

FIELDING TOWN ZONING CODE

2009

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Chapter 1

GENERAL PROVISIONS

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1.010 SHORT TITLE. This Code shall be known as the "Code" of Fielding Town, and may be so cited and pleaded.

1.020 PURPOSE. This Code is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Fielding Town, providing for, among other things, less congestion in the streets, better building and development practices, adequate light and air, a logical classification of land uses and distribution of land development and utilization, protection of the tax base, economy in governmental expenditures, encouragement of agriculture and industrial pursuits in appropriate locations, and the protection of existing urban development. This Code accomplishes these purposes by zoning the area lying within Fielding Town and by regulating the location, height, bulk and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and open spaces, the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of

land for trade, industry, residence, recreation, public activities or other purposes, and regulates the subdivision of land within Fielding Town.

1.030 EFFECT OF CHAPTER. The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the district regulations and all other regulations appearing elsewhere in this Code.

1.040 INTERPRETATION. In interpreting and applying the provisions of this Code, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

1.050 CONFLICT. This Code shall not nullify the more restrictive provisions of covenants, agreements, or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

1.060 EFFECT ON PREVIOUS ORDINANCES AND MAPS. The existing ordinances covering zoning, in their entirety, and including the maps heretofore adopted and made a part of said ordinances, are hereby superseded and amended to read as set forth herein; provided, however, that this Code, including the attached map or maps, shall be deemed a continuation of previous codes and not a new enactment, insofar as the substance of revisions or previous codes is included in this Code, whether in the same or in different language; and this Code shall be so interpreted upon all questions of construction relating to tenure of officers and boards established by previous codes to questions of conforming or nonconforming uses and buildings and structures, and to questions as to the dates upon which such uses, buildings, or structures became conforming or nonconforming.

1.070 LICENSING. All departments, officials and public employees of Fielding Town which are vested with duty or authority to issue permits or licenses shall conform to the provisions of this Code and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this Code and any such permit or license, if issued in conflict with the provisions of this Code, shall be null and void.

1.080 LEGAL REMEDIES FOR VIOLATION. Any person, firm or corporation, whether as principal, agent or employee, who violates or causes the violation of any of the provisions of this Code shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law.

In addition, the following may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, or maintenance or use: (1) Fielding Town by action of the Governing Body; or (2) any owner of real estate within the zoning district in which an alleged violation of this Code has occurred.

1.090 SEVERABILITY. Should any chapter, section, clause, or provision of this Code be declared by the courts to be invalid, the same shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be invalid.

1.100 ZONING ADMINISTRATOR - AUTHORITY AND DUTIES. The Zoning Administrator is hereby authorized to enforce this Code and all provisions thereof and shall do so by any legal means available to him, including but not limited to the following:

A. Advise the building official on the issuance of building permits. (If the zoning administrator gives written notification to the building official that an intended use, building or structure would be in violation of this Code, such written notification shall be a presumption of illegality and the building official shall not issue a building permit for such use, building, or structure. If the offices of building official and zoning administrator are held concurrently by one person, this person shall detail the violation in writing on the permit refusal notification.)

B. Inspect the uses of buildings, structures or land to determine compliance with the Code. Such inspections shall be made at reasonable times.

C. Issue Notices of Violation wherever building or land are being used contrary to the provisions of this Code. (This shall be done by serving notice in writing on any person engaged in said use and posting such notice on the premises.)

D. Inform the Governing Body of all Code violations and recommend specific courses of action with regard to each violation.

E. Maintain a file of Code violations and action to be taken by the Governing Body on such violations.

1.110 CODE AND MAP AMENDMENT PROCEDURES. The Governing Body may amend this Code, including the map, but only in accordance with the following procedure:

A. The Planning Commission may initiate Code amendment recommendations to the Governing Body. Any other person seeking to amend this Code or map shall make application for such amendment by filing the following material with the Planning Commission:

1. A written petition designating the change desired and the reasons therefore.
2. A nonreturnable amendment review fee in an amount determined by resolution of the Governing Body.

B. The Planning Commission shall review and hold a public hearing concerning the amendment application and certify its recommendations concerning the proposed amendment to the Governing Body within forty-five (45) days from receipt of the amendment application in a regularly scheduled meeting. The Planning Commission shall recommend adoption of a proposed amendment only where the following findings are made:

1. The proposed amendment is in accordance with the Master Plan of Fielding Town.
2. Changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this Code.

C. After receipt of the certified favorable recommendations of the Planning Commission, the Governing Body may hold a public hearing to consider such amendment as provided by law for zoning amendments.

D. After the optional public hearing and during a public meeting concerning the proposed amendment, the Governing Body may adopt or reject such amendment.

E. A majority vote by members of the Governing Body that agrees with an unfavorable recommendation of the Planning Commission shall constitute a denial of the application. However, if the Governing Body determines that the proposed amendment may be desirable in spite of the Planning Commission's recommendation, a public hearing shall be held, with notice as required by law, prior to formal action on the application by the Governing Body.

F. If the Governing Body proposes to make any substantive change in the amendment as submitted to it by the Planning Commission, or as advertised, it shall refer such change back to the Planning Commission for its recommendation before adoption of such amendment.

Where an application for zoning amendment has been denied, the Planning Commission and the Governing Body shall not review the same zoning amendment application within six (6) months of such denial, but may consider the proposal thereafter, but only if there is a substantial change of conditions since the earlier application. A resubmitted application shall be processed in accordance with the procedure outlined above.

1.120 BUILDING PERMITS - SITE PLAN REQUIRED. An application for a building or use permit shall be made to the local building official and shall include a site plan and such other information as may be required by ordinance in Fielding Town.

1.130 BUILDING, USE, AND OCCUPANCY PERMITS REQUIRED. No building or structure shall be constructed, reconstructed, altered, or moved and no land shall be used except after the issuance of a permit for the same by the building official of Fielding Town.

1.140 BUILDING, USE AND OCCUPANCY PERMITS TO COMPLY WITH THIS CODE. Building, use, and occupancy permits shall not be granted for the construction or alteration of any building or structure, or for the moving or removal of a building onto or from a lot or for the use or occupancy of a building or land if such structure, construction, alteration, moving, use, or occupancy would be in violation of any of the provisions of this Code. Permits issued in violation of any provision of this Code, whether intentional or otherwise, shall be null and void. An occupancy permit shall not be issued until the Zoning Administrator and Building Official shall have filed on record a report finding that the structures and intended uses are in compliance with the provisions of this Code and specifically as to location and completion of both off-site (curb, gutter, sidewalk, paving, utilities, fences, ditches, etc.) and on-site (buildings, etc.) improvements.

1.160 INSPECTION AND APPROVAL REQUIRED PRIOR TO OCCUPANCY. Buildings and structures requiring a building permit pursuant to the provisions of this Code shall not be occupied or put into use until the local building official has inspected such building or structure, finds compliance with this Code and the building code of Fielding Town, and gives a written certificate of occupancy and use to the owner or his agent to occupy and/or use the building or structure in the manner approved by the issuance of a valid building permit.

1.170 CONDITIONAL USE PERMIT REQUIRED FOR RESTRICTED LOTS. No building permits shall be issued for construction of any building or structure to be located on a restricted lot unless a valid Conditional Use Permit for the same has previously been issued pursuant to this Code.

1.180 SUBSTANDARD LOTS AT TIME OF CODE PASSAGE. Any lot legally held in separate ownership at the time of adoption of this Code, which lot is below the requirements for lot area or lot width for the district in which it is located and on which lot a dwelling would be permitted if the lot met the area requirements of the Code, may be used for a single-family dwelling if such a lot is located in an R1 or an RM district. The width of each of the side yards for such a dwelling may be reduced to a width which is not less than the same percentage of the lot width as the required side yard would be of the required lot width, provided that in no case shall the smaller of the two yards be less than five (5) feet, nor shall the total width of the two yards be less than thirteen (13) feet.

1.190 NONCONFORMING LOTS PROHIBITED AFTER ADOPTION OF CODE. After adoption of this Code, no lot having less than the minimum width and area required in the district in which it is located may be created nor shall building permits be issued for construction on such nonconforming lots created subsequent to adoption of this Code.

1.200 LOT STANDARDS AND STREET FRONTAGE. Except for planned unit developments, condominiums, and as otherwise provided in this Code, every lot presently existing or hereafter created shall have such area, width, and depth as required by this Code for the district in which such lot is located and shall have frontage upon a public street or upon a private street or right-of-way approved by the Planning Commission, before a building permit may be issued, provided that no lot containing five (5) acres or less shall be created which is more than three (3) times as long as it is wide.

1.220 LOTS AND DWELLINGS FRONTING ON PRIVATE STREETS - SPECIAL PROVISIONS. Lots with frontage only on private streets shall be allowed by conditional use permit procedure only, and shall be subject to all applicable requirements of this Code.

1.230 YARD SPACE FOR ONE BUILDING ONLY. No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Code shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

1.240 YARDS TO BE UNOBSTRUCTED - EXCEPTIONS. Every part of a required yard shall be open to the sky, unobstructed except for permitted accessory buildings in a rear yard.

1.250 EXCEPTIONS TO HEIGHT LIMITATIONS. Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flag poles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos, or similar structures may be erected above the height limit herein prescribed, but no space above the height limit for residential purposes shall be allowed for purposes of providing additional floor space, nor shall such increased height be in violation of any other ordinance or regulation of Fielding Town.

1.260 ADDITIONAL HEIGHT ALLOWED. Public buildings and utility buildings, when authorized in a district, may be erected to a height greater than the district height limit by conditional use permit.

1.270 MINIMUM HEIGHT OF DWELLINGS. No dwelling shall be erected to a height less than one (1) story above grade, except in a planned unit development.

1.290 AREA OF ACCESSORY BUILDINGS. No accessory building or group of accessory buildings in any residential district shall cover more than forty (40) percent of the rear yard.

1.300 WATER AND SEWERAGE REQUIREMENTS. In all cases where a proposed building or proposed use will involve the use of sewerage facilities, and a connection to a public sewer system as defined by the Utah State Division of Health is not available; and in all cases where a connection to a public water system approved by the Utah State Division of Health is not available: the sewage disposal system and the domestic water supply shall comply with state and local Board of Health requirements, and the application for a building permit shall be accompanied by a Certificate of Feasibility from said Board or Division and evidence of the physical presence, legal right to and availability of culinary water acceptable to Fielding Town and showing the actual physical presence, legal right and availability of culinary water for the sole use of the proposed building or use.

1.310 CLEAR VIEW OF INTERSECTING STREETS. In all districts which require a front yard, no obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points not to exceed the setback of the home or building. Any fence, wall, screen, hedge, or other material serving as a fence, shall not create a sight distance hazard to vehicular or pedestrian traffic. See chapter 1.10.

1.320 SALE OR LEASE OF REQUIRED SPACE. No space needed to meet the width, yard, area, coverage, parking or other requirements of this Code for lot or building may be sold or leased away from such lot or building.

1.330 CONSTRUCTION SUBJECT TO GEOLOGIC OR FLOOD HAZARDS. Whenever development or construction is or may be subject to geologic or flood hazards, the Planning Commission may require the applicant to submit a geologic and soils survey report prepared by a qualified professional team. When such report indicates a lot to be subject to unusual potential or actual geologic or flood hazards, the applicant shall meet the special conditions required by the Planning Commission to reduce or eliminate such hazard, or if such conditions cannot be met or will not be met, the application for a building permit shall be denied.

1.340 LOCATION OF FUEL DISPENSERS. Fuel dispensers shall be set back no less than twenty (20) feet from any street line to which the pump island is vertical, and twenty (20) feet from any street line to which the pump island is parallel, and not less than Twenty-five (25) feet from any residential, agricultural or commercial/industrial district boundary line. If the pump island is set at an angle on the property, it shall be so located that the automobiles stopped for service will not extend over the property line. Installation shall be done in accordance to the International Fire Code.

1.350 PROPERTY DIVIDED BY ZONING DISTRICT BOUNDARIES. Where a zoning district boundary cuts through a lot existing at the time of adoption of this Code, the use regulations governing the portion of the lot located within the more restrictive zone shall govern the use and development of the entire lot, unless a variance has

been granted by the Variance Authority in accordance with the limitations of Chapter 1.14 herein, except for legally existing nonconforming uses and buildings on the lot, and except when the lot can be legally subdivided into two or more legal lots.

1.360 UTILITY EXTENSIONS AUTHORIZED ONLY TO PERMITTED STRUCTURES AND BUILDINGS. No sewer service line, no water service line, no electrical or gas utility line shall be installed by a public or private company to the building, structure, or use thus served which would be in violation of this Code.

1.370 UTILITIES RESPONSIBLE FOR EXCAVATIONS. It is the intent of this Code to hold franchised utilities responsible for all excavations, backfilling and paving. To this end all such work, whether done by a private or public entity, shall be commenced only pursuant to the issuance of an excavation permit (pursuant to this Code). Cuts and fills shall be constructed according to standards established by Fielding Town, and approval of the same shall be evidenced by a release of responsibility signed by the local engineer.

1.380 EFFECT OF OFFICIAL MAP ON FRONT YARD REQUIREMENTS. Wherever a front yard is required for a lot facing on a street for which an official map has been recorded, the depth of such front yard shall be measured from the mapped street line provided by the official map.

1.390 ANNEXATION PROCEDURE. Procedure for annexation is administered through the Municipal Clerks office of Fielding Town.

A. A petition is filed with the Municipal Clerks office and must contain the signatures of the owners of private real property that covers a majority of the private land area, and is equal to at least 1/3 of the value of all private real property within the area proposed; then,

B. The petition must be either accepted or rejected by the municipal legislative body; if accepted then,

C. The Town Clerk certifies the petitions; if certified then,

D. The municipality gives public notices of intent to annex; then,

E. Protest (if any) to Boundary Commission; if no protest or boundary commission approves then,

G. Municipal legislative body must hold a public hearing; then,

H. An ordinance of annexation; then,

I. Filing a plat drawn and certified by a professionally licensed Engineer or Land Surveyor at the expense of the petitioners with the County Recorder.

(Am 10-16-07)

Chapter 2

DEFINITIONS

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2.005 DEFINITIONS. Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this Code. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure;" the words "used" or "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used or occupied; the word "shall" is mandatory and not directory, and the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the word "lot" includes the words plot or parcel. Words used in this Code but not defined herein shall have the meaning as defined in any other ordinance adopted by Fielding Town.

2.010 ACCESSORY USE OR BUILDING. A use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or building. See 1.280.

2.015 AGRICULTURE. The production of food through the tilling of the soil, the raising of crops, breeding and raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business.

2.020 AGRICULTURAL INDUSTRY (AGRICULTURAL BUSINESS). The processing of raw food products by packaging, treating and/or intensive feeding. Agricultural industry includes, but is not limited to, animal feed yards, the raising of fur-bearing animals, food packaging and/or processing plant, commercial poultry or egg production, commercial greenhouses, and similar uses as determined by the Planning Commission.

2.030 ALLEY. A public access-way less than twenty-six (26) feet in width, which is designed to give secondary access to lots or abutting properties. An alley shall not be considered a street for the purpose of this Code.

2.035 ALLUVIAL SOILS. Areas subject to periodic flooding as defined in the soil survey prepared by the Soil Conservation Service which encompasses Fielding Town.

2.035 AMUSEMENT PARK. Any place of organized amusement activity not conducted wholly within a completely enclosed building, whether a commercial or non-profit enterprise, except temporary celebrations sanctioned by the Governing Body by a special permit.

2.040 ANIMAL CLINIC (ALSO ANIMAL HOSPITAL). Any building or portion thereof designed or used for the care or treatment of animals or fowl, and/or in which veterinary service is provided or is available. (See also Wild Animal Shelter)

2.045 ANIMALS, LARGE. Animals may be kept in those zones permitted by the Tremonton Zoning Code. A maximum of ten (10) large animals may be kept in permitted zones. **To determine the number allowed and the zoning where they are allowed refer to chart 2.046.** Requests to keep additional animals on larger parcels of land will be considered upon application to the Planning Commission for a conditional use permit. (Am 03-07-00)

2.047 APPEAL AUTHORITY. A person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

2.050 ARCHITECTURAL PROJECTION. Any building or structural projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building or structure, but not including signs. (See 1.240 Yards to be Unobstructed - Exceptions)

2.055 AUTOMOTIVE BODY AND FENDER SHOP. A facility for major automobile, truck, mobile home, recreational coach or recreation vehicle repairs to body, frame or fenders and including rebuilding.

2.060 AUTOMATIC CAR/TRUCK WASH. A facility for automatic self-service washing or cleaning of cars/trucks exceeding one and one-half (1-1/2) tons capacity.

2.065 AUTOMOBILE PAINT SHOP. A facility for painting of automobiles, trucks, trailers, boats, or other travel or recreation vehicles or units.

2.046 LARGE ANIMALS				
ANIMAL TYPE	R-1-20 FIRST ½ ACRE WITH HOME	R-1-20 EACH ADDITIONAL ½ ACRE	RR-1 FIRST ½ ACRE WITH HOME	RR-1 EACH ADDITIONAL ½ ACRE
Cow / Calve or	1	2	2	2

Horse / Colt or	1	2	2	2
Sheep / Lamb or	2	2	3	2
Pig(s) – incl. Potbelly or	1	2	2	2
Goat(s) or	1	2	2	2
Llama(s)	1	2	2	2

Note: see section 2.045

Animals not listed above shall require a Conditional Use Permit from the Planning Commission.

(NOT TO INCLUDE DOMESTIC ANIMALS)

2.070 AUTOMOBILE SALES AREA. An open area used for display, sale, or rental of new or used motor vehicles, mobile homes, recreational coaches, or recreation vehicles in operable condition.

2.075 AUTOMOBILE SALVAGE YARD (AUTOMOBILE WRECKING OR PROCESSING YARD). A lot or portion thereof used for the storage, dismantling, demolition, or abandonment of automobiles, other vehicles, other machinery, or parts thereof.

2.080 AUTOMOBILE SERVICE STATION. A place where gasoline or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, and where services performed may include tube and tire repair, battery charging, storage of merchandise, and tune-up of automobiles, but not including major auto repairs.

