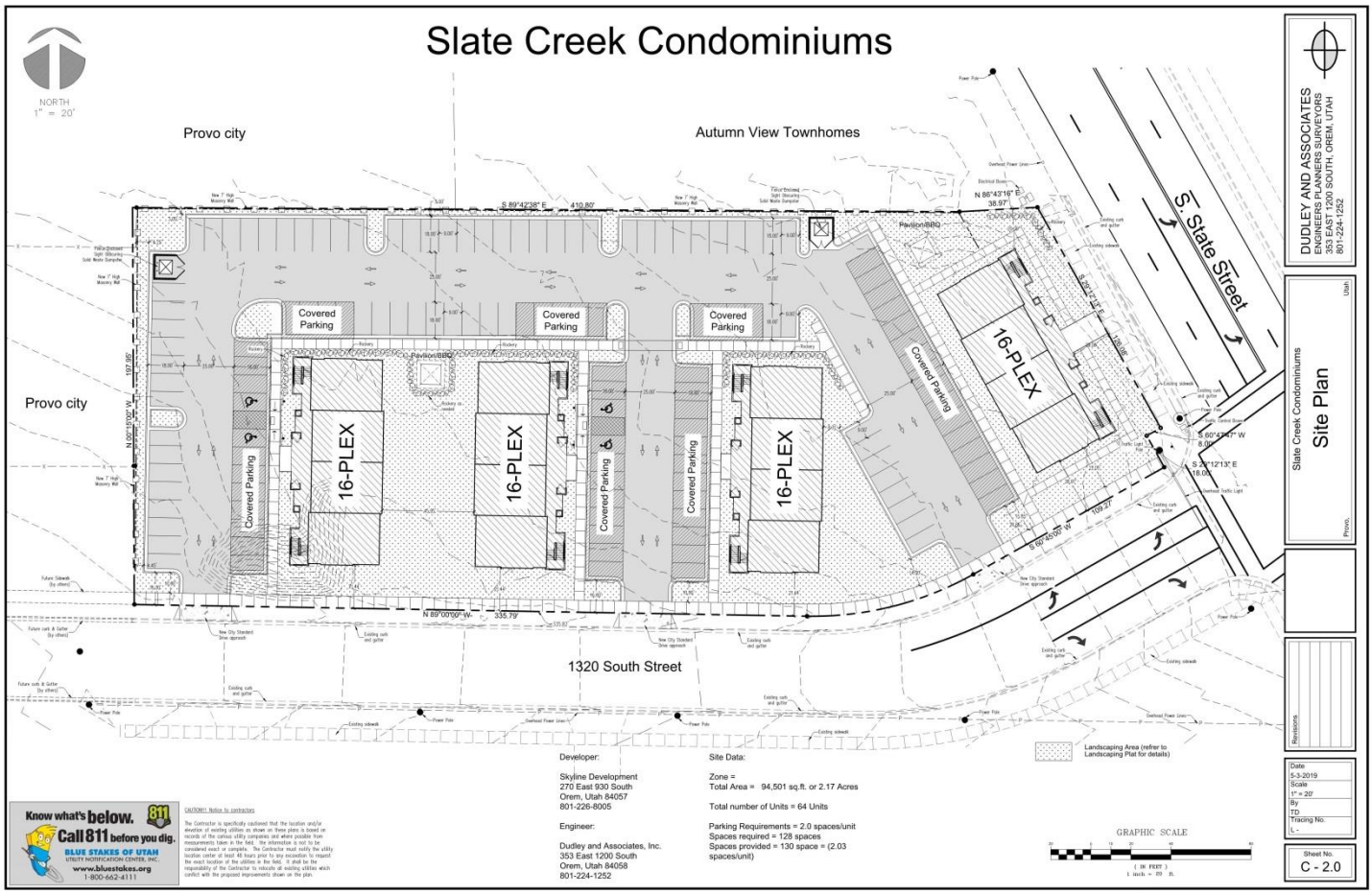
Attachment 4: Current Zoning Map



Attachment 5: Proposed Zoning Map



Attachment 6: Site Plan



Attachment 7: Development Agreement

DEVELOPMENT AGREEMENT
FOR
SLATE CREEK CONDOMINIUMS

1320 S STATE

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2019 (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Slate Creek Condominiums LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately 2.125 acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Site Plan set forth on EXHIBIT B ("Site Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Slate Creek Project Redevelopment Option Zone, (ii) all other features as generally shown on the Final Plat, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Final Plat as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Final Plat, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Final Plat, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Final Plat, the Vesting Ordinance and this Agreement. Non-material variations to the Final Plat, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

a. To provide no more than 64 units

b. To provide 130 parking spaces, or 2.03 spaces per unit.

c. To maintain as part of this agreement and in project CC&Rs an owner-occupancy ratio of approximately 60%.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Final Plat, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Slate Creek Condos LLC
270 East 930 South
Orem, UT 84058
Phone: (801) 592-8393

To the City: City of Provo
Attention: City Attorney
351 W Center Street
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event

of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____
City Recorder

By:_____
Mayor Michelle Kaufusi

DEVELOPER:

Slate Creek Condominiums LLC, a Utah limited liability company

By: _____
Name: Bruce Dickerson
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2018, personally appeared before me Brooke Roney, who being by me duly sworn, did say that he is the _____ of Slate Creek Condominiums LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

Exhibit A

Legal Description of the Property

COM S 631.27 FT & W 328.28 FT FR NE COR. SEC. 18, T7S, R3E, SLB&M.; N 0 DEG 15' 0" W 197.95 FT; S 89 DEG 42' 16" E 2.01 FT; S 89 DEG 42' 38" E 410.8 FT; N 86 DEG 43' 15" E 22.5 FT; S 28 DEG 59' 59" E 151.29 FT; S 60 DEG 45' 0" W 101.94 FT; ALONG A CURVE TO R (CHORD BEARS: S 75 DEG 52' 31" W 85.58 FT, RADIUS = 164.16 FT); N 89 DEG 0' 0" W 335.86 FT TO BEG. AREA 2.125 AC.

Exhibit B

Final Plat

Attachment 8: Legal Description

Legal description

COM S 631.27 FT & W 328.28 FT FR NE COR. SEC. 18, T7S, R3E, SLB&M.; N 0 DEG 15' 0" W 197.95 FT; S 89 DEG 42' 16" E 2.01 FT; S 89 DEG 42' 38" E 410.8 FT; N 86 DEG 43' 15" E 22.5 FT; S 28 DEG 59' 59" E 151.29 FT; S 60 DEG 45' 0" W 101.94 FT; ALONG A CURVE TO R (CHORD BEARS: S 75 DEG 52' 31" W 85.58 FT, RADIUS = 164.16 FT); N 89 DEG 0' 0" W 335.86 FT TO BEG. AREA 2.125 AC

Attachment 9: 14.50 (30) ENTRY-LEVEL HOUSING (ELH) Project Redevelopment Option Zone

Chapter 14.50(30)
~~50 EAST~~ ENTRY-LEVEL HOUSING (ELH) PROJECT REDEVELOPMENT OPTION ZONE

Sections:

14.50(30).010	**Purposes and Objectives.**
14.50(30).020	**Compliance with Titles 14 and 15 Required.**
14.50(30).030	**Permitted Uses.**
14.50(30).040	**Lot Area.**
14.50(30).050	**Lot Width.**
14.50(30).060	**Lot Depth.**
14.50(30).070	**Lot Frontage.**
14.50(30).080	**Lot Area per Dwelling.**
14.50(30).090	**Yard Requirements.**
14.50(30).100	**Building Height.**
14.50(30).110	**Distance Between Buildings.**
14.50(30).120	**Permissible Lot Coverage.**
14.50(30).130	**Parking, Loading, and Access.**
14.50(30).140	**Project Plan Approval Design Review.**
14.50(30).150	**Other Requirements.**
14.50(30).160	**Notice of Parking and Occupancy Restrictions.**

14.50(30).010
Purposes and Objectives.

The ~~50 East~~ ELH Project Redevelopment Option zone is established to provide ~~a~~ high-density, multiple-residential ~~character~~ developments ~~located within the South Campus Planning Area~~ as identified in the General Plan. The densities permitted by this zone are intended to encourage redevelopment of land for residential uses where property values are high and demolition may be necessary. The uses typically permitted in this zone are ~~apartments, baching apartments, and limited commercial serving the residents. A management office will be provided on the premise.~~condos and townhomes and limited commercial support uses.

(Enacted 2010-15)

14.50(30).020
Compliance with Titles 14 and 15 Required.

In addition to the development standards contained in this Chapter, areas zoned to the ~~50 East~~ ELH PRO zone shall comply with the development requirements in Titles 14 and 15, Provo City Code, unless modified by this chapter.

(Enacted 2010-15)

14.50(30).030
Permitted Uses.

(1) Those uses or categories of uses listed herein, and no others, are permitted in the zone.

(2) All uses contained herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four (4) digit number in which all digits are whole numbers. Classes or groupings of such uses permitted in the zone are identified by a four (4) digit number in which the last one or two digits are zeroes.

(3) All such categories listed herein and all specific uses contained within them in the Standard Land Use Code will be permitted in the zone, subject to the limitations set forth herein.

(4) *Permitted Principal Use.* The following principal uses and structures, and no others, are permitted in the zone:

Use No.	Use Classification
1112	Single-family dwelling - attached
1150	Apartments (high rise) includes condominiums
4700	Communications
4811	Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4829	Other gas utilities, NEC
4831	Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to

Use No.	Use Classification
	the right-of-way of the activity)
4834	Water storage as part of a utility system (covered including water storage standpipes)
4841	Sewer pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)
4874	Spreading grounds (Area for percolating water into underground)
5390	General Merchandise (support commercial and convenience)
5400	Food (support commercial and convenience)

(5) *Permitted Accessory Uses.* Accessory uses and structures are permitted in the zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to the following:

(a) Accessory buildings such as garages, carports, bath houses, greenhouses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with, and incidental to, a principal use or structure;

(b) Swimming pools and incidental bath houses subject to the standards of Section 14.34.210, Provo City Code;

(c) Storage of materials used for construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto, and provided further that such use shall be permitted only during the construction period and thirty (30) days thereafter;

(d) Household pets, provided that no more than two (2) dogs and two (2) cats six (6) months of age or older shall be kept at any residence or commercial establishment at any time. Nothing herein shall be construed as authorizing the keeping of any animal capable of inflicting harm or discomfort or endangering the health and safety of any persons or property.