2.085 AVERAGE SLOPE. An expression of rise or fall in elevation along a line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a lot or building area. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is one hundred percent (100%) slope.

2.090 BASEMENT. A story whose floor is more than twelve (12) inches below the average level of the adjoining ground, but where no more than one-half (½) of its floor-to-ceiling height is below the average contact level of the adjoining ground. A basement shall be counted as a one-half (½) story for purposes of this Code.

2.095 BEGINNING OF CONSTRUCTION. The excavation or recontouring of the site.

2.100 BLOCK. The land surrounded by streets or other rights-of-way, other than an alley, or land which is designated as a block on any recorded subdivision plat.

2.105 BOARDING HOUSE. A dwelling where, for compensation, meals are provided for at least three (3) but not more than fifteen (15) persons.

2.110 BONA FIDE DIVISION OF AGRICULTURAL LAND FOR AGRICULTURAL PURPOSES. The division of agricultural land into three (3) or more lots for which the Planning Commission makes the following written findings of fact upon petition for such findings by a land owner:

A. No urban services will be required by said division of agricultural land.

B. The purpose and use of each of the lots in the division shall be for agriculture, not for investment, building development, recreational use, cabin or other housing use, livestock feed yard, or other agricultural industry or business.

C. Each of the parcels created has access to an existing public street or to a private street approved by the Planning Commission and the Governing Body.

D. Each of the lots created shall be found by the Planning Commission to be capable of producing an income from the sale of agricultural products sufficient to justify its existence as a separate agricultural lot entity now or in the future. Among the controlling factors used in making a decision as to whether a division of land is or is not a bona fide division or partition of agricultural land for agricultural purposes, the Planning Commission and the Governing Body shall make findings as to the availability of water for irrigation or stock watering purposes; the class of the soil and depth of the soil mantle; the slope of the land, past history of agricultural production, and the present state of agricultural technology.

2.125 BUILDABLE AREA. The portion of a lot remaining after required yards have been provided, except that land with an average grade exceeding fifteen percent (15%) shall not be considered geo-technically buildable unless it is approved by conditional use permit.

2.130 BUILDING. Any structure used or intended to be used for the shelter or enclosure of persons, animals, or property.

2.135 BUILDING, HEIGHT OF. The vertical distance from the average finished grade surface at the foundation, to the highest point of the building roof or coping.

2.140 BUILDING OFFICIAL. Building Official is the official, or his duly authorized deputy, charged with the administration and enforcement of this Ordinance.

2.145 CAMPGROUND. A public area designated by a public agency for camping, or a private area licensed by the Governing Body for camping.

2.150 CAMPING. A temporary establishment of living facilities such as tents or recreational coaches as regulated by this Code.

2.155 CARPORT. A private garage not completely enclosed by walls or floors. For the purposes of this Code, a carport is open on Two (2) sides.

2.160 CELLAR. A room or rooms having more than fifty percent (50%) of the floor to ceiling height under the average level of the adjoining ground.

2.165 CHURCH. A building, together with its accessory buildings and uses, maintained and controlled by a duly recognized religious organization where persons regularly assemble for worship and religious instruction.

2.170 CLINIC, DENTAL OR MEDICAL. A building in which a group of dentists, physicians, and/or allied professionals in the healing arts are associated for the conduct of their professions. The clinic may include a dental and/or medical laboratory and an apothecary, but it shall not include in-patient care or operating rooms for major surgery.

2.175 CLUB, PRIVATE. A social, recreational, or athletic club or similar association or corporation incorporated under the provisions of the Utah Non-Profit Corporation and Cooperation Act for the above-stated purposes, which maintains or intends to maintain premises upon which alcoholic beverages are or will be stored, consumed or sold, and which for that reason is required to be licensed by the State.

2.180 CONDITIONAL USE A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable

standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

2.190 CONDOMINIUM. The ownership of a single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property as provided by state law. A condominium development is comparable to a subdivision in that each development is characterized by multiple individual ownerships in a single development; in a condominium development the multiple individual ownerships are in structures, whereas in subdivisions such ownerships are in land. For regulation purposes the development of a condominium project is treated by Utah State law and by this Code as a subdivision, and condominium developments must comply with the subdivision regulations of this Code.

2.195 CORRAL. A space, other than a building, less than one (1) acre in area or less than one hundred (100) feet in width, used for the confinement of animals or fowl.

2.200 COVERAGE, BUILDING. The percentage of the total site area covered by buildings.

2.205 CROSSWALK OR WALKWAY. A right-of-way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a crosswalk or walkway or pedestrian-way may be located within or without a street right-of-way, at grade, or grade-separated from vehicular traffic.

2.210 CUL-DE-SAC See Streets, Roads, Highway/Cul-de-sac.

2.215 CULINARY WATER FACILITIES. Water supply lines, pumps, springs, wells, and/or any other physical facilities necessary to provide a supply of culinary water to a use in sufficient quantity and of approved quality to meet the standards of this Code.

2.220 DAIRY. A commercial establishment for the manufacture, processing or packaging of dairy products, and their sale; for purposes of definition, the production of milk on a farm for wholesale marketing off the premises shall not classify the farm as a dairy.

2.225 CHILD CARE. All Child Care facilities must obtain a conditional use permit prior to operating a child care facility of greater than six (6) children. All Child Care facilities as defined within the current State of Utah Child care Licensing and Facility Rules and Public Safety, Fire Marshal Day Care Rules shall follow all rules and regulations herein regarding licensing and facility standards. And, shall be inspected by the City Building Inspector and/or City Fire Inspector and shall comply with all zoning, fire, sanitation, building and licensing laws, regulations, ordinances, and codes of the City and the State of Utah prior to final approval by the City of Tremonton. See also chapter 7 Home Occupations regarding child care within a home as a home occupation. No home occupation child care program will be allowed more than 12 children with the exception of the providers own children as outlined within sub-sections 6, 7, of this section.

A. "Child" means:

1. a child of a person other than the provider of child care;
2. a child of a licensed or certified residential child care provider who is under the age of four (4);
3. a child of an employee or owner of a licensed child care center who is under the age of four (4).

B. "Child Care" means continuous care and supervision of five or more children through age 12 and children with disabilities through age 18, in lieu of care ordinarily provided by parents in their own home, for less than 24 hours a day, for direct or indirect compensation.

C. "Child Care Program" means a child care facility or program operated by a person who holds a license issued in accordance with the State of Utah.

D. "Residential Child Care" means child care provided in the home of the provider.

E. "Voluntary Certificate" a provider of child care for less than five (5) children in the providers home may request a residential certificate.

F. "Residential Certificate Child Care" the owner may not care for more than eight (8) children including the owner's own children under age four (4). The owner also may not care for more than two (2) children under age two (2), including the owner's own children.

G. "Hourly Child Care" Minimum Care giver to Child Ratios:

Care Giver	Children	Limits for Mixed Ages
1	12	No children under age 2
1	8	3 children under age 2
1	6	4 children under age 2

A child of an employee or owner age four (4) or older will not counted in determining care giver to child ratios.

Child Care ratios to care givers will stay as shown regardless if there is one care giver or two care givers in a home occupation setting. This will not include commercial centers.

H. "Licensed Family Child Care" Commercial Building. No Residential.

Family Minimum Care Giver to Child Ratios:

Care Giver	Children	Limits for mixed Ages (a)
1	8	No more than two (2) children under age two (2)
1	6	No more than three (3) children under age two (2)

1. The mixed ages include the care giver's children under age four (4).

Family Group Minimum Care giver to Child Ratio's:

Care Giver	Children	Limits for Ages Group Size
1	12	All Children 16 (b) (c)
2	9-19	School-age Mixed Ages, 20 (b) (c) only four (4) under age 2

2. There shall be at least two (2) care giver's in the licensed family group program at all times when there are nine or more children present, counting the care giver's own children, grand children, nieces, nephews, wards, step-children, under age 12, or when more than two infants are present.

3. The care giver's own children, grand children, nieces, nephews, wards, step-children are included in the maximum group size if they are under the age of 12.

I. Child Care Centers shall not be allowed as a home occupation. Child care centers will be allowed in commercial or industrial zones with a conditional use permit. Child care centers shall follow all rules and guidelines set forth within the State of Utah Child Care rules.

2.245 DENSITY. Density is a measure of the number of dwelling units per acre of area. It shall be expressed dwelling units per acre (DU/acre).

2.250 DEVELOPER. Any person, firm, partnership, corporation or association who causes improvements to be constructed, land use to be changed, or land to be subdivided for himself/herself or others.

2.255 DISTRICT (ALSO ZONE OR ZONING DISTRICT). A portion of the territory of Fielding Town established as a zoning district by this Code, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Code.

2.260 DRIVEWAY. A private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the driveway is located.

2.265 DWELLING. Any building or portion thereof designed or used as the principal residence or sleeping place of one or more persons or families, but not including a tent, a recreational coach, hotel, motel, hospital, or nursing home, or mobile home, except when the mobile home is placed on a mobile home space or lot, in an approved mobile home park or mobile home subdivision.

2.270 DWELLING, ONE FAMILY. A detached building arranged, designed for, and/or used for, or occupied by not more than one family, and which has a kitchen and a bathroom.

2.275 DWELLING, ONE FAMILY. With Accessory Dwelling Unit. A building meeting all zoning requirements in which there is a principal dwelling unit and an accessory dwelling unit within the same building, with said accessory dwelling unit being subordinate to the principal dwelling unit.

2.280 DWELLING, ONE FAMILY ATTACHED.. A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

2.285 DWELLING, ONE FAMILY SEMI-DETACHED (Twin Home). A one-family dwelling attached to one other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot. (The semi-detached dwelling is part of a two family structure with the dwelling unit's side-by-side as opposed to one on top of the other.)

2.290 DWELLING, TWO FAMILY. A building arranged, designed for, and occupied by two (2) families living independently of each other and containing two (2) dwelling units.

2.295 DWELLING, MULTIPLE FAMILY. A dwelling arranged, designed for, and occupied by three (3) or four (4) families living independently of each other, and containing three (3) or four (4) dwelling units.

2.300 DWELLING, APARTMENT. A dwelling arranged, designed for, and occupied by five (5) or more families living independently of each other, and containing five (5) or more dwelling units.

2.305 DWELLING GROUP. A group of two (2) or more detached dwellings located on the same parcel of land in one ownership and having one (1) yard or court in common.

2.310 DWELLING UNIT. One (1) or more rooms in a dwelling designed for living and sleeping purposes, and having a kitchen and a bathroom.

2.315 DWELLING, EFFICIENCY UNIT. A dwelling unit with an area of less than five-hundred fifty (550) square feet which is limited to no more than two (2) occupants. The sleeping area must be a minimum of seventy (70) square feet and the living area two hundred twenty (220) square feet.

2.320 EASEMENT. That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owners(s) of said property(ies). The easement may be for use on, under, or above said lot or lots.

2.325 EFFECTIVE DATE OF THIS CODE. The date on which this Code becomes legally binding.

2.330 ENVIRONMENTAL IMPACT ASSESSMENT. A report which describes, by means of written narrative as well as maps, a geographical area in terms of existing: (1) slope, (2) soils, (3) water courses, (4) water table, (5) flood hazard areas, (6) geologic hazards, (7) vegetative types, (8) wildlife, (9) wildlife habitat, and (10) essential urban services presently available. The report includes a tabulation of proposed population density and the numbers and types of proposed dwellings and other buildings and spaces to be occupied at full development. The report further describes by

means of written narrative as well as maps the impact of the proposed development on the following specific subject areas once the anticipated population density is achieved within the area to be developed: (1) water courses and flood hazards, (2) natural vegetation, (3) wildlife, (4) erosion, (5) topsoil loss, (6) sedimentation of water courses and reservoirs, (7) slope stability, (8) dust, (9) fire potential, (10) accumulation of solid and liquid wastes, and (11) the need and desire for urban services. The report also evaluates the potential area-wide economic impact of the development on both private and public economic sectors and the potential impact on school, public utility, and transportation systems. Finally, the report recommends measures which, if undertaken, will mitigate or obviate the adverse impacts resulting from construction of the proposed development, and discusses the benefits to be gained from such development, and what adverse impacts cannot be avoided and the extent of their detrimental influence.

2.335 ESSENTIAL FACILITIES. Electrical and natural gas utilities, radio stations (transmitting only), sanitary and public safety facilities provided by a public utility or governmental agency for overhead, surface or underground services, excluding any building, electrical sub-station, or transmission line of fifty (50) kv or greater capacity, or such other use as determined by the Governing Body by resolution.

2.336 EXACTION. The City may impose an exaction or exactions on proposed land use development if:

- A. an essential nexus exists between a legitimate governmental interest and each exaction; and
- B. each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

2.340 EXCAVATION. Any disruption of the soil mantle and/or man-made surfacing of the same. Excavations may be either in the nature of a process or a use. Excavations undertaken for the purpose of preparing a site for an ultimate land use or for repairing or constructing urban service facilities are processes; whereas excavations such as gravel pits, quarries or mines are uses which require specific use authorization in the zoning district where located, in addition to a conditional permit if such is required.

2.345 FAMILY. Unless otherwise expressly provided herein, means any one of the following:

- A. One person living alone; or
- B. the head of the household and all persons related to the head of the household by marriage or adoption as a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild; or
- C. two or three related or unrelated persons living and cooking together as a single housekeeping unit. One (1) or two (2) related or unrelated persons may be included within the definition of a "family" for purposes of option (b) above (and not options (a) and (c)) if two or more persons within option (b) share the legal relationship of parent and child or grandparent and child and if all of the persons within that option, including the unrelated persons, live and cook together as a single housekeeping unit. For the purpose of this exception, the parent or grandparent must actually reside in the subject dwelling. (Am 2-06-01)

2.350 FEED YARD. An agricultural industry in which animals or fowl are kept and intensively fed in a relatively restricted area, as contrasted with open pasturage.

2.355 FINAL PLAT. A plat map prepared in accordance with the provisions of this Code, which is designed to be placed on record in the office of the County Recorder.

2.360 FIRE FIGHTING FACILITIES. Such water supply, water lines, fire hydrants and other protective devices as may be required in accordance with the provisions of this Code.

2.365 FLOOD HAZARD. A hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses.

2.370 FLOOD PLAINS. Areas adjoining any streams, ponds or lakes which are subject to 100-year-recurrence-interval floods on maps prepared for the "National Flood Insurance Program", or a study conducted by anyone else expert and experienced in the preparation of hydrological studies and the determination of flood lines.

2.375 FLOOD PLAIN SOILS. Areas subject to periodic flooding and listed in the soil survey prepared by the Soil Conservation Service which encompasses Fielding Town as being "on the flood plain" or subject to "flooding".

2.380 FLOOR AREA. The sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, and basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building or in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this Code, or any such floor space intended and designed for accessory heating and ventilating equipment.

2.385 FLOOR AREA RATIO. The ratio of the floor area to the lot area, as determined by dividing the floor area by the lot area.

2.390 FOREST. Areas, groves, or stands of mature or largely mature (i.e., greater than six inches caliper) trees covering an area greater than one-quarter acre; or groves of mature trees (greater than 12 inches caliper) consisting of more than 10 individual trees.

2.395 FOREST INDUSTRY. An industry which uses forest products, such as sawmill, pulp or paper plant, wood products, plant, and similar uses.

2.400 FOWL and SMALL ANIMALS. Fowl and small game may be kept in all zones permitted by the Tremonton Land Development Code. Type and quantities of fowl and small game shall not exceed those listed in the chart 2.401. Numbers listed below shall not be exceeded regardless of the numbers of acres used in that zone. Not more than two (2) types of fowl or small game listed below will be allowed in any of the zones listed in the chart 2.401. **Certain types of fowl may be regulated by the State of Utah and require a permit to keep those type of fowl, therefore it will be required to provide proof of permit to the City prior to keeping any fowl regulated.**

2.405 FRONTAGE. All property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts, or that common line between a lot and a public street. Street lines across which access is denied or cannot be had because of topography or for other reasons shall not constitute frontage for purposes of this Code.

2.410 FRONTAGE, LOT. The lineal measurement of the front lot line.

2.415 GARAGE, PRIVATE. A building or portion thereof designed and used for personal, private storage of motor vehicles.

2.420 GARAGE, PUBLIC. A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling, leasing, renting or storing motor vehicles.

2.425 GEOLOGIC HAZARD. A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property, or improvements, due to the movement, failure, or shifting of the earth. Geologic hazards include but are not limited to: rockfalls, slide areas, flood plains, fault lines, high water table, and groundwater problems, such as liquefaction, etc.

2.401 FOWL AND SMALL ANIMALS				
FOWL and Small Animal TYPES	R-1-20 First ½ Acre WITH HOME	R-1-20 EACH ADDITIONAL ½ ACRE	RR-1 FIRST ½ ACRE WITH HOME	RR-1 EACH ADDITIONAL ½ ACRE
Chicken(s)	25	50	25	50
Pheasant(s) / Quail	25	50	25	50
Turkey(s)	5	10	10	15
Duck(s)	10	20	10	20
Geese	5	10	5	10
Pigeon(s)	10	20	10	20
Peacock(s)	5	5	5	5
Guinea Hen(s)	5	5	5	5
Rabbit(s)	10	20	10	20

Note: See section 2.400

Fowl and Small Animals not listed shall require Planning Commission approval.
(NOT TO INCLUDE DOMESTIC HOUSEHOLD PETS)

2.430 GRADE (LOT GRADE, FINISHED GRADE).

- A. For buildings adjoining one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- B. For buildings adjoining more than one (1) street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets.
- C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground.
- D. Any wall parallel or nearly parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street.

2.435 GOVERNING BODY. The elected legislative body of Fielding Town.

2.440 HOME OCCUPATION. An occupation of a person located where said person resides or located in an accessory building thereto and which occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or of the neighborhood. The home occupation includes home

instruction of the arts, but shall not include the sale of commodities except those which are produced on the premises and shall not involve the use of any accessory building, either attached or detached, which substantially changes the character of the dwelling or of the neighborhood. Home occupations are not allowed signing privileges, including window signs. No employees, other than family members, of a home occupation which sells, services or manufactures products are to have the residence as a work place. (If employees manufacture at their place of residence they are required to file a separate Home Occupation Application.) See chapter 7.