(Enacted 2010-15)

14.50(30).040
Lot Area.

The minimum area of any lot or parcel of land in the zone shall be one (1) acre.

(Enacted 2010-15)

14.50(30).050
Lot Width.

Each lot or parcel of land in the zone, shall have a minimum average width of one hundred (100) feet.

(Enacted 2010-15)

14.50(30).060
Lot Depth.

Each lot or parcel of land in the zone shall have a minimum lot depth of one hundred (100) feet.

(Enacted 2010-15)

14.50(30).070
Lot Frontage.

Each lot or parcel of land in the zone shall abut on a public street for a minimum distance of one hundred (100) feet.

(Enacted 2010-15)

14.50(30).080
Lot Area per Dwelling.

(1) One (1) dwelling unit per each five hundred (500) square feet of lot area are permitted.

(2) When the lot area per dwelling standard results in a fraction, the number of allowed units shall be rounded up or down depending on whether the fraction is greater or less than 0.5.

(Enacted 2010-15)

14.50(30).090
Yard Requirements.

There are no required setbacks unless required by the adopted International Building Code. No portion of the structure including awnings, signs, stairs, decks, etc. may project over the property line.

(Enacted 2010-15)

14.50(30).100
Building Height.

No lot or parcel of land in the zone shall not have a building or structure shall not exceed a height of seventy-five (75) feet. Chimneys, flagpoles, towers and similar structures not used for human occupancy are excluded in determining height.

(Enacted 2010-15)

14.50(30).110
Distance Between Buildings.

The distance between buildings shall be determined as per the International Building Code.

(Enacted 2010-15)

14.50(30).120
Permissible Lot Coverage.

(1) All buildings and structures shall cover an area of not more than ninety (90) percent of the lot or parcel of land at ground level upon which they are placed.

(2) Parking structures shall be constructed below and above grade. Parking structures will not be considered as parts of the lot coverage but will have additional review by the Planning Commission or its design in regards to screening and buffering of parking structure from adjacent properties and public view.

(Enacted 2010-15)

14.50(30).130
Parking, Loading, and Access.

(1) Each lot or parcel of land in the zone shall have on the same lot or parcel, or adjacent lot or parcel located in the same zone, automobile parking sufficient to comply with the following requirements:

(a) Parking in the amount of 0.70 parking spaces per bedroom.

(b) Visitor parking spaces shall be designated and posted with signs.

(c) All other regulations of Chapter 14.37 apply.

(Enacted 2010-15)

14.50(30).140
Project Plan Approval Design Review.

See Sections 15.03.300 and 15.03.310, Provo City Code.

(Enacted 2010-15)

14.50(30).150
Other Requirements.

(1) *Signs.* Unless otherwise prohibited by law, signs of the type and description listed below, and no others, may be placed and maintained in the zone:

(a) One (1) freestanding monument sign not exceeding five (5) feet in height or fifty (50) square feet in area on an ornamental masonry wall which identifies at least the name and address of an apartment structure may be permitted. This sign may contain an electronic reader board as part of the square footage. The electronic messages may not flash or rotate greater than 8 revolutions per minute. This standard does not prohibit the individual led bulbs from turning on and off to provide the appearance of movement of the letters or message.

(b) One (1) wall directory sign identifying the names and locations of tenants occupying the premises shall be located at main entrances to the structure. Said sign shall not exceed ten (10) square feet.

(c) Two (2) temporary signs with a maximum area of six (6) square feet each pertaining to the sale, lease or rent of the particular building, property, or premises upon which displayed, and no other.

(d) One (1) wall sign not exceeding fifty (50) square feet per face of the structure with a maximum of four (4) faces (signs) to identify the name and address of the complex.

(2) *Landscaping.* Chapter 15.20.080(3) landscaping standards shall prevail with the following exceptions:

(a) Foundation planting beds as described in Table 15-20-1 may be replaced with planter boxes when above sub-grade structured parking.

(b) Hard-scape at ground level may constitute up to 90% of the site when the site is predominately covered with sub-grade structured parking.

(3) *Trash Storage.* See Section 14.34.080, Provo City Code. Or Private Trash Removal

(4) *Fencing Standards.* All fencing must be approved by the Design Review Committee.

(5) *Entryways.* All entry treatment must be approved by the Design Review Committee.

(Enacted 2010-15)

14.50(30).160
Notice of Parking and Occupancy Restrictions.

(1) Prior to the issuance of a building permit for any multiple residential project over two (2) dwelling units, a contract must be entered into between Provo City and the developer agreeing to a determined occupancy based on a given number of parking spaces. This contract will be recorded with the Utah County Recorder's office and will run with the property. A copy of a recorded deed for the property in question must also be submitted prior to the issuance of a building permit which indicates the maximum allowable occupancy as a deed restriction. Attached to the deed must be a document that separately list the occupancy according to Provo City Code, the previously mentioned deed restrictions and any other use restrictions pertaining to parking and occupancy such as restrictions of use as noted in condominium covenants. This document must be signed, dated and notarized indicating that the owner acknowledges and agrees to all restrictions and regulations stated on the deed and attachments.

(2) Prior to the issuance of a Certificate of Occupancy for new Multiple Residential dwelling units a permanent notice must be placed on the electrical box within each unit indicating the maximum allowable occupancy of each unit based on the approved occupancy consistent with the recorded parking and occupancy contract. This notice must be a 6" X 6" metal or plastic plate that is permanently attached to the electrical box with a minimum 1/2 inch engraved letters.

(3) Upon submittal of these documents any violation to the restrictions and regulations noted therein will be considered a misdemeanor offense and will be subject to criminal action as provided in Section 1.03.010, Provo City Code.

(Enacted 2010-15)

The Provo City Code is current through Ordinance 2019-18, passed April 23, 2019.

Disclaimer: The city recorder has the official version of the Provo City Code. Users should contact the city recorder for ordinances passed subsequent to the ordinance cited above.

City Website: www.provo.org
City Telephone: (801) 852-6000
Code Publishing Company

ORDINANCE 2019-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 2.1 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 1320 SOUTH STATE STREET, FROM RESIDENTIAL (R1.10) TO A NEW ENTRY LEVEL HOUSING (ELH) PROJECT REDEVELOPMENT OPTION ZONE. SPRING CREEK NEIGHBORHOOD. (PLRZ20190100)

WHEREAS, it is proposed that the classification on the Zone Map of Provo City for approximately 2.1 acres of real property, generally located at 11320 South State Street (as shown on Exhibit A), be amended from Residential (R1.10) a new Entry Level Housing (ELH) Project Redevelopment Option Zone; and

WHEREAS, on June 12, 2019, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council in a 5:1 vote; and

WHEREAS, the Planning Commission's recommendation was based on the project design presented to the Commission; and

WHEREAS, on June 18, 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 Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo City, Utah, should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property shown in the attached Exhibit A 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:

The classification on the Zone Map of Provo City, Utah is hereby amended Residential (R1.10) a new Entry Level Housing (ELH) Project Redevelopment Option Zone for approximately 2.1 acres of real property generally located at 1320 South State Street, as described in the attached Exhibit A.

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 Zone Map of Provo City, Utah be updated and codified 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

Exhibit A



Provo City Planning Commission

Report of Action

June 12, 2019

Item 4* Brady Deucher requests a Zone Change from R1.10 to 14.50(30) Project Redevelopment Option Zone for approximately 2.1 acres located at 1320 S State Street. . Spring Creek neighborhood. Robert Mills (801) 852-6407 PLRZ20190100

The following action was taken by the Planning Commission on the above described item at its regular meeting of June 12, 2019:

Approve with Conditions

On a vote of 5:1, the Planning Commission recommended the item be approved by the City Council subject to the following conditions:

1. That at least sixty percent (60%) of the units will be owner-occupied;
2. That each unit will be limited to a family or not more than two adults individuals;
3. The project site is limited to development of only 64 units;
4. The project site shall be developed with 130 standard parking stalls even though the underlying zoning would only require 90 parking stalls; and,
5. The applicant be required to finalize the certification to allow the proposed units to qualify for FHA-backed mortgages.

Motion By: Jaiman Rowan
Second By: Maria Winden
Votes in Favor of Motion: Shannon Ellsworth, Deborah Jensen, Robert Knudsen, Jaiman Rowan
Votes in Opposition: Dave Anderson
Deborah Jensen was present as Chair.

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:

- The proposed zone is consistent with the General Plan and the Southeast Provo Neighborhoods Future Land Use Map.
- The proposed project will consist of 64 two-bedroom condo units offered for sale.
- The applicant has submitted concurrent applications for a text amendment to rename the subject PRO Zone and a Project Plan.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on April 4, 2019.

NEIGHBORHOOD AND PUBLIC COMMENT

- Multiple Neighborhood Chair(s) were present or addressed the Planning Commission. The Spring Creek Neighborhood Chair was generally supportive of the proposed zone change and project.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- They have been able to construct this product in other cities with great success.
- The project will be managed by an outside management company which contracts with the HOA.
- The requirements for owner-occupancy will be recorded on the plat and on the deed.
- The project will have very strong Covenants, Conditions and Restrictions (CC&Rs) to limit occupancy and to keep the project FHA compliant in perpetuity.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Discussion among planning commission members focused on the parking reduction request and the affordability of the project in perpetuity. Some of the commissioners were concerned about the location of the project and the availability of needed services. However, the majority of planning commissioners felt the project was consistent with the intent for the area and would support the project.