2.445 HOSPITAL. An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

2.450 HOTEL. A building designed for, or occupied as the more or less temporary abiding place of sixteen (16) or more individuals who are lodged for compensation, with or without meals.

2.455 HOUSEHOLD PETS. Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, and canaries, but not normally dangerous animals, such as lions or tigers. This definition shall not include a sufficient number of dogs as to constitute a kennel as defined in this Code.

2.460 IMPERVIOUS SURFACE. Impervious surfaces are those that do not absorb rain. All buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete and asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by the local engineer to be impervious within the meaning of this definition will also be classed as impervious surfaces.

2.465 IMPERVIOUS SURFACE RATIO. The impervious surface ratio is a measure of the intensity of land use. It is determined by dividing the total area of all impervious surfaces within the site by the Base Site Area.

2.470 IMPROVEMENTS. Work, objects, devices, facilities, or utilities required to be constructed or installed in a land development. Such improvements may include, but are not limited to, street construction to required standards, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, street trees, street signs, street lights, traffic control or safety devices, fire hydrants, and such other facilities or construction required by this Ordinance, subdivision regulations, or by the Planning Commission and/or Governing Body for the necessary proper development of the proposed land development.

2.475 IMPROVEMENTS AGREEMENT. An agreement between Fielding Town and a developer, wherein the developer agrees to install improvements required by this Code, subdivision regulations, or by the Planning Commission and/or Governing Body for the necessary proper development of the proposed land development, which includes a cash bond pursuant to this Code.

2.480 JUNK. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris or other waste or salvage materials; dismantled, junked, or wrecked automobiles or parts thereof; and old or scrap ferrous or non-ferrous metal materials.

2.480 JUNK YARD. The use of any lot, portion of a lot, or tract of land for the storage, keeping or abandonment of junk, including scrap metals or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles, or machinery or parts thereof, provided that this definition shall be deemed not to include such uses which are clearly accessory and incidental to any agricultural use permitted in the district.

2.490 KENNEL. Any premises where three (3) or more dogs older than four (4) months are kept, except that more than three (3) of such dogs may be kept in the rural residential, agricultural, and multiple-use districts as accessory uses to a use allowed in the district. For the purpose of raising dogs not incidental to accessory uses in the RR-1 zone up to five (5) dogs may be allowed provided conditional use provisions have been satisfied.

2.495 LAND, AGRICULTURAL. Land used for bona fide agricultural purposes, or which is projected for agricultural use by the Master Plan or the Zoning Ordinance adopted by Fielding Town, but not including legally existing nonconforming uses located in areas so

projected.

2.500 LAND, COMMERCIAL. Land used for bona fide commercial purposes, or which is projected for commercial use by the Master Plan or the Zoning Ordinance adopted by Fielding Town, except legally existing nonconforming uses in areas designated commercial in such Ordinance.

2.505 LAND DEVELOPMENT STANDARDS. Construction standards, including but not limited to: drawings, tables, charts and references which have been adopted by the Governing Body and which set standards for the construction of improvements to land and which regulate said construction of improvements to land.

2.510 LAND, INDUSTRIAL. Land used for bona fide industrial purposes or which is projected for industrial use by the Master Plan or the Zoning Ordinance adopted by Fielding Town, except legally existing nonconforming uses in areas designated industrial in such Ordinance.

2.511 LAND USE AUTHORITY. A person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

2.515 LAND USE INTENSITY. The degree to which land is used by man ranging from no use to unremitting, continual and concentrated use of the land. Land use intensity is normally measured by (1) type of use, i.e. agricultural, residential, commercial or industrial; (2) period of use in average hours per day; (3) numbers of humans, associated animals, and machines which occupy the land during the average hours of use; and (4) the percent of the land covered by man-made structures.

2.520 LOCAL ATTORNEY. The attorney employed by or officially representing Tremonton.

2.525 LOCAL BUILDING OFFICIAL. The building official employed by or officially representing Fielding Town.

2.530 LOCAL ENGINEER. The engineer employed by or officially representing Tremonton.

2.535 LOCAL GOVERNING BODY. (See Governing Body)

2.540 LOCAL HEALTH OFFICER. The health officer or department employed by or officially representing Fielding Town.

2.545 LOCAL JURISDICTION. Fielding Town Corporation.

2.550 LOCAL PLANNER. The planner or designate employed by or officially representing Fielding Town.

2.555 LOCAL SURVEYOR. The surveyor employed by or officially representing Fielding Town.

2.560 LODGING HOUSE. A dwelling with not more than ten (10) guest rooms where for compensation, lodging is provided for at least three (3) but not more than fifteen (15) persons, but not including motels or hotels.

2.565 LOT. A parcel or unit of land abutting a public road or approved private road, described by metes and bounds and held or intended to be held in separate lease or ownership, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map, planned unit development plot map or condominium plot map, or sale of land resulting from the division of a larger tract into three (3) or more smaller units.

2.570 LOT AREA. The area contained within the property lines of the individual parcels of land shown on a subdivision plat or required by this Code, excluding any area within an existing street right-of-way, or any area required as open space under this Code, and including the area of any easements.

2.571 LOT, FLAG. A parcel of land that is situated generally behind a lot or lots fronting on a public street, a flag lot does not have the required street frontage as required herein, but does maintain street frontage along the width of the lot lane, and is accessible from the street only over an access lane that is owned by the owner of said flag lot. The minimum

lot size for a flag lot and street frontage lot shall be as zoned in that district. Lots shall be sized excluding the lane or access strip to the flag lot. Buildings placed on flag lots and frontage lots shall meet all applicable minimum front, side, and rear yard setback requirements for the zoning district, exclusive of the lane or access strip. There shall be no more than one (1) flag lot using a common lane or access strip. Construction specifications for the lot lane, access strip or driveway shall meet those requirements listed in section 2.935 of this chapter, and other applicable sections as required within the City Code. All applicable land development rules shall apply. (Am 02-03-04)

2.572 LOT LANE. A private lane with a right-of-way width no less than twenty-four feet (24'). A lot lane shall be no greater than 650' in length and every lane greater than 250' in length will require an eight-inch (8") water main running to a determined point where a Fire Hydrant will be required. A lot lane shall contain no greater than six (6) residential building lots that meet applicable requirements for that zoning district, exclusive of the lot lane. The lot lane shall meet those requirements listed in section 2.935 of this chapter and other applicable sections as required within the City Code. All applicable Land Development rules shall apply.
(Am 02-03-04)

2.575 LOT AREA PER DWELLING UNIT, AVERAGE. The average lot area for all dwelling units of a single type. Individual lots may be smaller or larger than the average, provided that the average size is maintained and that all other standards of this Code are met.

2.580 LOT, CORNER. A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°).

2.585 LOT, DEPTH. The horizontal distance between the front and the rear lot lines measured in the main direction of the side lot lines.

2.590 LOT FRONTAGE. The length, in feet, of the front lot line which is co-terminus with the front street line.

2.595 LOT FRONTAGE, REQUIRED. The length, in feet, of the front lot line which is co-terminus with the front street line.

2.600 LOT HELD IN SEPARATE OWNERSHIP. Shall mean all contiguous land held in one ownership at the time of the passage of this Code or at any time hereafter, whether or not such land has been or is described separately, has separate claims of title, is described on one or more than one property tax notice, or is otherwise divided on paper.

2.605 LOT, INTERIOR. A lot other than a corner lot.

2.610 LOT LINES. The property lines bounding the lot.

2.615 LOT LINE, FRONT. For an interior lot, the lot line adjoining the street; for a corner lot or through lot, each lot line adjoining a street.

2.620 LOT LINE, REAR. Ordinarily, that line of a lot which is opposite and most distant from the front line of the lot. In the case of a triangular or gore-shaped lot, a line ten (10) feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where this definition is ambiguous, the zoning administrator shall designate the rear lot line.

2.625 LOT LINE, SIDE. Any lot boundary line not a front or rear lot line. (This does not apply to any yard fronting on a street, which is by definition a front yard line.)

2.630 LOT, RESTRICTED. A lot having an average slope of twenty-five percent (25%) or more; a lot which does not contain at least seventy-five (75) feet by one hundred (100) feet, with an average slope of less than fifteen percent (15%); and/or a lot which has vehicular ingress to the main building or structure which, upon completion of construction on the site, has a slope of fifteen percent (15%) or greater; or a lot subject to geologic hazards.

2.635 LOT RIGHT-OF-WAY. See Street, Private, or Private Road, Lot Right-of Way. (Ordinance 96-02)

- 2.640 LOT WIDTH.** The horizontal distance between the side lot lines, measured at the required front yard setback line or rear yard setback line, whichever is shorter.
- 2.645 LOT, UNRESTRICTED.** A lot having an average slope of less than twenty-five percent (25%) or more; a lot which does not contain a buildable area of at least seventy-five (75) feet by one hundred (100) feet, with an average slope of less than fifteen percent (15%).
- 2.650 MASTER PLAN (ALSO COMPREHENSIVE PLAN OR GENERAL PLAN).** A coordinated plan which has been prepared and adopted for the purpose of guiding development, housing, and public facilities and parks and which is adopted by Fielding Town in accordance with Utah State Law.
- 2.655 MAJOR STREET PLAN.** A map of Fielding Town which shows existing public streets and which has been officially adopted by the Planning Commission of Fielding Town as the major street plan.
- 2.660 MANUFACTURED HOME.** For purposes of this code, a manufactured home is the same as defined in Section 58-56-3 Utah Code Annotated, 1953, as amended, except that in order to qualify for building permit approval and location within Fielding Town, the manufactured home must comply with the provisions of Section 10-9-106.5, Utah Code Annotated, 1953, as amended, and Chapter 1.12 of this code. A manufactured home does not include a mobile home.
- 2.665 MARKET ANALYSIS.** An economic analysis of the feasibility of a project.
- 2.670 MINOR SUBDIVISION.** See Subdivision - Minor.
- 2.675 MOBILE HOME.** A detached single-family dwelling of not less than thirty (30) feet in length, designed for long-term occupancy, and to be transported on its own wheels or on flatbed or other trailers or detachable wheels; and which has not been demonstrated to conform to the building codes, for other residences, adopted by the State of Utah or Fielding Town. In determining if such a dwelling is designed for long-term occupancy, the following criteria shall be used: such a dwelling contains a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, and ready for occupancy except for connections to utilities and other minor work. A mobile home shall only be allowed on a mobile home space or lot in an approved mobile home park or mobile home subdivision.
- 2.680 MOBILE HOME LOT.** A space designed and approved by Fielding Town for occupancy by mobile homes, and meeting all requirements of this Code.
- 2.685 MOBILE HOME PARK.** A parcel of land that has been planned and improved for the placement of mobile homes for non-transient use and consisting of two or more mobile home spaces, where the entire project is to be under single ownership or management and meets all of the requirements of this Code for mobile home parks.
- 2.690 MOBILE HOME SPACE.** A space within a mobile home park designed to be used for the accommodation of one (1) mobile home.
- 2.695 MOBILE HOME STAND.** That part of the mobile home space which has been reserved for the placement of the mobile home and its appurtenant structures or additions.
- 2.700 MOBILE HOME SUBDIVISION.** A subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes.
- 2.705 MODULAR HOME.** A permanent dwelling structure built in prefabricated units which are assembled and erected on the site or at another location and brought as a unit to the site; said modular home is classed as a mobile home until it is placed on a permanent foundation and complies with all governing building codes.
- 2.710 MOTEL.** A building or group of buildings for the accommodation of transient guests, comprising individual sleeping or living units, and designed and located to serve the motoring public.

2.715 NATURAL RETENTION AREA. An area of poorly drained soils which lies along stream channels or swales or is adjacent to flood plain soils which are subject to periodic flooding.

2.720 NON-CONFORMING BUILDING OR STRUCTURE (a) legally existed before its current land use designation; and (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

2.725 NON-CONFORMING USE. (a) legally existed before its current land use designation; (b) has been maintained continuously since the time the land use ordinance governing the land changed; and (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

2.730 NURSING HOME (ALSO REST HOME OR CONVALESCENT HOME). A home for the aged, chronically ill, or incurable persons in which three (3) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

2.735 OFFICIAL MAP (ALSO PUBLIC FACILITIES MAP). A map which has been officially adopted by the Governing Body according to state law and which includes the major street plan. The official maps may also include parks, parkways, sites for public buildings or works, and sub-surface facilities in which the city has been or may be called upon to assist financially, or by other means.

2.740 OFF-STREET PARKING SPACE. The space required to park one (1) passenger vehicle, which space shall meet the requirements of this Code.

2.745 OFF-SITE FACILITIES. Improvements not on individual lots but generally within the boundaries of the development which they serve, and as further outlined in this Code.

2.750 ON-SITE FACILITIES. Construction or placement of the dwelling and its appurtenant improvements on a lot.

2.755 OPEN SPACE. Land used for recreation, agriculture, resource protection, amenity, or buffers; is freely accessible to all residents of the development, except in the case of agricultural lands where access may be restricted; and is protected by the provisions of this Code to ensure that it remains in such use. Open space does not include land occupied by non-recreational buildings, roads, or road rights-of-way; nor does it include the yards or lots of single- or multiple-family dwelling units or parking areas as required by the provisions of this Code. Open space should be left in a natural state, except in the case of recreation uses which may contain impervious surfaces. Such impervious surfaces shall be included in the calculation of the impervious surface ratio.

2.760 OPEN SPACE RATIO. A measure of the intensity of land use. It is arrived at by dividing total amount of open space within the site by the Base Site Area.

2.765 OPEN SPACE, USABLE. Usable open space shall be any portion of a lot or building which meets all the following conditions:

- A. The open space shall be open to the sky or shall be open to view on at least two sides.
- B. The space shall be readily accessible by foot traffic from the dwelling unit to which it is accessory.
- C. The space shall not be provided from any required front or side yard, parking area, or driveway space.

2.770 PACKAGE AGENCY (ALSO LIQUOR STORE). Any outlet authorized by the Utah Liquor Control Commission to sell original packaged liquor or wine for consumption off the premises.

2.775 PARKING FACILITY [PARKING LOTS, PARKING STRUCTURES]. A building or open area, other than a street, used for the parking of more than four (4) automobiles and available for public use, whether free, for compensation, or accommodation for clients or customers.

2.780 PEDESTRIAN-WAY (WALKWAY OR CROSS-WALK). A right-of way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a pedestrian-way may be located within or without a street right-of-way, at grade, or grade-separated from vehicular traffic.

2.785 PERMANENT MONUMENT. Any structure of concrete, masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference, which meets the requirements of Fielding Town for permanent monuments.

2.790 PERMITTED USE. A use of land which is allowed within a particular district without the necessity of obtaining a conditional use permit.

2.795 PLANNING COMMISSION. The Planning Commission of Fielding Town.

2.800 PLANNED DISTRICT. A zoning district, the boundaries of which are to be shown on the zoning map, but the regulations for which shall be determined by a general development plan to be adopted by the Governing Body as part of the Zoning Ordinance, after public hearing, as required for other zoning districts.

2.805 PLANNED UNIT DEVELOPMENT (PUD). An integrated design for development of residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements. Planned unit development regulations may govern the subdivision of land if it is proposed by the development to sell individual lots in the planned unit development. Thus planned unit development regulations can be subdivision regulations which may be chosen by the developer as an alternative to specifically designated subdivision regulations of this Code, to become effective only through the planned unit development approval process.

2.810 PLOT PLAN. A scaled drawing of and information pertaining to a proposed development site. A site plan shall include the following: (1) the name and business address of the developer, (2) the name and business address of the project designer (3) the dimensions of the site, (4) north point, (5) locations and names of existing and proposed buildings, (6) locations and description of existing and proposed streets, (7) public and private easements related to site, (8) survey monuments, (9) water courses and impoundments, (10) location and description of existing and proposed vegetation, (11) location of proposed parking, (12) location and size of utility service (water, sewer, power, gas, telephone cable lines, (13) location of proposed septic or sewer connection, (14) location of all other proposed on-site and off-site improvements.

2.815 PRIME AGRICULTURAL SOILS. Areas of soils most suited for agriculture, those in capability units I, II, or III, as indicated in the soil survey prepared by the Soil Conservation Service which encompasses Fielding Town.

2.820 PRINCIPAL BUILDING OR STRUCTURE. A building or structure which houses a principal use.

2.825 PRINCIPAL USE. Any use which is named and listed in the use regulations provisions of this Code, except those uses specifically designated as accessory uses; any use which is or may be conducted on a lot independently or any other use on the lot and not incidental or accessory to any other use on the lot; any use which establishes the primary activity on a lot.

2.830 PRIVATE NON-PROFIT RECREATIONAL GROUNDS AND FACILITIES. Non-profit recreational grounds and facilities operated by a non-profit corporation, association, or group.

2.835 PROCESS SERVER. Any person not a party of the action who certifies by return affidavit such service.

2.840 PROFESSIONAL TEAM, QUALIFIED. An individual or group of individuals qualified by virtue of training, experience, state licensing where appropriate and membership in professional associations which pass upon qualifications prior to admittance to membership. A determination of whether or not a team is qualified, in the sense explained above, shall be made solely by the Planning Commission.

2.845 PROTECTION STRIP. A strip of land between the boundary of a land development and a street within the land development, for the purpose of controlling the access to the street by property owners abutting the land development.

2.850 RECREATION DWELLING [CABIN, RECREATION CABIN]. A dwelling designed for limited rather than primary occupancy and generally located adjacent to or with easy access to recreational areas. The primary purpose for the construction of such a dwelling is to provide shelter during those limited periods of time when recreation is sought in the adjacent areas.

2.855 RECREATION VEHICLE. A vehicle, with or without motive power, designed and constructed to travel on public streets, and designed for use as a human habitation of a temporary and recreational nature.

2.860 RECREATIONAL VEHICLE PARK [TRAVEL TRAILER PARK]. Any area or tract of land or a separately designated section within a mobile home park where lots are rented or held out for rent to one or more owners or users of recreational vehicles for a temporary time not to exceed thirty (30) consecutive days.