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

ITEM 4*

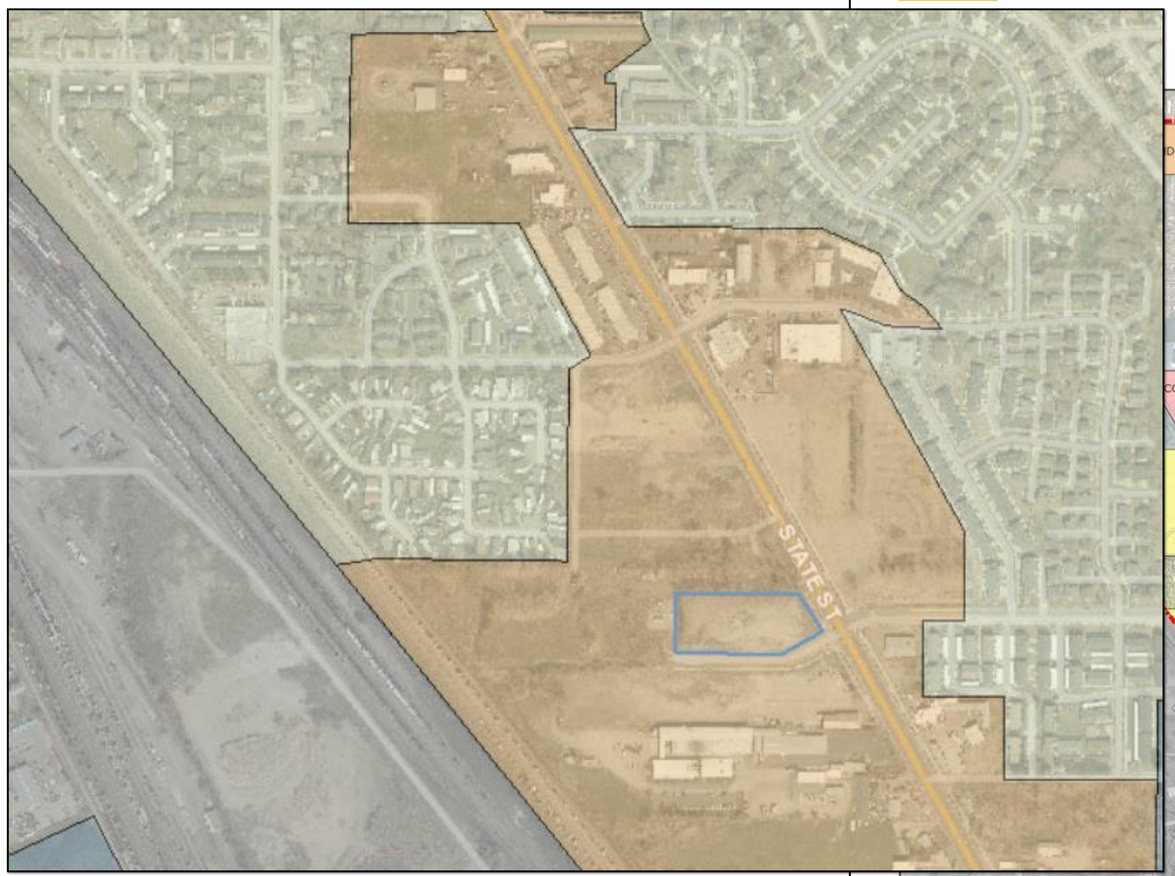
Brady Deucher requests a Zone Change from R1.10 to a Project Redevelopment Option Zone for approximately 2.1 acres located at 1320 S State Street.