2.865 RECREATIONAL VEHICLE SPACE. A plot of ground within a recreational vehicle park designated and intended for the accommodation of one (1) recreational vehicle.

2.870 RESTRICTED LOT. See Lot-Restricted.

2.875 RIGHT-OF-WAY. That portion of land dedicated to public use for street and/or utility purposes or maintained in private use for similar purposes.

2.880 ROADWAY WIDTH. For a street with battered, high back or roll curb to back of curb, otherwise the width of the actual surface.

2.885 SCHOOL, PRIVATE. A school which is operated by a quasi-public or private group, individual, or organization, and which has a curriculum similar to that provided in any public school in the State of Utah. Private schools may be non-profit, or profit-making establishments.

2.890 SCHOOL, PUBLIC. A school operated by a school district or other public agency in the State of Utah.

2.895 SIGN. A presentation or representation of words, letters, figures, designs, picture or colors, publicity displayed so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid; also, the sign structure supports lighting systems and any attachments, ornaments or other features used to draw the attention of observers. See chapter 8.

A. **SIGN, ANIMATED.** A sign which involves motion or rotation of any part, created by artificial means, or which displays flashing, revolving or intermittent lights.

B. **SIGN AREA.** The entire background area of a sign upon which copy could be placed. In computing area of a sign background, only that face or faces which can be seen from one direction at one time shall be counted. The supporting incidental structure of the sign shall not be used in computing sign area.

C. **SIGN, CANOPY.** See SIGNS, classes of.

D. **SIGNS, CLASSES OF:**

1. **CANOPY SIGN** - A sign which is mounted on and supported by a canopy and may be found either above the canopy or hanging beneath the canopy, but in all cases mounted perpendicular to the building.

2. **FACIA SIGN** - A sign displayed upon or against the wall of an enclosed building, where the exposed face of the sign is in a plane parallel to the plane of said wall and extends not more than 24 in. horizontally from the face of said wall. A sign erected upon or against the side of a roof having an angle of 45° or less from the vertical shall be considered to be a wall sign, and shall be regulated as such; provided no portion of the sign protrudes above the wall or roof having an angle 45° or less from the vertical.

3. **FREE-STANDING SIGN** - A sign which is supported by one or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or a sign which is erected on the ground; providing that no part of the sign is attached to any part of any building, structure or "pedestal sign" and "ground sign".

4. **IDENTIFICATION SIGN** - The term "identification sign" shall include the following:

- a) a name plate which establishes the identity of an occupant by listing his name and business or professional title;
- b) a sign which establishes the identity of a building or building complex by name or symbol only;
- c) a sign which indicates street address or combines name plate and street address;
- d) a sign which identifies an area in the city which, by reason of development, natural features, historical occurrences or common references, has or will become a landmark in the city;
- e) a commemorative sign, such as a cornerstone, memorial or plaque, when such is cut into a masonry surface or constructed of bronze or other incombustible material, and is made an integral part of the structure.

5. **MARQUEE SIGN** - A sign depicted upon, attached to or supported by a marquee. A marquee is a roof-like structure projecting above an outer door and over a sidewalk or terrace.

6. **PROJECTING WALL SIGN** - A sign attached to a building or extended in whole or in part 12 in. or more horizontally beyond the surface of the building to which the sign is attached, but not including a "marquee sign" as herein defined. Support structure must be perpendicular to surface of the building.

a) **ROOF SIGN** - A sign painted on the roof of a building supported by poles, uprights or braces attached to the roof of a building; or projecting above the roof line of a building; but not including a sign projecting from or attached to the wall face. (See "Projecting Wall Sign")

b) **TIME-TEMPERATURE-DATE SIGN** - A sign which displays the current time, outdoor temperature, and/or date of the month.

7. **SIGN, FLASHING**. A sign which contains or is illuminated by lights which are intermittently cut on or off, change in intensity or otherwise create the illusion of flashing or movement.

8. **SIGN, HEIGHT OF**. The vertical distance measured from the nearest finished grade to the top of the sign, excluding any superficial trim. In the case of a roof sign, the maximum height shall be measured from the roof line or the parapet level, if applicable, at the location of such sign.

9. **SIGN, ILLUMINATION - INDIRECT**. Lighting by means of a light source which is directed at a reflecting surface in such a way as to illuminate the sign from the front, or the entire building facade upon which a sign is displayed. It does not include lighting which is primarily used for purposes other than sign illumination, i.e., parking lot lights or lights inside a building which may silhouette a window sign but which are primarily installed to serve as interior illumination.

10. **SIGN, ILLUMINATED**. A sign on which a source of light is used in order to make the message readable. This definition shall include internally and externally lighted signs.

11. **SIGN, OFF-PREMISE**. A sign which advertises a product or service not available on the premises where the sign is located.

12. **SIGN, ON-PREMISE**. A sign which advertises products or services available on the premises where the sign is located.

13. **SIGN, ORDINANCE**. The sign ordinance of Fielding Town.

14. **SIGN, ROTATING**. A sign which revolves 360 degrees (360°) with continuing motion.

2.900 SITE. A parcel or parcels of land intended to have one or more buildings or intended to be subdivided into one or more lots.

2.905 SITE AREA. All land area within the site as defined in the deed. Area shall be from an actual survey rather than from a deed description.

2.910 SITE PLAN. See Plot Plan.

2.915 STABLE, PRIVATE. A detached accessory building for the keeping of livestock owned by the occupants of the premises and not kept for hire, remuneration, or sale.

2.920 STABLE, PUBLIC. A detached accessory building where horses are boarded and/or kept for hire.

2.925 STEEP SLOPES. Areas where the average slope exceeds eight percent (8%) which, because of this slope, are subject to high rates of storm water runoff and therefore erosion.

2.930 STORY HALF. A partial story under a gable, hip, or gambrel roof, the wall plates of which are on at least two (2) opposite exterior walls, do not extend more than four (4) feet above the floor of such story, and the ceiling area of which does not exceed two-thirds (2/3) of the floor area of the same half-story.

2.935 STREETS, ROADS AND HIGHWAYS. See also Title 2

A. STREET, COLLECTOR. A street, existing or proposed, of considerable continuity, which is the main means of access to major streets, and is designated a collector street on the major street plan.

B. STREET, CUL-DE-SAC. A street which is designed to remain permanently closed at one end with the closed end terminated by a vehicular turnaround. For purposes of these regulations, the length of a cul-de-sac street shall be measured from the center of the cul-de-sac, to the point where the cul-de-sac intersects an adjoining street.

C. STREET, FRONTAGE, OR FRONTAGE ROAD. A minor street or road which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through traffic.

D. STREET, HALF. A street parallel and contiguous to a property line and of lesser right-of-way width not less than twenty-eight (28) feet in width or one-half (½) of projected roadway, whichever is greater, to be obtained in the future from the abutting property owner prior to development as frontage.

E. STREET, MAJOR. A street, existing or proposed, which serves or is intended to serve as a major traffic way, and is designated a major street on the major street plan.

F. STREET, MINOR. A street, existing or proposed, which is supplementary to a collector street and of limited continuity, which serves or is intended to serve the local needs of a neighborhood and to give access to abutting properties.

G. STREET, PRIVATE, OR PRIVATE ROAD, LOT RIGHT OF WAY. A strip of land not less than 24 feet in width connecting a lot to a street for use as a private access to that lot, with lanes less than 250 feet in length having or providing a fire hydrant (within ~~500~~ 250 feet of the main structure on the lot) and lanes greater than 250 feet in length providing water line easements for privately funded water lines and hydrants. (Ordinance 96-02) Each lot lane shall have a concrete or asphalt surface at least twelve (12) feet wide from the street to the required parking area. Unpaved areas of the pole portion of the lot lane shall be landscaped.

A right-of-way approved by the Land Use Authority, Planning Commission and City Council, permanently reserved for use by the lot owners, and improved and maintained by the owners as required by the Land Use Authority, Planning Commission and City Council.

H. STREET, PUBLIC. A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority.

I. STREET RIGHT-OF-WAY. That portion of land dedicated to public use for street and utility purposes.

J. STREET, STUB. A street or road extending from within a subdivision boundary and temporarily terminating there with no permanent vehicular turnaround. Stub streets are provided to permit adjacent undeveloped parcels of land to be developed by continuing the stub street to the extended connecting street system.

2.940 STRUCTURE. Anything constructed for the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground; includes "building".

2.945 SUBDIVIDER. Any person, firm, corporation, partnership or association who causes land to be divided into a subdivision for themselves or others; a developer.

2.950 SUBDIVISION. The division, whether or not concurrent or sequential in time, of a tract or lot or parcel of land, into two (2) or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of sale or of building development; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes as defined herein. The word "subdivision" and any derivative thereof shall have reference to the term "subdivision" as herein defined.

For the purpose of this Code, a subdivision of land shall also specifically include:

A. The dedication of a street through or adjacent to a tract of land, regardless of area, which may create a division of lots or parcels constituting a "subdivision."

B. Re-subdivision of land heretofore divided or platted into lots, sites, or parcels, or

C. Condominium projects.

2.955 SUBDIVISION, MINOR, MINI OR SMALL. The division, whether or not concurrent or sequential in time, of a tract or parcel of land into fewer than ten (10) building sites, tracts, or lots, each accessible by an existing public road and meeting all other requirements of a minor subdivision herein.

2.960 SUBDIVISION, PERFORMANCE STANDARD. A method for developing land for residential use utilizing performance standards (including but not limited to open space ratio, density, impervious surface ratio and other standards as set forth herein. Performance standard subdivisions allow the grouping or clustering of dwelling units, permitting a variety of housing types to encourage better, more flexible designs. The subdivision as a whole must meet prescribed standards for open space, density, and impervious surfaces.

2.965 UNRESTRICTED LOT. See Lot - Unrestricted.

2.970 URBAN SERVICES. Those services normally associated with urban living, including but not limited to the following: electricity, natural gas, streets, schools, culinary water, sewage collection and treatment facilities, and police and fire protection.

2.971 VESTED RIGHTS.

A. An applicant is entitled to approval of a land use application if the application conforms to the requirements of the City's zoning map and applicable land use ordinance in effect when a completed application is submitted and all fees have been paid, unless:

1. the governing body, on the record, finds that a compelling countervailing public interest would be jeopardized by approving the application; or
2. in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application submitted.

B. The City shall process an application without regard to proceedings initiated to amend the municipality's ordinances if:

1. 180 days have passed since the proceedings were initiated; and
2. The proceedings have not resulted in an enactment that prohibits the approval of the application as submitted.

C. An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

D. The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

E. The city shall not impose on a holder of an issued land use permit a requirement that is not expressed:

1. in the land use permit or in documents on which the land use permit is based; or
2. in the City's ordinances.

F. The City will not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed:

1. in the building permit or in documents on which the building permit is based; or
2. in the City's ordinances.

G. The City is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

2.975 VICINITY MAP (LOCATION MAP). A plan or drawing, not necessarily to scale, showing where a subdivision, or proposed subdivision, is located.

2.980 VICINITY PLAN. A map or drawing, to scale, of any area proposed for development, showing existing and proposed streets, buildings, public facilities and utilities within the general influence area of the proposed subdivision such as one (1) mile radius; boundaries of zoning districts, taxing districts, and other special districts on and in the immediate vicinity of the land proposed for subdivision; water courses, impoundments, streams, springs, wells and areas subject to continuous or occasional flooding on and in the immediate vicinity of the land proposed for subdivision and significant vegetative patterns on and in the immediate vicinity of the land proposed for subdivision.

2.985 WETLANDS. Areas known as marshes, swamps, or wetlands, including all areas greater than one-quarter acre where standing water is retained for a portion of the year and unique vegetation has adapted to the area, or as regulated by the U.S. Army Corps of Engineers.

2.990 WILD ANIMAL SHELTER. Which includes but is not limited to: State licensed animal shelter for wild animals, zoological park, veterinary hospital, humane society shelter, public laboratory, circus, side show, amusement show or facility for educational or scientific purposes, provided that protective devices are adequate to prevent such animal from escaping or injuring the public.

2.995 WILD ANIMAL. Any animal of a species, however domesticated, that in its natural life is wild. Including but not limited to:

A. Alligators and crocodiles;

B. Bears (ursidae): All bears including grizzly bears, brown bears, black bears, etc.;

C. Cat Family (felidae): All except the commonly accepted domesticated cats, and including cheetahs, cougars, leopards, lions, lynxes, panthers, mountain lions, tigers, wildcats, etc.;

D. Dog family (canidae): All except domesticated dogs, and including wolves, foxes, coyotes, dingos, etc.

E. Porcupines (erehizontidae);

F. Primates (hominidae); All subhuman primates;

G. Raccoons (prosynnidae); All raccoons including eastern raccoons, desert raccoons, ring-tailed cats, etc.;

H. Skunks;

I. Venomous fish and piranha;

J. Venomous snakes or lizards;

K. Vicious Animals: An animal which has previously attacked or bitten any person, or person's animal or animals more than twice during a two-year period or which has behaved in such a manner that the person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons. This section shall not apply to an animal under the control of a law enforcement or military agency when acting through that agency, nor to an animal that is kept for the protection of persons or property, provided such animal is restrained by a leash or chain, cage, fence, or other adequate means, from contact with the general public or with persons who enter the protected premises with the actual or implied permission of the owner or occupant. A vicious animal is hereby declared to be a public nuisance and it shall be unlawful and a class C offense for any person to harbor or keep a vicious animal within the City, except in compliance with the provisions of this Ordinance. Upon the conviction of the owner of harboring or keeping a vicious animal in violation of this section, the vicious animal shall be disposed of by humane means within ten (10) days of such conviction.

L. Weasels (mustelidae): All including weasels, martens, wolverines, ferrets, badgers, otters, ermine, mink, mongooses, etc., except that persons raising members of this family as a business for their pelts shall not be prohibited by this chapter.

2.1000 YARD. A required open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as permitted elsewhere in this Code. See chapter 1.15

A. YARD, FRONT. A space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building. (NOTE: On a corner lot there are two front yards.)

B. YARD, REAR. A space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

C. YARD, SIDE. A space on the same lot with a building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

2.1005 ZONING ADMINISTRATOR. The person designated by the Governing Body to enforce the regulations of this Code.

2.1010 ZONING ORDINANCE. The ordinance of Fielding Town which provides for the division of Tremonton City into districts, specifies the land uses which may be conducted in each district, and provides regulations for the uses of the land in each district.

(Am 02-20-96) (Am 12-97) (Am 05-02-00) (Am 11-08-05) (Am 10-16-07)

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CHAPTER 3

ORGANIZATION FOR ADMINISTRATION AND REVIEW PLANNING COMMISSION

Sections:

- 3.005 Creation of Planning Commission.
- 3.010 Term of Office.
- 3.015 Compensation.
- 3.020 Vacancies and Removals.
- 3.025 Chairperson.
- 3.030 Employers.
- 3.035 Rules and Regulations.
- 3.040 Planning Commission to adopt Master Plan.
- 3.045 General Purposes in making Master Plan.
- 3.050 Method of adopting Master Plan.
- 3.055 Zoning-Right to Regulate.
- 3.060 Planning Commission to Certify Zoning.
- 3.065 Traffic Advisory Board.
- 3.070 Conditional Use Permits.

3.005 CREATION OF PLANNING COMMISSION, NUMBER OF MEMBERS, APPOINTMENT. The Planning Commission shall consist of six (6) members, each to be appointed by the Governing Body. Five (5) members of said Commission shall be residents of Fielding Town and owners of real property within Fielding Town and shall hold no other public office or position within Fielding Town. The sixth (6th) member of the Planning Commission shall be appointed from among members of the Governing Body by the Governing body, as an ex-officio and non-voting member of the Planning Commission. The Chairperson of the Planning Commission shall be a voting member.

3.010 TERM OF OFFICE.

A. The terms of the appointed members of the Planning Commission, with the exception of the Governing Body ex-officio Member, shall be five (5) years, and until their respective successors shall have been appointed, except that the terms of appointment shall be such that the terms of one (1) member shall expire each year. The ex-officio member from the Governing body shall serve at the pleasure of the Governing Body. The Planning Commission existing at the time of passage of this Ordinance shall continue to serve, and the terms of its members shall be fixed by the Governing Body in such a manner as to comply with the above provisions for staggering terms of service.

B. Quorum. Three (3) voting members of the Planning Commission shall constitute a Quorum.

C. Voting. The minimum number of "yes" votes by voting members of the Planning Commission to approve any application, approve any recommendation, or to take any other action by the Planning Commission shall be four (4).

3.015 COMPENSATION. The members of the Planning Commission shall serve as such without compensation, except that the Governing Body shall provide for the reimbursement of the members of the Planning Commission for actual expenses incurred, upon presentation of proper receipts and vouchers.

3.020 VACANCIES AND REMOVALS FOR CAUSE. Vacancies of appointed members occurring otherwise than through the expiration of terms shall be filled for the remainder of the unexpired term by appointment of the Governing Body. The Governing Body shall have the right to remove any member of the Planning Commission for misconduct and may remove any member for non-performance of duty. Unexcused absences from three (3) consecutive regular meetings of the Planning Commission may be considered by the Governing Body as non-performance of duty.

3.025 CHAIRPERSON. The Planning Commission shall elect from its members a Chairman, whose term shall be for one year.

3.030 EMPLOYERS. The Planning Commission shall have power and authority to employ experts and a staff, and to pay such expenses as may be reasonable and necessary for carrying out the powers hereinafter set forth, but not in excess of such sums as may be appropriated by the Governing Body and/or which may be placed at the disposal of the Planning Commission by gift or otherwise.

3.035 RULES AND REGULATIONS. The Planning Commission shall adopt such rules and regulations governing its procedures as it may consider necessary or advisable, and shall keep record of its proceedings, which record shall be open to inspection by the public at all reasonable times.

3.040 PLANNING COMMISSION TO ADOPT MASTER PLAN. It shall be the function of the Planning Commission to make and adopt a Master Plan for the physical development of the territory within Fielding Town, in accordance with state law. (See *Utah Code Annotated* 10-9a.)

3.045 GENERAL PURPOSES IN MAKING MASTER PLAN. In the preparation of a Master Plan, the Planning Commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the territory within its jurisdiction. The Master Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of Fielding Town which will, in accordance with present and future needs and resources, best promote the health, safety, morals, order, convenience, prosperity, or the general welfare of the inhabitants, as well as efficiency and economy in the process of development including, among other things, such distribution of population and of the uses of land for urbanization, trade, industry, habitation, recreation, agriculture, arboretum and other purposes, as will tend to create conditions favorable to health, safety, transportation, prosperity, civic activities and recreational, education and cultural opportunities; will tend to reduce the wastes of physical, financial, or human resources which result from either excessive congestion or excessive scattering of population; and will tend toward an efficient and economical utilization, conservation and production of the supply of food and water, and of drainage, sanitary and other facilities and resources.

3.050 METHOD OF ADOPTING MASTER PLAN. The Planning Commission may adopt the Master Plan as a whole by a single resolution or, as the work of making the Master Plan progresses, may from time to time adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter which may be included in the Plan. The Planning Commission may from time to time amend, extend or add to the Plan, or carry any part of it into greater detail. The adoption of the plan or any part, amendment, extension or addition shall be by resolution carried by the affirmative votes of not less than a majority of the entire membership of the Planning Commission and, after full hearing shall have been thereon, after notice of such hearing shall have been given as required by law. The resolution shall refer expressly to the plans and descriptive matter by the identifying signature of the Chairman of the Planning Commission. The Master Plan shall be available for public inspection in the office of the Planning Commission at all reasonable times.

After adoption of the Master Plan, the Planning Commission shall certify the adopted Master Plan, or part thereof, to the Governing Body for its consideration and adoption.

3.055 ZONING - RIGHT TO REGULATE. The Planning Commission shall make a zoning plan or plans for zoning all of the territory within the municipality, including both the full text of the zoning resolution or resolutions and the maps, and representing the recommendations of the Planning Commission for the regulation by districts or zones of the location. Heights, bulk and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, recreation or other purpose will be regulated.

3.060 PLANNING COMMISSION TO CERTIFY ZONING TO THE GOVERNING BODY FOR PUBLIC NOTICE. The Planning Commission shall certify a copy of the plan or plans for zoning all or any part of the territory within Fielding Town or any adopted part or amendment thereof, or addition thereto, to the Governing Body. After receiving the certification of said zoning plan or plans from the Planning Commission and before adoption of the Ordinance, the Governing Body shall hold a public hearing thereon, the time and place of which notice shall be given in accordance with state law. Such notice shall state the place at which the text and/or map so certified by the Planning Commission may be examined. No substantial change in or departure from the text or map so certified by the Planning Commission shall be made unless such change or departure be first submitted to the certifying Planning Commission for its approval, disapproval or suggestions, and if disapproved, shall receive the favorable vote of not less than a majority of the membership of the Governing Body. The Planning Commission shall have thirty (30) days from and after such submission within which to send its report to the Governing Body. In the event that no report is submitted to the Governing Body within the time herein specified, the approval of the Planning Commission shall be presumed.

3.065 TRAFFIC ADVISORY BOARD. The Planning Commission shall act as the Town Traffic Advisory Board.

3.070 CONDITIONAL USE PERMITS. The Planning Commission shall hear and decide Conditional Use Permits as required per Title I and Title II of the Fielding Town code.

(Am 10-16-07)

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CHAPTER 4

BOARD OF ADJUSTMENT

Sections:

4.005 Board, Number of Members, Appointment, Term and Removal.

4.010 Duties and Powers of the Board.

4.015 Chairperson.

4.020 Rules and Regulations.

4.025 Meeting.

4.030 Appeal to the Board of Adjustment.

4.035 Hearings of the Board of Adjustment.

4.040 Notice.

4.045 Decision of Appeal.

4.050 Appeal/Decision of Governing Body and Judicial Review.

4.005 BOARD, NUMBER OF MEMBERS, APPOINTMENT, TERM AND REMOVAL. The Board of Adjustments shall consist of five (5) members, each to be appointed by the legislative body for the term of five (5) years, provided that the term of one member shall expire each year. Any member may be removed for cause by the appointing authority upon written charges and after public hearing, if such public hearing is requested. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One (1) member, but not more than one (1) member of the Planning Commission, shall be a member of the Board of Adjustments. No member of the Governing Body shall be a member of the Board of Adjustments. The Board of Adjustment may consist of a number of alternate members that are appointed by the Governing Body. No more than two (2) alternate members may sit at any meeting of the Board of Adjustment at one time.

4.010 DUTIES AND POWERS OF BOARD. The Board of Adjustments shall have the following powers:

A. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by any administrative official in the enforcement of this Code or of any regulations adopted pursuant thereto.

B. To hear and decide special exceptions to the terms of this Code, upon which said Board is required to pass under the provisions of this Code.

C. To authorize upon appeal such variance from the terms of this Code as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Code will result in unnecessary hardship; provided that the spirit of this Code shall be observed and substantial justice done. Before any variance may be authorized, however, it shall be shown that:

1. Literal enforcement of the zoning ordinance would cause unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;

2. Special circumstances are attached to the property covered by the application which do not generally apply to other property in the same district;

3. That because of said special circumstances, property covered by application is deprived of privileges possessed by other properties in the same district; and that the granting of the variance is essential to the enjoyment of a substantial property right that is possessed by other property in the same district

4. The spirit of the zoning ordinance is observed and substantial justice done.

The Board of Adjustment may never grant a use variance.

4.015 CHAIRPERSON. The Board of Adjustments shall organize and elect a Chairman of said Board from among its members, who shall serve for a term of one (1) year. The Chairman shall appoint a Vice-Chairman from among

the members of the Planning Commission, whose duty it shall be to act in the absence of the Chairman.

4.020 RULES AND REGULATIONS. The Board of Adjustments shall adopt rules which the Board finds are deemed necessary or advisable to implement the authority of the Board; provided, however, that none of the rules adopted by the Board shall be inconsistent with the provisions of this Code.

4.025 MEETINGS. Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and official actions, all of which shall be immediately filed in the offices of Fielding Town, and shall constitute a public record.

4.030 APPEAL TO THE BOARD OF ADJUSTMENT. Appeals to the Board of Adjustments may be taken by any person aggrieved by his inability to obtain a building permit or any person aggrieved by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this Code. Appeals to the Board may be taken by any administrative officer of the City that is affected or that administers any grants or refusals by virtue of enforcement of this Code. Such appeal shall be taken within thirty (30) calendar days of said action of decision or refusal to act by filing a notice of appeal with the officer from whom the appeal is taken and with the Board of Adjustments of forms to be provided by Fielding Town. The notice of appeal shall specify the grounds of appeal and the circumstances related thereto, including justification for the appeal under the provisions of this chapter. The officer from whom the appeal was taken shall forthwith transmit to the Board of Adjustments all papers constituting the record upon which the action or non-action appealed from was taken.

4.035 HEARINGS OF THE BOARD OF ADJUSTMENTS. The Board of Adjustments shall, upon receipt of an appeal and determination that the appeal can be legally considered, set a public hearing on the appeal. Said hearing shall be held within thirty (30) calendar days from the receipt of the notice of appeal; provided, however, that the Board of Adjustments on its own motion or at the request of either the appellant or any interested person, may grant an extension or continuation of the hearing for a reasonable time or times. Upon the hearing, any party may appear in person or by agent or by attorney and may call witnesses in support of or opposition to the issues raised by the appeal.

4.040 NOTICE. The Board of Adjustments shall give notice of the time and place of public hearing to the appellant at least 25 calendar days before such hearing. Said appellant shall, at least 15 calendar days prior to the time appointed for said hearing, give personal notice to all owners of property or properties which are located within three hundred (300) feet of the exterior boundaries of the subject property to be affected by said appeal as shown on the most recent tax rolls of the Box Elder County Recorder/Assessors Office. Such notice shall be given either by serving a copy thereof to said property owners by process server, or by sending written notice thereof by certified mail to the addresses of said property owner or owners as shown by the most recent tax lists of the Box Elder County Recorder/Assessors Office. Where the owner is a partnership, service upon any partner as provided shall be sufficient, and where the owner is a corporation, service upon any officer, as set forth above, shall be sufficient. The appellant shall by affidavit present satisfactory proof to said Board of Adjustment at the time of hearing that said notices have been duly served as aforesaid. Such notice shall state the time and place of such hearings and shall include a general explanation of the matter to be considered and the general description of the area affected or to be affected by said appeal. Forms of notice of appeal shall be provided to the appellant by the staff of the Governing Body.

4.045 DECISION ON APPEAL. In exercising the above-mentioned powers, the Board of Adjustments may, in conformity with the provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as said Board shall determine within the limits of its authority, and to the end shall have all the powers of the officer from whom the appeal was taken. Notice of the decision of the Board shall be sent in writing to all those requesting such notice at the public hearing.

4.050 APPEAL/DECISION OF GOVERNING BODY AND JUDICIAL REVIEW. The decision of the Board

of Adjustments shall be final as to the administrative action taken by Fielding Town, and such decision may affirm or reverse the decision of the Planning Commission or City Council in whole or in part. Any party aggrieved by the decision of the Board of Adjustments may seek and maintain a plenary action for relief therefrom in any court of competent jurisdiction; provided petition for such relief is presented to the court within thirty (30) calendar days after the filing of such decision in the office of the Governing Body.

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CHAPTER 5

DOCUMENT SUBMISSION AND REVIEW PROCEDURES

Sections:

5.005 General Requirements.

5.005 GENERAL REQUIREMENTS.

A. Applications to be Reviewed at Planning Commission Meeting. Whenever applications to the Planning Commission for formal action are required by this Code, submission to the Planning Commission is hereby defined as submission of such applications at a regularly scheduled public meeting of the Planning Commission .

B. Time Periods for Planning Commission Action. Time periods for Planning Commission action shall not begin to run until after complete applications are officially received by the Planning Commission at a regularly scheduled public meeting.

C. Pre-Submittal Procedures. To facilitate the handling of applications, the Planning Commission may, from time to time, adopt pre-submittal procedures to allow for adequate investigations and staff review and may require compliance with such pre-submittal review procedures as a prerequisite to formal receipt and action by the Planning Commission . Pre-submittal review shall in no way be interpreted to mean review by the Planning Commission .

D. Fees. Fees may be charged applicants for excavation permits, zoning amendments, building permits, occupancy permits, and conditional use permits, design review, Planning Commission, Land Use Authority, Appeal Authority hearings, and such other services as are required by this Code to be performed by public officers or agencies. Such fees shall be established by the Governing Body by resolution and shall be in amounts reasonably needed to defray costs to the public.

E. Docketing for Review. Upon receipt of all required writings, fees and materials for any specific stage of the review procedure, the Planning Commission shall docket the application for review. Incomplete submittals shall not be docketed for Planning Commission review.

F. Approval or Disapproval. At each step of the review procedure, the Planning Commission shall approve or disapprove of the writings and materials submitted to it, and where applicable, shall approve or disapprove of the entire application or any portion thereof. Any approval or disapproval made by the Planning Commission shall be in the form of written findings of fact and conclusions, which findings and conclusions shall be made available to the applicant and all parties concerned by the Planning Commission within forty-five (45) calendar days of the Planning Commission meeting at which the application was reviewed.

G. Copies. A minimum of three (3) copies of all required materials shall be submitted to the Planning Commission at each step of the review process.

H. Formal Action. Formal action on any application, i.e. action approving or denying an application, shall be taken only at regularly scheduled or officially called meetings of the Planning Commission .

I. Public Hearing. Unless specifically required by this Code or other applicable law, no public hearing need be held. However, a hearing may be held when the Planning Commission shall deem such a hearing to be necessary and in the public interest. Whenever a public hearing is held, notice thereof shall be given as required by applicable law or if there is no otherwise applicable law, then by a method reasonably calculated to give notice to interested parties. Notice of Public Hearing or Public Meeting shall be made in accordance to Utah Code, Title 10, Chapter 09a.

J. Application Forms. Application for any required Planning Commission action shall be submitted on forms prepared for that purpose by the Planning Commission .

K. Retention of Plans. Plans, specifications and reports for all applications submitted to Fielding Town shall become the property of the public and shall be retained by Fielding Town for a minimum period of two (2) years.

L. Applicability of Application and Document Requirements to Types of Uses. Applications and concept plans are required for all uses. Applications, preliminary design plans, and final plans are required for all planned unit developments, subdivisions, mobile home parks, mobile home subdivisions, and recreational vehicle parks. As per the provisions of this Code.

(Am 10-16-07)

CHAPTER 6

CONDITIONAL USE PERMITS

6.005 Purpose

6.010 Permit Required

6.015 Procedure for Approval.

6.020 Factors to be Considered.

6.025 Specific Review Criteria.

6.030 Duration.

6.035 Other Requirements.

6.040 Implementation.

6.045 Amendment or Revocation.

6.050 Violation.

6.005 Purpose.

Uses designated as conditional uses require special consideration from the Planning Commission. These uses may or may not be appropriate for a specific piece of property. The purpose of this Article is to allow the Planning Commission to evaluate the appropriateness of designated conditional uses on a case by case basis. The conditional use permit procedure allows the Planning Commission to approve, deny or conditionally approve any request for a conditional use permit.

6.010 Permit Required.

No person or entity shall operate or conduct a use designated as a conditional use within the applicable zone without first obtaining a conditional use permit from the Town.

6.015 Procedure for Approval.

A. **Application.** The applicant shall submit a completed application form and a site plan to the Planning Commission. In addition to the site plan, the applicant shall submit a written narrative which shall include, but not be restricted to, the following: the type of business proposed, hours and days of operation, square footage of buildings on the site, square footage used by the conditional use permit. Additional information the Development Review Committee finds pertinent to a project can also be required for submission. The applicant shall also pay a fee in an amount established by resolution of the Town Council with the application.

B. **Planning Commission.** The Planning Commission shall review the proposed site plan to determine if it complies with the Town Master Plan and with all Town ordinances, resolutions and policies while considering the factors set forth in Section 01-06-020. The Planning Commission shall hear and decide conditional use permit applications listed in this chapter and those listed elsewhere in the code not listed as administrative approval, and shall approve, deny, or approve with specified conditions.

6.020 Factors to be considered.

The following factors shall be weighed and considered when determining whether a conditional use permit application should be approved, denied, or approved with conditions:

A. Harmony of the request with the general objectives of the Master Plan, the Zoning Ordinance, and the particular zone in which the request is located.

B. Harmony of the request with existing uses in the neighborhood.

C. Development or lack of development adjacent to the site.

D. Whether or not the request may be injurious to potential development in the vicinity.

- E. Present and future requirements for transportation, traffic, water, sewer and other utilities.
- F. Suitability of the specific property for the proposed use.
- G. Number of other similar conditional uses in the area and the public need for the conditional use.
- H. Economic impact on the neighborhood.
- I. Aesthetic impact on the neighborhood.
- J. Safeguards afforded to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor.
- K. Attempts by the applicant to minimize other adverse effects on people and property in the area.
- L. Impact of the proposed use on the health, safety and welfare of the Town, the area, and persons owning or leasing property in the area.

6.025 Specific Review Criteria For Certain Conditional Uses. In addition to the foregoing, the Planning Commission must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for each of the following conditional uses:

A. Adult Oriented Business. The purpose and objective of this chapter is to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their location in areas deleterious to the health, safety, and welfare of the Town, and to prevent inappropriate exposure of such businesses to the community.

1. No adult-oriented business may be located within fifteen hundred feet (1,500) of any: School, Day care facility, Cemetery, Public park, Library, Religious institution, Residential zoning or zoning containing rural residential boundary, Liquor store, or other Adult-oriented business.

2. For the purpose of this section, distance is measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the adult oriented business is located and: The closest exterior wall of another adult-oriented business; the closest property line of any school, day care facility, public park, library, cemetery, or religious institution; and the nearest property line of any residential zone or zone containing residential property.

B. Child Care, Pre-School, where the number of children/students exceeds six (6) per day or class. See also section 1.02.255 and Chapter 1.07 of this Title.

6.030 Duration.

Unless otherwise specified by the Planning Commission, and subject to the provisions in this Chapter relating to the amendment or revocation of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land. The Planning Commission may grant a conditional use permit for a limited period of time, or grant a conditional use permit that will be subject to review at a later date(s), if it finds that a limited permit is necessary to protect the health, safety or welfare of the community.

6.035 Other Requirements.

An applicant or user of a conditional use permit shall be held to all of the requirements relating to site plan approval, improvement, bonding, maintenance and completion. The conditional use permit shall not be valid until the required bond has been posted. Nothing in this Article shall be interpreted to waive the bonding, licensing or permit requirements set forth in other Town ordinances.

6.040 Implementation.

A conditional use permit shall expire and become null and void if the permit has not been implemented by the recipient within one year of the date of approval. The permit shall be considered implemented if the recipient either engages or participates in the conditional use or completes substantial construction on the project for which the permit was granted.

6.045 Amendment or Revocation.

A. **Interested party.** Any interested party may apply to the Town for the amendment or revocation of a conditional use permit. For purposes of this section, "interested party" shall include the following persons or entities:

1. The owner or lessee of the property for which the conditional use permit was granted.
2. The Town.
3. Any owner or lessee of property that lies within three hundred feet (300') of the property for which the conditional use permit was granted.
4. Any person that can show that the conditional use has a direct impact on his or her health, safety or welfare.

B. **Fee.** Any person or entity, other than the Town, seeking to amend or revoke a conditional use permit, shall pay a fee in an amount established by resolution of the Town Council.

C. **Procedure.** The procedure for amending or revoking a conditional use permit shall be the same as the original application procedure set forth in Section 01-06-015.

D. **Justification.** A conditional use permit may be amended at the request of the holder of the permit upon a showing of good cause. A conditional use permit may be amended or revoked at the request of any other interested party if the Planning Commission finds one or more of the following:

1. That the conditional use permit was obtained by misrepresentation or fraud.
2. That the use for which the permit was granted has ceased or has been suspended for six months.
3. That the holder or user of the conditional use permit has failed to comply with any of the conditions placed on the issuance of the permit.
4. That the holder or user of the conditional use permit has failed to comply with any Town, State or Federal law governing the conduct of the use.
5. That the holder or user of the conditional use permit has failed to construct or maintain the site as shown on the approved site plan.
6. That the operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.