Spring Creek neighborhood

PLRZ20190100


Project Site
ST

Current GP Designation – Mixed Use



Future Land Use Map – Medium Density Residential

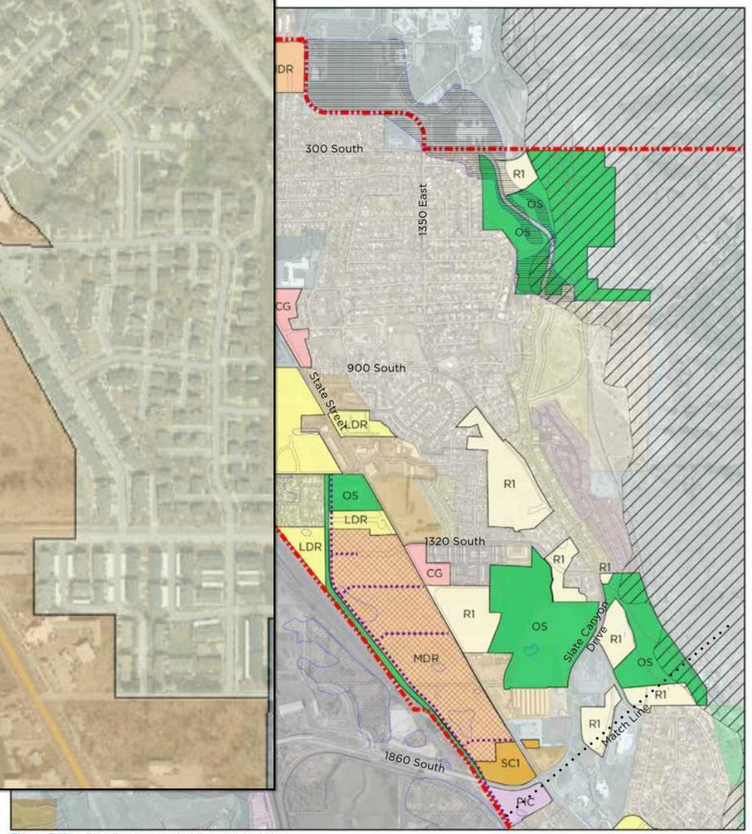


Figure 3.10a - Plan Recommended Future Land Use

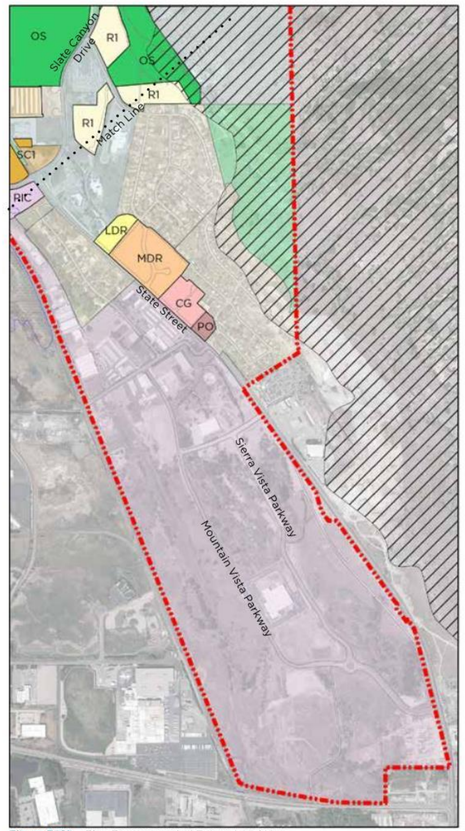


Figure 3.10b - Plan Recommended Future Land Use

Future Land Use Map

- R1 - Single Family Residential
- LDR - Low Density Residential
- MDR - Medium Density Residential
- SC1 - Neighborhood Shopping Center
- PIC - Planned Industrial Commercial
- OS - Open Space / Parks
- CG - General Commercial
- PO - Professional Office
- Baching Overlay
- Proposed Street Connection
- Sensitive Lands - Steep Slopes/Slides
- Sensitive Lands - Wetlands
- Sensitive Lands - FEMA Flood Zone

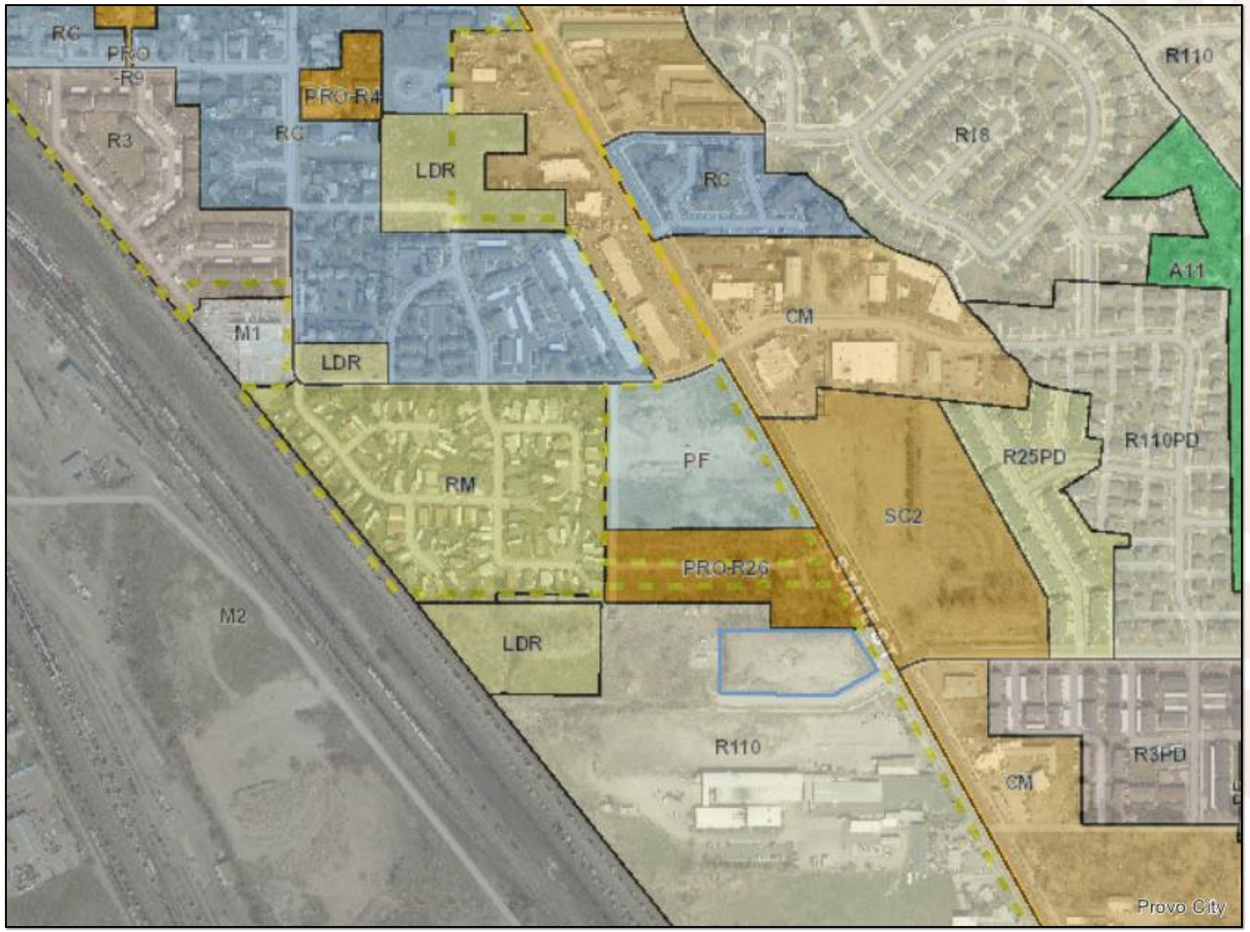
Projections----------

*New R1 Area:	50 ac
Potential R1 Units:	162
*New LDR Area:	25 ac
Potential LDR Units:	308
*New MDR Area:	60 ac
Potential MDR Units:	1,350
*New Commercial Area:	6 ac