E. **Hearing.** No conditional use permit shall be amended or revoked against the wishes of the holder or user of the permit without first giving him or her an opportunity to appear before the Planning Commission and show cause as to why the permit should not be amended or revoked. Amendment or revocation of the permit shall not limit the Town's ability to initiate or complete other legal proceedings against the holder or user of the permit.

6.050 Violation.

A violation of any of the terms of this Chapter or of any conditions imposed as part of a conditional use permit shall be unlawful, and may be remedied and/or punished as set forth within Fielding Town ordinances.

(Am 10-17-07)

CHAPTER 7

HOME OCCUPATIONS

Sections:

7.005 Home Occupations.

7.005 HOME OCCUPATIONS.

The following uses shall *not* be permitted as home occupations: vehicle/RV painting or repair, vehicle/RV sales, dental offices, laboratories, medical offices, major appliance repair, machine/fabrication shops, animal hospital, junkyard, mortuary, adult oriented or sexually oriented business. All existing businesses in operation at the time of the adoption of this Ordinance shall be permitted to continue working under the previous law.

A. Purpose and Intent. To encourage the majority of business activities to be conducted in appropriate commercial zones. Business activities may be conducted within a residence on a limited basis if such activities comply with the standards of this section. All home occupations shall be secondary and incidental to the residential use. The use should be conducted so that neighbors, under normal conditions, would not be aware of its existence. Home occupations are a temporary privilege which can be revoked if disruption of the neighborhood occurs.

B. Home Occupation Permit Required. To assure compliance with the provisions of this section and to protect the character of residential neighborhoods in the Town of Fielding, a Conditional Use Home Occupation Permit shall be obtained from the Planning Commission for those uses not permitted as a minor home occupation before a dwelling unit in any zone may be used for business purposes.

C. Procedure. The Zoning Administrator, upon application, payment of an established fee, may issue a Home Occupation Permit which shall state the home occupation permitted, the conditions attached thereto, and any time limitations imposed thereon. The permit shall not be issued unless the Zoning Administrator is satisfied that the applicant will meet all of the conditions listed below and that the applicant has agreed in writing to comply with all said conditions.

D. Conditions. Each and every one of the following conditions must be observed at all times by the holder of a Home Occupation Permit:

1. Persons who are not bona fide residents of the premises shall not be employed on said premises. Exception: child care within a home as a home occupation and in accordance with this Chapter and Chapter two section 2.225 of this title may be allowed one (1) additional care giver. Care givers shall also meet State of Utah Child Care requirements.
2. The home occupation shall be conducted wholly within the structure on the premises and shall not exceed twenty-five (25) percent of the main floor of the dwelling or more than fifty (50) percent of any floor area of any garage or outbuilding in which the use is conducted (See subsection 9 for home day care exception). The home occupation may occupy an area within the garage, provided the garage still functions for parking, and as long as two parking spaces for residential use are still available.
3. Promotional meetings for the purpose of selling merchandise, taking orders, or training may be held as needed, as long as disruption of the neighborhood does not occur.
4. The home occupation may include the sale of commodities. However, it is the intent that it be limited to items produced on the premises, or items that are incidental to the *service* provided, i.e., a beautician who sells hair care products to his/her clientele. Inventory shall be limited to sales and promotional kits, demonstration kits, or stock that would not exceed forty-eight (48) cubic feet of space (typical coat closet) in/or on the entire property.
5. No Sign or advertising shall be displayed on the premises except name plates as permitted in chapter 8.

6. No display of any kind shall be visible from the exterior of the premises.

7. Only one vehicle may be used in association with the home occupation and shall be garaged or stored upon the premises. The vehicle used for the home occupation shall be limited to a maximum size of one-ton vehicle. Nor shall a business be permitted that requires receipt or delivery of merchandise, goods, or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail services using vehicles typically employed in residential deliveries. No deliveries by semi-tractor/trailer truck are permitted.

8. There shall be complete conformity with the Fielding Land Use Ordinance, Fire, Building, Plumbing, Electrical, Mechanical, and Health Codes and to all applicable State and Town laws and Ordinances.

9. Child Care shall follow the limits and ratios as outlined in Section 2.225 of this code and shall require a conditional use permit. Each home shall have an outdoor play space which is safe, free from hazards, located away from traffic and water hazards and must be fenced securely with a minimum four (4) foot high fence. All providers and facilities must comply with applicable Town ordinances and conditions of a conditional use permit and those rules as required by the State of Utah child care regulations all homes shall require an inspection by the Town building inspector or fire inspector prior to operating and shall be inspected on an annual basis prior to certificate or license renewal.

10. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.

11. The home occupation shall not alter the residential character of the premises or unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood by reason of color, design, materials, construction, lighting, sounds, noises, or vibrations.

12. Any special or other conditions established by the Zoning Administrator and made of record in the home occupation permit, as deemed necessary to carry out the intent of this section, shall be met.

13. All Home Occupation Permits shall be valid indefinitely provided the Town business license has not expired for longer than one (1) year and there have been no reported violations, complaints, or detrimental characteristics which may, in the opinion of the Zoning Administrator, require termination of said home occupation.

14. A Fielding Town Business License shall be required of all home occupations with an annual gross income of \$600.00 or more, (exception: home instruction of the arts). Occupations requiring State Licensing or Certifications shall provide proof. An inspection of the premises may be required by the Town Building Inspector and/or Town Fire Inspector, payment of an established fee will be required prior to the Inspection.

15. Handicapped persons can obtain a waiver of one or more of these conditions through the Zoning Administrator to allow such persons to become self-sufficient.

16. In the event of a change of location for a home occupation a new conditional use permit will be required.

17. Shall not generate business-related vehicular traffic in excess of three (3) vehicles per hour.

E. Minor Home Occupations. Home Occupations which meet the standards shall be defined as minor home occupations. In order to minimize traffic and off-street parking, and to avoid health and sanitation risks from disposal of medical wastes, Medical & Dental offices are specifically excluded as Home occupations. Permitted Minor Home Occupations include, but are not necessarily limited to, the following:

1. Artists, authors, architectural services, advertising.

2. Barber and beauty shops.

3. Consulting services, craft sales.
4. Music lessons, dance instruction, aerobic exercise, tutoring and general educational instruction, provided the number of students is limited to one (1) for every one-hundred (100) square feet of floor area and not to exceed forty-nine percent (49%) of the total floor area used, if instruction is to be given on a floor level below grade or one floor above the main level an additional access/egress door installed in accordance with the building code is required from that level.
5. Direct sales distribution, desktop publishing
6. Data processing, computer programming, and service.
7. Home Day Care (not more than six children)
8. Home crafts, Home office.
9. Garden produce.
10. Janitorial services, Insurance sales or broker, Interior design, Mail order.
11. Real estate sales, broker, or appraiser.
12. Sales representative.
13. Contractors office, provided there is no outside storage of equipment, and no more than one company vehicle stored on the premises.

F. Major Home Occupations. Major home occupation listed below which meet the standards of this chapter shall require a Conditional Use Home Occupation permit, except as modified in this section. The Planning Commission may allow with a conditional use permit the following:

1. Home Day Cares greater than six (6) children when meeting all the requirements of this Title.
2. Pre-Schools where the number of children will not exceed 12 per session and meeting all other requirements of this title.

The applicant for a Major home occupation may forego the hearing before the Planning Commission for a conditional use permit if all property owners within three hundred (300) feet of the applicant's property sign a petition in support of the home occupation.

G. Noncompliance. Any Home Occupation Permit shall be revoked by the Planning Commission upon violation of any requirements of this section, or upon failure to comply with any limitations of the permit, unless such violation is corrected within three (3) days of receipt of written notice thereof. A permit may be revoked for repeated violations of the requirements of this section, notwithstanding compliance to the violation notice.

H. Appeal.

1. In the event of denial of any permit, or of the revocation thereof or of objection to the limitations placed thereof, or objection to approval appeal may be made to the Town Planning Commission.
2. In the event it is alleged that there was an error in the order, requirement, decision, or determination made by any administrative official in the enforcement of this code appeal may be made to the Town Appeal

Authority

(Am 10-21-03) (Am 07-19-05) (Am 11-08-05) (Am 10-16-07)

CHAPTER 8

SIGNS & OUTDOOR ADVERTISING

Sections:

8.005 Title.
8.010 Purpose.
8.015 Interpretation.
8.020 General Regulations.
8.025 Inspection and Enforcement.
8.030 Notice Requirements.
8.035 Sign Permit and Permit Fee Required.
8.040 Codes and Symbols.
8.045 On Premise Freestanding Signs.
8.050 Off Premise Freestanding Signs.
8.055 Monument Signs.
8.060 Wall Signs/Facia/Flat Signs.
8.065 Billboards.
8.070 Canopy/Awning/Marquee/Suspended/Pole.
8.075 Temporary Signs.
8.080 Sign Location Clearance.
8.085 Permits not Required.
8.090 Prohibited Signs.
8.095 Reinspection Fee.

8.005 TITLE. The regulations contained in this chapter shall be known and may be cited as "Sign Regulations" of the Code of Fielding Town.

8.010 PURPOSE. The purpose of sign regulations set forth shall be to minimize potential hazards to motorists and pedestrians; to encourage signs which, by their design, are integrated with and harmonious to the buildings and sites which they occupy; to encourage sign legibility through the elimination of excessive and confusing sign displays; to reduce driver inattention; to safeguard and enhance property values; to preserve and improve the appearance of the Town; to protect public and private investment and to promote the public health, safety, and general welfare.

8.015 INTERPRETATION. In interpreting and applying the provisions of this Code, the sign regulations contained herein are declared to be the minimum standard allowable. The types of signs allowed by this Code shall be plenary and sign types not specifically allowed as set forth within the Code shall be prohibited without specific authorization of the Fielding Planning Commission.

8.020 GENERAL REGULATIONS.

A. Except as provided in this Code, no sign shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, or have the text of the sign changed, except in conformity with the regulations herein specified for the use district in which it is located. All sign reviews and permits must be approved by the Zoning Administrator.

B. All signs hereafter erected in Fielding Town shall comply with the current standards of the National Electrical Code, the Uniform Building Code, the Zoning Ordinance of Fielding Town and all other Fielding Town Ordinances. All signs governed by the State of Utah or the United States Government shall comply with the rules they set forth. Fielding Town shall not be responsible for any compliance problems whatsoever regardless of this Ordinance as it relates to State and Federal requirements.

C. All signs shall be maintained in good condition. Exposed parts of signs shall be painted or treated chemically in such a manner as to preserve the condition, aesthetics, and life of such signs; moving parts shall be maintained in operable condition; and signs designed to be lighted shall be maintained with a full complement of the lighting facilities required by the design of each such sign.

D. Removal of Conforming Signs. Any person occupying a building or portion of a building who owns or maintains a sign in connection therewith shall, upon vacating the premises, or discontinuing the business advertised, cause the sign to be removed. Any person who owns and maintains a sign which is maintained for the benefit of another person who occupies a building or part of a building whereon the sign is located shall cause the sign to be removed if the person for whom the sign is maintained vacates the premises. All signs identifying a discontinued use on the property shall be removed by the sign owner from the property within thirty (30) calendar days of the time the use was discontinued. Failure to comply, by the responsible party, shall be considered a violation of this chapter and subject to penalties noted herein.

E. Non-conforming signs, legally existing at the time of adoption of this code shall be exempt from compliance with the provisions of this chapter. Signs still must be maintained.

F. No sign erected before the adoption of this Code shall be moved to a new location on the lot or building or be enlarged, modified, or replaced unless it is made to conform with the regulations of this Code.

G. Name plate signs shall be allowed in all zoning districts without the necessity of obtaining a sign permit if the sign area does not exceed forty-eight (48) square inches, and contains occupant name and address only. No Business identification is allowed in residential zones.

H. All signs shall maintain a minimum of fifteen (15) feet clearance from any electric power line in any direction.

8.025 INSPECTION AND ENFORCEMENT. The Zoning Administrator of Fielding Town is hereby vested with the duty of enforcing the sign regulations of this Code and in the performance of such duty is empowered and directed:

A. To issue permits to construct, alter or repair signs which conform to the ordinances of Fielding Town.

B. To inspect and ascertain that all signs, construction of, or maintenance of any sign is in conformance with Ordinances of Fielding Town and the conditions imposed precedent to the issuance of a conditional use permit if applicable.

C. To issue a notice of violation to the person having charge or control or benefit of any sign found to be unsafe or dangerous, or in violation of the Ordinances of Fielding Town.

D. To institute any appropriate action or proceedings in any case where any sign is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in any case where any sign is used in violation of any Ordinance of Fielding Town including, but not limited to, the Zoning Ordinance, to accomplish the following purposes: (1) to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, and (2) to restrain, correct or abate such violation.

E. To abate and remove any unsafe or dangerous sign which is not repaired or made safe within five (5) working days after giving appropriate notice to the person having charge, control, or benefit of any such sign.

F. To abate and remove any illegal sign other than unsafe or dangerous signs which is not made conforming within ninety (90) working days after giving appropriate notice to the person having charge, control, or benefit of any such sign.

G. To abate and remove any non-maintained or abandoned sign which is not repaired or put into use within ten (10) working days after giving appropriate notice to the person having charge, control, or benefit of any such sign.

H. In the event that a sign is removed by the Town, the person having charge, control, or benefit of such sign shall pay to Fielding Town the costs incurred in such removal within ninety (90) calendar days after written notice is mailed to such person. Upon failure to pay the costs incurred in abating and removing an unsafe, dangerous, illegal, non-maintained or abandoned sign, Fielding Town may, by action of its Governing Body, place a lien against property owned by the person having charge, control or benefit of such sign to assure compliance with this provision.

8.030 NOTICE REQUIREMENTS. Notification by the Town to persons having charge, or control, or benefit of any sign found by the building official to be unsafe or dangerous or in violation of the Zoning Ordinance or other Ordinances of the Town and where the Town is contemplating removal of said sign shall be accomplished by the Town utilizing written notices sent through the registered mail, or said notice may be served upon the person having charge, control or benefit of such sign by delivering to such person personally a written notice. Any such notice shall state the exact nature of the violation, the exact time and date by which the non-complying condition or use must be remedied, and the appeals procedure by which the person having charge, control, or benefit of such sign may appeal the decision of the building official.

8.035 SIGN PERMIT AND PERMIT FEE REQUIRED. All signs hereafter erected within the boundaries of Fielding Town shall be erected, reconstructed, or remodeled only in accord with the authority authorized by the sign permit issued. Application for a sign permit shall be made to the Zoning Administrator and shall be accompanied by a fee to defray the expense to the Town incurred in administration of this chapter. Such fee shall be established by resolution of the Town Council. A sign permit shall be issued by the Zoning Administrator if the proposed sign is found by the Zoning Administrator to be in compliance with the provisions of this Code and other Ordinances of Fielding Town. All engineer/design standards must meet building code requirements and standards as adopted by Fielding Town Corporation and the State of Utah.

8.040 CODES AND SYMBOLS. In the following sections of this Chapter, uses of land or buildings which are allowed in the various districts are shown as "permitted uses," indicated by a "P" in the appropriate column. If a use is not allowed in a given district, it is either not named in the use list or it is indicated in the appropriate column by a dash, "-".

8.045 ON PREMISE FREESTANDING SIGNS. On Premise Sign -- any sign which directs attention to a use, product, commodity or service performed upon the premises on which it is located. Freestanding -- a sign supported upon the ground by poles or braces, or a monument type sign, and not attached to any building.

A. All on premise freestanding signs shall be permitted only through the Sign Permit process. (Exception: no on premise freestanding signs shall be allowed in any residential zone.)

B. On premise freestanding signs shall conform to the following requirements:

1. Sign shall not exceed thirty-six (36) feet in height except in a C-H zone where a maximum height of ninety (90) feet will be allowed
2. Number of signs: there may be one (1) such sign for each frontage of property, plus one (1) additional sign for each one hundred fifty (150) foot increment of said frontage in excess of one hundred fifty (150) feet. (one sign = one pole, multiple face)
3. Adjoining properties, said signs shall be placed no closer than fifty (50) feet apart.
4. Area of sign: Shall be determined by the following: The area of the sign shall be determined by frontage of lot in lineal feet. Area of sign may be increased by ten (10) square feet for each additional ten (10) feet of frontage beginning with Twenty-Feet (20) of frontage. Example Sixty (60) feet of frontage would equal a maximum eighty (80) square foot sign face. Maximum sign face shall not exceed 185 square feet up to a 150 feet of frontage. Exception parcels with a frontage of 250 feet or greater may add an additional thirty (30) square feet of sign area for each additional 25 lineal feet of frontage not to exceed a maximum sign area of 650 square feet.
5. No sign shall project over a property line, interfering with the public right-of-way.

Reader Boards. Changeable copy areas and electronic message centers may not exceed fifty (50) percent of the total sign copy area.

8.050 OFF PREMISE FREESTANDING SIGNS. Off Premise -- any sign which directs attention to a use, product, commodity or service not related to the premises. Freestanding -- a sign supported by poles or braces, or a monument sign, and not attached to any building.

A. All off premise freestanding signs shall be permitted only through the Sign Permit process. (exception: no off premise freestanding signs shall be allowed in a residential zone.) Permission in written form and a copy of the contract between sign owner and land owner shall be presented to the Town prior to any consideration given to approve an off premise sign.

B. Off premise freestanding signs shall conform to the following requirements:

1. Maximum sign height from adjacent grade is eighteen (18) feet.
2. Maximum sign area is thirty-two (32) square feet.
3. Minimum sign setback: all poles and sign face shall be on private property and shall not interfere with pedestrian or vehicle traffic.
4. Minimum distance from a residential zone is one hundred fifty (150) feet.
5. Minimum distance from a street intersection is forty (40) feet.
6. Maximum number of signs per parcel of property is one (1).
7. Minimum distance between signs is seven hundred (700) feet.
8. No sign shall interfere with the public right-of-way.