*Note: "New" refers to land that is either vacant or expected to redevelop. Areas where recommended zoning is reflective of existing conditions that are anticipated to remain indefinitely are not included in the provided projections.

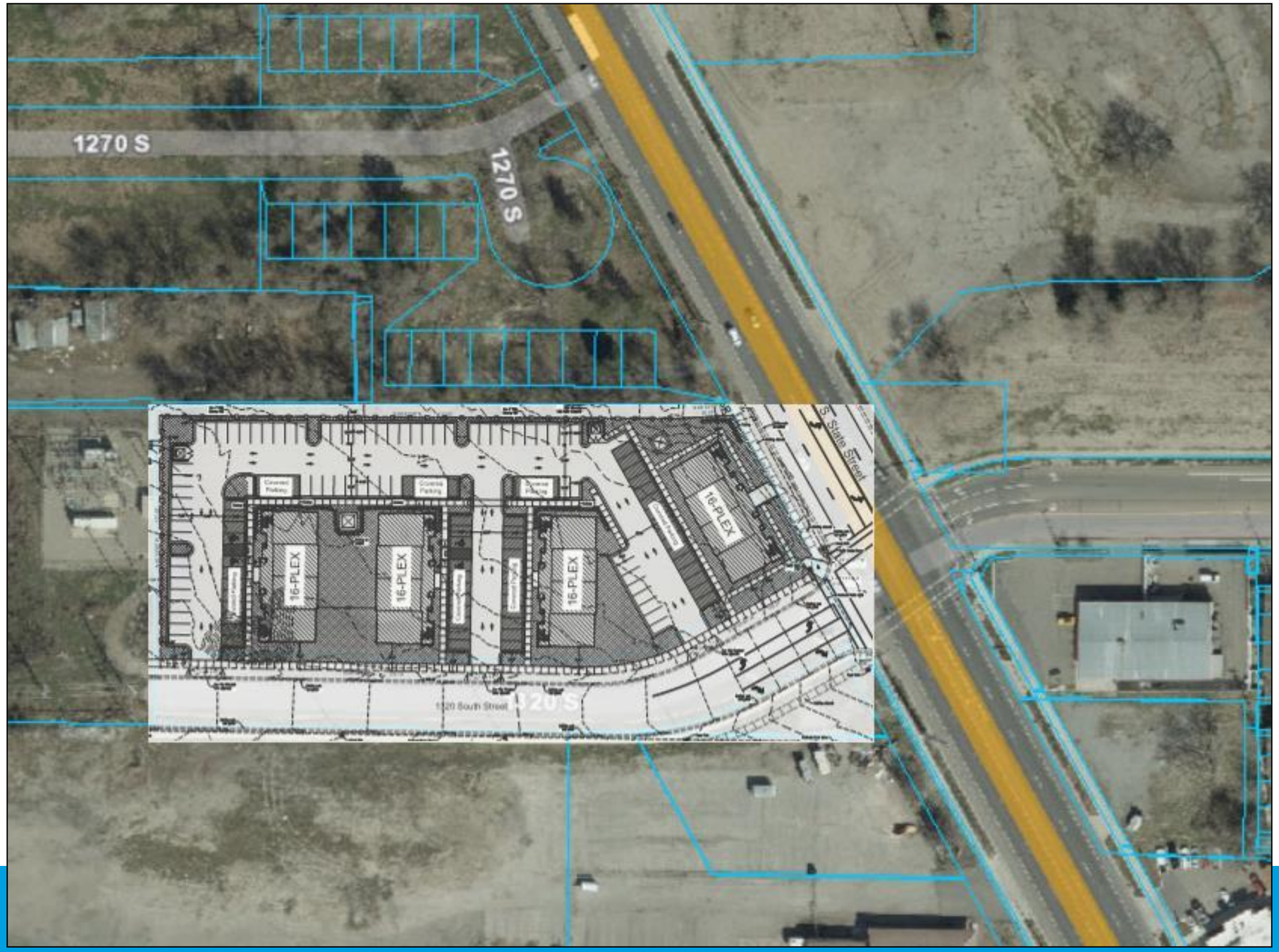
[1]Areas shown for potential R1 development at the Buckley Draw site will require significant geological studies to determine actual feasibility of development in this area. Areas shown on this map are conceptual only and cannot be verified without additional study.

Existing Zoning – R1.10

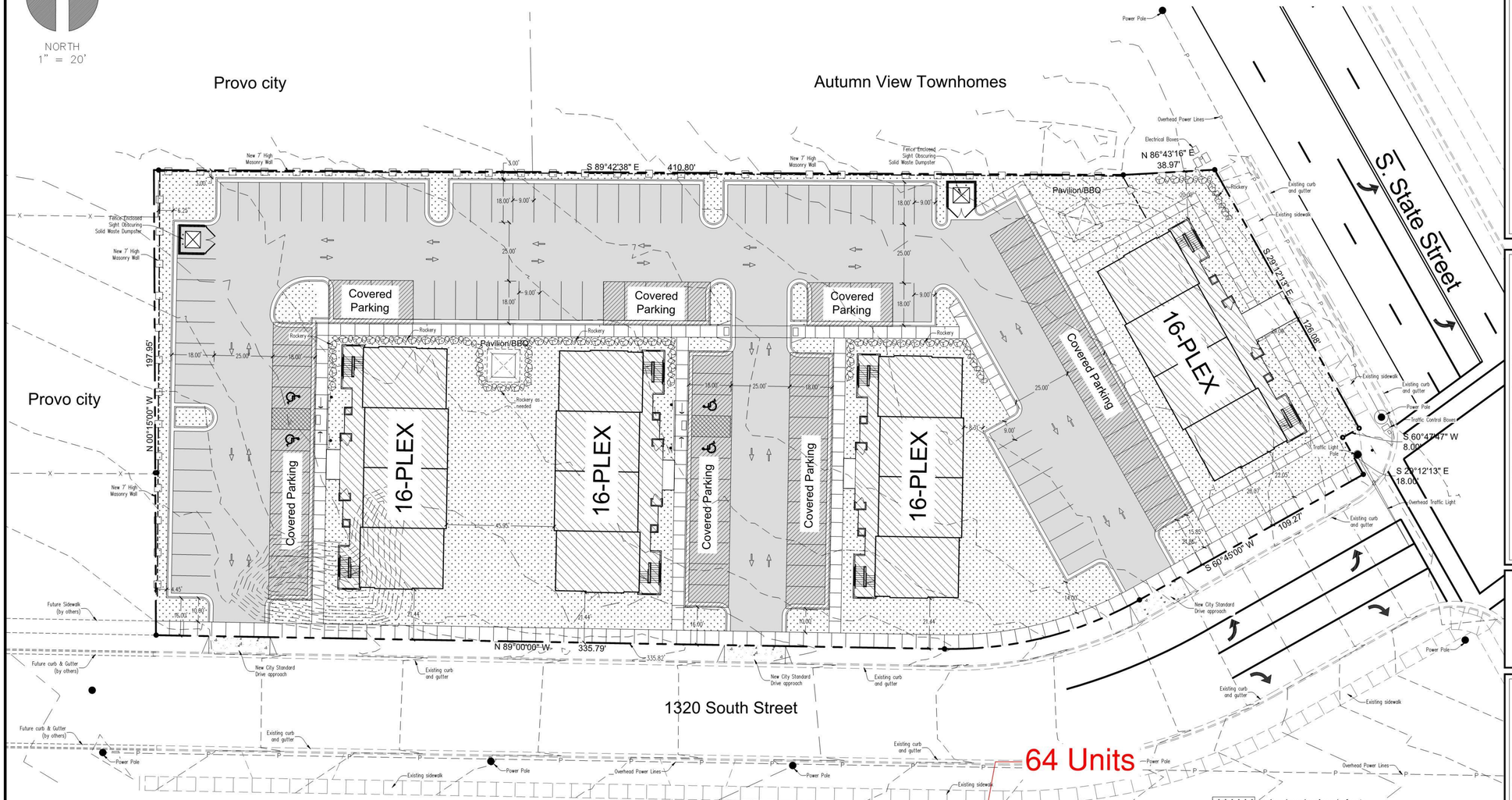


Proposed Zoning – PRO Zone (14.50(30))




1270 S
1270 S
16-PLEX
16-PLEX
16-PLEX
16-PLEX
S State Street
1320 South Street
1320 S

Slate Creek Condominiums



64 Units

130 Parking Stalls

Developer:

Skyline Development
270 East 930 South
Orem, Utah 84057
801-226-8005

Engineer:

Dudley and Associates, Inc.
353 East 1200 South
Orem, Utah 84058
801-224-1252

Site Data:

Zone =
Total Area = 94,501 sq.ft. or 2.17 Acres

Total number of Units = 64 Units

Parking Requirements = 2.0 spaces/unit
Spaces required = 128 spaces
Spaces provided = 130 space = (2.03 spaces/unit)

Landscaping Area (refrer to Landscaping Plat for details)

GRAPHIC SCALE
20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.

Know what's below. Call 811 before you dig.
BLUE STAKES OF UTAH
UTILITY NOTIFICATION CENTER, INC.
www.bluestakes.org
1-800-662-4111

CAUTION!!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. the information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Slate Creek Condominiums
Site Plan
Provo, Utah

Revisions

Date
5-3-2019
Scale
1" = 20'
By
TD
Tracing No.
L -

Sheet No.
C - 2.0

- 4 four-story buildings
- 4 units per floor (64 units)
- Two bed/one bath per unit
- 130 parking stalls (2.03 stalls/unit)
- 60% to be owner-occupied