The use of monument signs in place of freestanding signs is encouraged.

8.055 MONUMENT SIGNS. Any freestanding sign supported upon the ground by a solid base or poles. Monument signs are intended to be low to the ground requiring no clearance, which sign and base are of approximately equal size in width and length.

A. Monument signs shall conform to the following requirements:

1. Maximum sign height six (6) feet.
2. Maximum sign area eighty (80) square feet.
3. Number of signs: there may be one (1) sign for each frontage of property, plus one (1) additional sign for each two-hundred (200) foot increment of said frontage in excess of two-hundred (200) feet.
4. Sign(s) set back shall be determined so that no sign will interfere with the public right-of-way, nor clear vision of a street intersection.
5. Minimum distance from a street intersection (back of curb) is forty (40) feet.
6. No sign shall interfere with the public right-of-way.

8.060 WALL SIGNS/FACIA/FLAT SIGNS. A wall sign is any sign that is either painted on a wall or its facing, or is painted in such a way that gives the visual appearance of being painted on a wall or facing by not having a frame or separation from the wall or facing. Wall signs differ from paintings in that their intent is to advertise or give a message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interest of any person, entity, product or service. Facia/flat signs are any signs erected parallel to and attached to the outside wall of

a building. Wall paintings must be submitted for conditional use considerations. Wall paintings are those paintings that in no way can be confused with a wall sign as described above.

A. Wall signs shall conform to the following requirements:

1. Area of sign: shall not exceed fifteen percent (15%) of total wall face area in square feet.
2. Sign(s) shall not extend more than eighteen (18) inches beyond the wall of the building, sign copy or message on face side only.
3. Two (2) wall signs shall be permitted per each business or tenant. No building shall be deemed to have more than four (4) faces.
4. No sign shall extend beyond any edge of the building.
5. Projecting wall signs shall have sufficient clearance from grade as to not interfere with the public right-of-way.
6. Unless otherwise noted in this chapter, no wall signs shall be allowed in any residential zone.
7. Industrial buildings may be allowed to have a painted or flat logo sign on each building face fronting a public street. And in accordance with this section.

8.065 BILLBOARDS/FREESTANDING/SINGLE POLE SIGNS. Billboards shall be on a single metal pedestal. Freeways (interstate highways) are the only locations that allow Billboard signs within the specified zones (not state or Town highways or roadways). These must comply with U.D.O.T. standards.

8.070 CANOPY/AWNING/MARQUEE/SUSPENDED SIGNS/POLE SIGNS. A canopy sign is any sign which is a structure other than an awning made of cloth, metal, or other material with frames affixed to the building and carried by a frame which is supported by the ground. An awning sign is any sign which is a structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a position against the building. Marquee signs are any signs built on a permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building. Suspended signs are signs which are anchored to a building and are free to hang from the structure to which it is attached.

A. Marquee signs only (in this section) will allow reader boards, changeable copy areas and electronic message centers, but such may not exceed 50% of the total sign copy area.

8.075 TEMPORARY SIGNS/"A" FRAME SIGNS/PORTABLE SIGNS/BANNER OR PENNANT. A temporary sign is a non-permanent sign erected, affixed, or maintained on the premises and may be displayed for not more than 30 consecutive days in any 3-month period, and not more than 90 days in any calendar year. "A" frame signs are temporary and moveable, constructed with two sides attached at the top so as to allow the sign to stand in an upright position. Portable signs are signs which are not permanently affixed to the ground, building, or other structure, which may be moved from place to place. Portable signs are temporary signs. Banner or Pennant signs are signs intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems and insignia are displayed for non-commercial purposes. The purpose of temporary signs are Grand Openings/Going Out of Business/Special Promotions. Note: Temporary signs shall not be placed in or over a public right of way, may not flash, blink, spin, rotate, block traffic visibility, constitute a vehicular or pedestrian traffic hazard, or cause a public nuisance of any kind. They shall not be attached to telephone poles, fences, or trees. They must be firmly secured to the building or ground. Temporary signs may be attached to the permanent signs only during the grand opening period. Temporary signs may not cover permanent signs unless the business has changed hands or changed names.

No off-premise temporary signs are allowed except those mentioned in this Ordinance.

8.080 SIGN LOCATION CLEARANCE. All signs throughout this chapter shall have a clearance of eight (8) feet minimum height from walking areas and eighteen (18) feet minimum height from all streets & roads. Height Clearance not affected by public ways, sidewalks or streets & roads shall be done by conditional use permit. Signs shall not interfere with any public or private utility company equipment. Clearance from overhead utility lines shall conform to utility provider standards.

8.081 SIGNS IN RIGHTS-OF-WAY. No sign other than official traffic signs or similar signs shall be erected within four (4) feet of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of Fielding Town or by specific authorization of the local code official.

8.082 TRAFFIC VISIBILITY. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

8.085 PERMITS NOT REQUIRED. The following signs shall be permitted in all zoning districts, and all applicable provisions of this Code shall apply, except that a sign permit and fee shall not be required.

PUBLIC SIGNS - Signs required or specifically authorized for a public purpose by any law, statute or ordinance; may be of any type, number, area height, location or illumination authorized by law. Such signs are considered to include safety signs, danger signs and traffic signs.

PRIVATE TRAFFIC DIRECTIONAL SIGNS - Signs guiding or directing vehicular or pedestrian traffic onto, off of, or within a premise when such do not exceed 4 sq. feet per sign in area and if freestanding do not exceed 6 feet in height, do not contain any advertising or trade name identification and are not illuminated, or internally illuminated.

REAL ESTATE SIGNS\RESIDENTIAL - Temporary non-illuminated on-premise real estate signs which do not exceed 16 sq. feet in area and 6 feet in height if freestanding. Such signs shall not remain in place more than seven (7) days after sale or rental of the subject property and shall be located solely on private property.

REAL ESTATE SIGNS - INDUSTRIAL, AGRICULTURAL & COMMERCIAL. Temporary non-illuminated on-premise real estate signs which do not exceed 120 sq. feet in area and 25 feet in height if freestanding. Such signs shall not remain in place more than seven (7) days after sale or rental of the subject property and shall be located solely on private property. Subdivisions greater than five (5) building lots and large developments may place one (1) sign on the premises of the development with a sign face not exceeding thirty-two (32) square feet. Two (2) additional directional signs may be located off site and contain only the name and direction of any subdivision or development, sign face area shall not exceed a maximum of sixteen (16) square feet and meet all other requirements of this chapter.

INFORMATIVE SIGNS - Signs commonly associated with, and limited to information and directions related to the permitted use on the lot on which the sign is located, provided that each sign does not exceed 300 square inches in area. (This category shall be interpreted to include such signs as "no smoking, rest room, no solicitors, self-service, vacancy, caution" and similar information signs).

WINDOW SIGNS - Non-illuminated and internally illuminated window signs when the total area of such signs: Does not exceed 25% of the total window area in the same vertical plane at the ground level on the side of the building upon which signs are displayed, and Does not exceed 25% of the total allowable sign area for the premises in the specified district. Temporary posters announcing or advertising events shall be exempted from limitations on window signs. Window signs shall not be allowed in any residential zones. Including Home Occupation/Business.

FLAGS - flags bearing the official design of a nation, state, municipality, or educational institution.

COMMUNITY EVENT SIGNS - Signs advertising a public entertainment or event of a public interest, provided the placing of the signs shall be approved and the locations designated by the Zoning Administrator. These signs shall remain in place for no more than 21 days before and 7 days after the event and may not exceed 20 sq. feet in area.

IDENTIFICATION SIGNS - Non-illuminated, internally illuminated or indirectly illuminated identification signs which do not exceed 4 sq. feet in total area, and project less than 23 in., limited to one such sign per use per building, and if sign is freestanding, the total height may not exceed 6 feet.

POLITICAL CAMPAIGN SIGNS - Signs or posters announcing the candidates seeking public political office and/or political issues, and data pertinent thereto up to an area of 32 sq. feet. These signs shall be confined to private property and located no closer than 200 feet to a polling place. Such signs must be removed within 7 days after the election.

CHURCH, QUASI-PUBLIC ORGANIZATIONS and APARTMENT HOUSE IDENTIFICATION SIGNS. In all zoning districts, a church or quasi-public organization may erect one (1) wall sign on the premises to identify the name of the organization and announce activities thereof. Apartment houses of five (5) or more dwelling units may erect one (1) sign on the premises to identify only the name of the apartment complex and to indicate vacancy. Said wall sign shall not exceed an area of thirty-two (32) square feet, and may be mounted upon a freestanding ornamental masonry wall.

8.090 PROHIBITED SIGNS. The following signs shall not be permitted or maintained within the Town of Fielding:

ROTATING SIGNS -- any sign which moves or rotates in any way or has a major moving part; with the exception of traditional barbershop poles and signs which revolve 360° and do not make more than 8 complete revolutions every 60 seconds.

FLASHING LIGHT/ROTATING LIGHTS - Any sign with lights which blink, flash, move, rotate, scintillate, flicker, vary in intensity or color or use intermittent electrical pulsations except lights which are placed behind translucent panels or all colored fluorescent/translucent tube(s) with more than 30 candle power.

PAPER SIGNS ON OUTSIDE OF BUILDINGS ETC - Other than those permitted by this chapter.

8.095 REINSPECTION FEE. In the event that a notice of violation is issued, a reinspection fee shall be charged to defray the costs of reinspection. Said reinspection fee shall be charged for each inspection required until applicable regulations of the Town are complied with. The amount of the fee shall be equal to the original sign permit fee.

(Am 09-18-2001) (Am 02-15-05) (Am 10-16-07)

8.100 SIGNS

ZONING DISTRICTS	CD	CH	CN	CG	MD/ MD-B	MG
On premise free standing sign	<u>P</u>	<u>P</u>	-	<u>P</u>	<u>P</u>	<u>P</u>
Off premise free standing sign	-	<u>P</u>	-	-	-	-
Wall Sign(s)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Monument Sign(s)	<u>P</u>	P	<u>P</u>	P	P	P
Roof Sign(s)	-	-	-	-	-	-
Billboard Sign(s) Interstate Highways	-	P	-	P	P	P
Canopy/Awning/Marquee/Suspended	P	P	P	P	P	P
Temporary Sign(s) 30 day maximum time period.	P	P	P	P	P	P
ILLUMINATIONS						
On premise free standing sign	P	P	-	P	P	P
Off premise free standing sign	-	P	-	-	-	-
Wall Sign(s)	P	P	P	P	P	P
Monument Sign(s)	P	P	P	P	P	P
Billboard Sign(s)	-	P	-	P	P	P
Canopy/Awning/Marquee/Suspended	P	P	P	P	P	P
Temporary Sign(s) 30 days max.	P	P	P	P	P	P
Flashing/Rotating	Not Permitted					
Changeable/Animated (reader board)	Permitted in all zones except Commercial Neighborhood and Residential.					
P - Permitted use with a sign permit and compliance with Chapter 1.08						
“-” Indicates not permitted in that Zone.						

See individual sections in this Chapter for sign regulations.

Residential Zone(s) Development and Subdivision Monument signs are permitted with a sign permit and compliance with sign regulations of this and other chapters of the zoning code.

Sign lighting shall not glare onto adjacent properties, or into the public right-of-way.

(Am 10-16-07)

CHAPTER 9

OFF-STREET PARKING REQUIREMENTS

Sections:

9.005 Off-street parking required.

9.010 Size.

9.015 Access to individual parking space.

9.020 Access requirements.

9.025 Number of parking spaces required.

9.030 Location of off-street parking.

9.035 Maintenance of parking lots.

9.005 OFF-STREET PARKING REQUIRED. At the time any building or structure is erected or enlarged or increased in capacity or any use is established, there shall be provided off-street parking spaces for automobiles in accordance with the following requirements, or as otherwise required by conditional use permit.

9.010 SIZE. The dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least ten (10) feet by twenty (20) feet for diagonal and ninety-degree spaces; and ten (10) feet by twenty-two (22) feet for parallel spaces. Consideration may be given to areas where a nine (9) foot wide space will not affect the intent of the parking area or number of required spaces. Compact spaces eight (8) feet by fifteen (15) feet may be used but will not count as part of the total number of required parking spaces.

9.015 ACCESS TO INDIVIDUAL PARKING SPACE. Except for single-family and two-family dwellings, direct access to each parking space shall be from a private driveway and not from a public street. All parking spaces shall have independent access not blocked by another parking space or other obstacle.

9.020 ACCESS REQUIREMENTS. Adequate ingress and egress to and from all uses shall be provided as follows:

A. Residential Lots. For each residential lot: not more than two driveways.

1. Not more than two (2) driveways shall be used for each eighty (80) feet of frontage on any street.
2. No two (2) of said driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than five (5) feet.
3. No driveway shall be closer to a street intersection from property line than twenty (20) feet.

B. Other Than Residential Lots. Access shall be provided to meet the following requirements:

1. Not more than two (2) driveways shall be used for each eighty (80) feet of frontage on any street.
2. No two (2) of said driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than three (3) feet.
3. Each driveway shall be not more than thirty-five (35) feet wide, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way.

4. No driveway shall be closer than ten (10) feet to the point of intersection of two property lines at any corner as measured along the property line, and no driveway shall extend across such extended property line.

5. On a street where there are no curbs or gutters, all driveways shall be well marked and protection provided for the entire length of the frontage exclusive of the driveways as per approved plans.

C. Landscaping. Each parking lot shall be adequately landscaped to comply with a plan approved by the Planning Commission and such landscaping shall be permanently maintained.

D. Lighting. Lights shall be provided to illuminate parking areas required by this chapter. Lighting used to illuminate any parking lot shall be arranged to reflect the light away from adjoining residential premises and from street traffic.

9.025 NUMBER OF PARKING SPACES REQUIRED. Based upon net useable space, The minimum number of off-street parking spaces shall be as follows:

USE	PARKING SPACE REQUIRED
Business or Professional Offices.	1 space for each 300 sq. ft. of gross floor area.
Churches & accessory uses.	One space for each 4 seats in the chapel or main assembly area or if there are no fixed seats, then 1 space for each 100 sq. ft. of floor space used for assembly purposes.
Dwellings.	2 spaces for each dwelling unit.
Furniture, appliance, hardware, and personal service shops.	1 space for each 500 sq. ft. of floor area.
Hospitals	2 spaces for each bed.
Hotels, Motels.	1 space for each sleeping or dwelling unit.
Nursing Homes, Care Centers.	1 space for every 2 beds.
Food Establishments on premises sale and consumption. Included are fast food, private clubs, and similar dining.	1 space for each 4 seats or 1 for each 100 sq. ft. of floor area.
Retail Stores.	1 space for each 250 sq. ft. of floor area.
Schools, all	1 space for each employee and 1 space for each 3 students of driving age.
Shopping Centers and Malls	1 space for each 250 sq. ft. of floor area or as determined by conditional use permit.
Stadiums, sports arenas, and other public assembly.	1 space for each 4 seats or 1 space for each 100 sq. ft. of floor area.
Swimming pools, commercial and public.	1 space for each 10 persons based on capacity load.
Theaters	1 space for each 4 seats based on design capacity of the structure.
Wholesale, warehouses, manufacturing, and Industrial uses.	As determined by Land Use Authority. But in no case fewer than 1 space for each employee projected for the highest employment shift.
All other uses not listed above.	As determined by Land Use Authority.

9.030 LOCATION OF OFF-STREET PARKING. Off-street parking shall not be allowed in required front yard

setbacks except by determination of the Land use Authority and in areas where the character of the street and general landscaping will not be adversely affected.

9.035 MAINTENANCE OF PARKING LOTS. Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with the following requirements:

A. Surfacing. Each off-street parking lot shall be surfaced with an asphaltic or concrete or other binder pavement and permanently maintained so as to provide a dustless surface. The parking area shall be so graded as to dispose of all surface water. If such water is to be carried to adjacent streets, it shall be piped under sidewalks.

B. Screening. The sides and rear of any off-street parking lot which adjoins an area which is to remain primarily residential shall be screened from such area by a masonry wall or solid visual barrier fence not less than four (4) nor more than six (6) feet in height.

(Am 10-16-07)

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Chapter 10

FENCING STANDARDS

Sections:

10.005 Fencing Standards.

10.010 Exceptions.

10.015 Clear view of intersecting streets.

10.020 Diagram.

10.005 FENCING STANDARDS. The term “fence” shall include any tangible barrier, lattice work, screen, wall, hedge, or continuous growth of shrubs or trees with the purpose of, or having the effect of preventing passage or view across the fence line. Fences seven (7) feet or less in height shall require a no fee fence permit and approval by the zoning administrator. Fences seven (7) feet in height must obtain a building permit from the Building Inspection Department.

A. Fences may be required. When approved by the governing body, the Planning Commission may require the erection of fences as a prerequisite to the approval of any project or to the granting of any building permit where, in the opinion of said commission, this is necessary to protect life and property. Such fences may be of the type and size necessary, in the above stated purpose.

B. Front yard. Solid walls, fences, hedges or screening materials which are sight obscuring may be built to a maximum of two (2) feet in any required front yard perimeter. Walls, fences, hedges or screening materials which are not sight obscuring (at least 50% open) may be built up to a maximum of four (4) feet in the front yard.

C. Side yard. Solid, sight obscuring fences or walls may be built to a maximum of four (4) feet but may slope upward to connect with the higher rear yard fence. The slope length may not exceed one section or a maximum of ten (10) feet.

D. Rear yard. Walls and fences in a rear yard may exceed seven (7) feet provided a building permit is first obtained from the Building Inspection Department prior to construction.

E. Corner lots. A fence not more than six (6) feet high may be constructed in a side yard adjacent to a public street or neighboring property on a corner lot, provided it does not extend into the clear vision area of a corner lot as defined by section 1.310, or block adequate line of sight for driveways and alleys, this will be determined by the Zoning Administrator prior to issuing any permit.

10.010 EXCEPTIONS. The provisions of this section shall not apply to certain other fences such as tennis courts, backstops, or patio enclosures as approved by the Zoning Administrator if it is determined that such does not create a hazard or violation of other building codes or Town ordinances.

A. For the purpose of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two (2) plants is and remains at least five (5) feet.

B. Where a fence, wall, or hedge is located along a property line separating two (2) lots and there is a difference in grade of the properties on the two (2) sides of the property line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

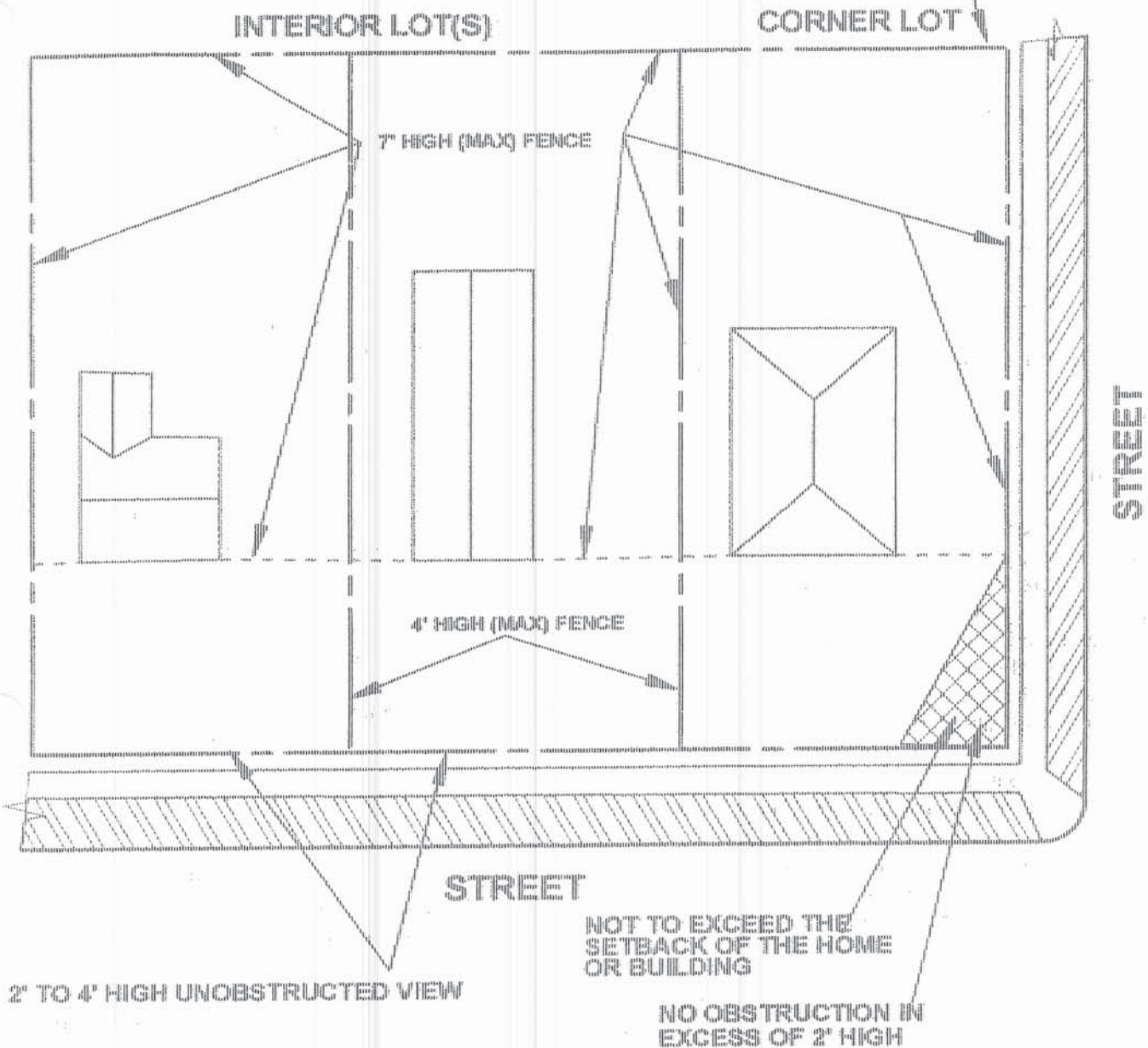
C. Where sidewalk improvements have been made, fence lines may be adjacent to the sidewalk(s) in accordance with the provisions of this Ordinance.

10.015 CLEAR VIEW OF INTERSECTING STREETS (CORNER LOTS). In all districts which require a front yard(s), no obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular

area formed by the street property lines and a line connecting them at points not to exceed the setback of the home or building. Any fence, wall, screen, hedge, or other material serving as a fence, shall not create a sight distance hazard to vehicular or pedestrian traffic. See diagram 10.020.

(Am 01-07-97) (Am 01-18-00)(Am 10-19-04)

SEE 1.10.005.E FOR FENCES IN THIS AREA



FENCE DIAGRAM

Tremonton City Code Title 1 Chapter 1.10

1.10.020

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Chapter 11

NOISE REGULATIONS

Sections:

11.005 Noise Regulations.

11.010 Noise Exemptions.

11.015 Noise Limits.

11.005 NOISE REGULATIONS.

A. It is the intent of Fielding Town to incorporate into the "Town Code" noise portions of those standards of measurement hereinafter set forth, which will take into account the latest scientific advance in noise measurement and control while at the same time, preserving the common sense and common law determination of what constitutes a disturbance or public nuisance. Therefore, sound level measurements, while universally desirable, shall not be required to demonstrate violation of this section if other evidence or testimony establishes the creation of a disturbance or public nuisance.

B. It is the intention that each separate provision of this section shall be deemed independent of all other provision therein, and if any provisions of this section are declared to be invalid, all other provisions thereof shall remain valid and enforceable.

C. In no event shall the peak intensity of sound exceed a sound level in excess of the following limits, measured in decibels, using, unless otherwise mentioned, the "A" frequency weighted and the "slow" response characteristic of a sound level meter conforming to all respects to American National Standards Institute (ANSI) standard S1.4-current version, as revised for type one or type two instruments.

D. The microphone or device used to measure the intensity of a noise may be placed at any point on the property line (if the noise source radiates into private property) or at any point fifty (50) feet distance from the noise source being measured and shall be at least five (5) feet from any wall and not less than three (3) feet above the ground. If it is not possible to measure five (5) feet from a wall, five (5) dB variance will be allowed. When measurements are made inside buildings or enclosures, readings may be obtained from any area to which persons may have access. The following limits refer to the largest reading obtained, using the above procedure.

11.010 EXEMPTIONS TO NOISE. The following shall be exempt from noise restrictions;

A. Law Enforcement and Fire Departments response to duties and emergencies.

B. Notification of Emergency Services and Natural Disasters through the use of a broadcast siren.

C. Emergency maintenance of area infrastructures, included are, roads, water systems, sewer systems, electrical power, telecommunications, storm drains, irrigation systems.

11.015 NOISE LIMITS.

Continuous and intermittent noises, sounds of commerce and industry:

DISTRICT	DAY	NIGHT
Residential (R)	85 dB	55 dB
Commercial	85 dB	65 dB
Industrial	85 dB	85 dB

Continuous noises, public disturbance: vehicles, machinery, motors, equipment, music.

DISTRICT	DAY	NIGHT
Residential (R)	65 dB	55 dB
Commercial	70 dB	65 dB
Industrial	75 dB	75 dB

Intentionally caused noises: vehicles, machinery, motors, equipment, music.

DISTRICT	DAY	NIGHT
Residential (R)	70 dB	60 dB
Commercial	75 dB	65 dB
Industrial	80 dB	75 dB

Impulse noises, an "on" cycle of ten percent (10%) or less and a maximum continuous duration of two (2) seconds.
Example: a gunshot.

DISTRICT	DAY	NIGHT
Residential	75 dB	60 dB
Commercial	80 dB	65 dB
Industrial	85 dB	80 dB

"Day" shall be from 6:00 a.m. to 10:00 p.m.

"Night" shall be from 10:00 p.m. to 6:00 a.m.

CHAPTER 12

MANUFACTURED AND MODULAR HOMES

Sections:

- 12.005 Title.
- 12.010 Interpretation and Purpose.
- 12.015 Intent.
- 12.020 Definitions.
- 12.025 Rules and Regulations.
- 12.030 Location.
- 12.035 Inspection.
- 12.040 Non-conforming Units.
- 12.045 Premises.
- 12.050 Compliance with Other Regulations.
- 12.055 Penalty.
- 12.060 Separability.

12.005 TITLE. This ordinance shall be known and may be cited as the "Mobile Home and Recreational Coach Ordinance of Fielding."

12.010 INTERPRETATION AND PURPOSE. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum regulations required for the protection of the public health, safety and welfare. To protect the public, among other purposes, such provisions are intended to provide for permanently wholesome community environments, adequate municipal services, and safe streets.

12.015 INTENT. To permit variety and flexibility in land development for residential purposes by allowing the use of mobile homes in certain districts within the local jurisdiction.

To require that mobile homes will be of such character as to promote the objectives and purposes of the zoning ordinances; to protect the integrity and characteristics of the districts contiguous to those in which mobile homes are located; and to protect other land use values contiguous to or near the mobile homes.

12.020 DEFINITIONS. Unless context requires otherwise, the following definitions shall be used in the interpretation and construction of this Ordinance. Words used in present tense include the future; singular number shall include the plural, and the plural the singular; the word, "building," shall include the word, "structure"; the words, "used" or "occupied," shall include arranged, designed, constructed, altered converted, rented, leased, or intended to be used or occupied; the word, "shall," is mandatory and not directory, and the word, "May," is permissive; the word, "person," includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the word, "lot," includes the words plot or parcel.

A. Mobile Home. A detached single-family dwelling of not less than thirty (30) feet in length, designed for long-term occupancy, and to be transported on its own wheels or on flatbed or other trailers or detachable wheels; and which has not been demonstrated to conform to the building codes, for other residences, adopted by the State of Utah or Fielding Town. In determining if such a dwelling is designed for long-term occupancy, the following criteria shall be used: such a dwelling contains a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, and ready for occupancy except for connections to utilities and other minor work. A mobile home shall only be allowed on a mobile home space or lot in an approved mobile home park or mobile home subdivision.

Pre-sectionalized, modular, or prefabricated houses not placed on a permanent foundation shall be regarded as mobile homes; if placed upon a permanent foundation, such structures which meet all applicable building and housing codes shall not be considered as mobile homes, but shall be regulated as conventional housing. And mobile homes which are

so placed on permanent foundations and meet all applicable building and housing codes shall be regulated as conventional housing.

B. Mobile Home Lot. A lot designed and to be used for the accommodation of one (1) mobile home.

C. Mobile Home Park. A space designed and approved by a local jurisdiction for occupancy of mobile homes, to be under single ownership or management, and meeting all requirements of the zoning ordinance and mobile home park ordinance for mobile home parks.

D. Mobile Home Space. A space within a mobile home park designed and to be used for the accommodation of one (1) mobile home.

E. Mobile Home Stand. That part of the mobile home space reserved for placing the mobile home with its appurtenant structures or additions.

F. Mobile Home Subdivision. A subdivision designed and intended for residential use where lots are to be individually owned or leased, and occupied by mobile homes exclusively.

G. Modular Home. A permanent dwelling structure built in prefabricated units which are assembled and erected on the site or at another location and brought as a unit to the site; said modular home is classed as a mobile home until it is placed on a permanent foundation and complies with all governing building codes.

H. Recreational Coach Park. Any area or tract of land or a separate designated section with a mobile home park where lots are rented or held for rent to one or more owners or users of recreational coaches for a temporary time not to exceed two (2) weeks. May be designed together with Mobile Home Park as "Park."

I. Permanent Foundation. Permanent foundations shall be either block or cement and shall be placed 32 inches (including footings) below the finished grade for frost protection.

12.025 RULES AND REGULATIONS.

A. Approval from the town council and a permit from the building inspector must be obtained before a mobile home may be placed.

B. The minimum acreage to place a mobile home will be the same as that for a permanent home.

C. Ordinances pertaining to permanent homes will also apply to mobile homes.

D. Mobile homes will be required to be skirted with either metal or fiber glass within 120 days from the date of the permit.

E. No mobile home parks, mobile home subdivisions or recreational coach parks will be permitted within the city limits.

F. Storage sheds (10 feet X 10 feet minimum) will be required for all mobile homes.

12.030 LOCATION. No occupied mobile home shall be located anywhere within the local jurisdiction except in a licensed mobile home park or approved mobile home subdivision, or as living quarters on bonafide farms and ranches; or as temporary (not to exceed two (2) years) installations for members of the immediate family (parents, children, brothers or sisters) when temporary conditional use permit is issued by the Planning Commission and then approved by the local governing body. Any living area additions would require a building permit and be placed on a permanent foundation.

Emergency or temporary parking of any unoccupied mobile home outside a licensed mobile home park or mobile home subdivision will be permitted for a period not exceeding twenty-four (24) hours. This limitation does not apply to unoccupied mobile homes in licensed mobile home sales areas.

12.035 INSPECTION. Mobile homes are considered by the local jurisdiction to be less durable and less resistant to deterioration than are conventional homes; therefore, all mobile homes which are used for human habitation, whether conforming or non-conforming, and whether located in mobile home parks, in mobile home subdivisions or on bonafide farms or ranches, shall be subject to the following special regulations:

- A. A permit is required for each plumbing and electrical hook-up with a fee as set by Resolution.
- B. A Certificate of Compliance is required for all mobile homes within the local jurisdiction whether occupied or awaiting occupancy; and may be obtained from the local Building Inspector for a fee, as set by Resolution, following an inspection wherein the mobile home is found to meet safety, sanitary and structural standards and is substantial, compared to new or original construction. The State inspection fee will be honored in lieu of the local fee for a Certificate of Compliance.
- C. Each mobile home may be inspected upon evidence of need, by the local Building Inspector to determine whether the structure is sound and being kept in a safe and sanitary condition for human habitation. During the inspection, the local Building Inspector may revoke the Certificate of Compliance for cause, including but not limited to violation of the fire or sanitary codes, substantial deterioration of structure so as to adversely affect the health or safety of the occupants, or deterioration in appearance so as to be unsightly and adversely affect the value of neighboring properties.
- D. Upon the revoking of a Certificate of Compliance or a finding of non-compliance, the local Building Inspector shall order the deficiencies corrected and a Certificate of Compliance obtained within thirty (30) days.
- E. If such deficiencies are not corrected or cannot be corrected, the mobile home shall be ordered vacated and removed from the premises upon which located, and shall not hereafter be used for human habitation within the local jurisdiction unless all deficiencies are corrected and a Certificate of Compliance obtained.

12.040 NON-CONFORMING UNITS. If a non-conforming mobile home is removed from the premises, it cannot thereafter be returned except that:

- A. If such removal was upon order of the Building Inspector for correction of deficiencies or by decision of the owner for the purpose of correcting deficiencies, the mobile home may be replaced upon the premises upon correction of such deficiencies within sixty (60) days, or
- B. A new mobile home may be established on the premises if:
 - 1. Accomplished within sixty (60) days, and
 - 2. The restored or new mobile home is owned by the same owner as the mobile home removed, and
 - 3. Said mobile home is to be occupied for a continuous period of at least six (6) months by the same occupant(s) as the mobile home removed.

12.045 PREMISES. The premises on which any mobile home is located, used or occupied shall be maintained in a clean, orderly and sanitary condition. The accumulation of any rubbish, waste, weeds, or other unsightly material thereon shall constitute a nuisance and a violation of this ordinance.

12.050 COMPLIANCE WITH OTHER REGULATIONS. Any mobile home or recreational coach located in any permitted area shall comply with and conform to all other zoning laws, rules, regulations, and building, plumbing, electrical, fire prevention, and all other codes and requirements applicable to a structure or building erected within the zone in which said mobile home or recreational coach is located.

12.055 PENALTY. The violation of any part of this ordinance shall constitute a separate offense for each day it continues, and shall be punishable as provided in the local ordinances for misdemeanors. In addition, the local jurisdiction may enjoin by civil action the violation hereof and may remove any mobile home from a location violating the provisions hereof and assess the expenses thereof as a cost of the action.

12.060 SEPARABILITY. If any section, sub-section, sentence, clause, phrase, or a portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Am 05-20-97)

CHAPTER 13

NON-CONFORMING BUILDINGS AND USES

Sections:

- 13.005 Maintenance Permitted.
- 13.010 Repairs and Alterations.
- 13.015 Additions, Enlargements, and Moving.
- 13.020 Alteration where parking insufficient.
- 13.025 Restoration of damaged buildings.
- 13.030 A pre-existing non-conforming use may be continued-provisions.
- 13.035 Effect of vacating a non-conforming building and ceasing a non-conforming.
- 13.040 Continuation of pre-existing non-conforming use permitted.
- 13.045 Effect of change of use.
- 13.050 Expansion permitted.
- 13.055 Non-conforming mobile home units.

13.005 MAINTENANCE PERMITTED. A non-conforming building may be maintained.

13.010 REPAIRS AND ALTERATIONS. Repairs and structural alterations may be made to a non-conforming building or to a building housing a non-conforming use.

13.015 ADDITIONS, ENLARGEMENTS, AND MOVING.

A. A building or structure occupied by a non-conforming use and a building or structure non-conforming as to height, area, or yard requirements shall not be added to or enlarged in any manner, or moved to another location on the lot except as provided herein.

B. A building or structure occupied by a non-conforming use or a building or structure non-conforming as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot upon a permit authorized by the Planning Commission, which may issue said permit, provided that said Commission, after public hearing, shall find:

1. That the addition or enlargement of or moving of the building will be in harmony with one or more of the purposes of this Code.
2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the non-conforming use or structure nor does it violate the development policies adopted in the Master Plan of Fielding Town.

13.020 ALTERATION WHERE PARKING INSUFFICIENT. A building or structure lacking sufficient automobile parking space in connection therewith as required by this Code may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of this Code for such alteration or enlargement.

13.025 RESTORATION OF DAMAGED BUILDINGS. A non-conforming building or structure or a building or structure occupied by a non-conforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or Act of God, or the public enemy, may be restored. The occupancy or use of such building, structure, or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one (1) year and is diligently prosecuted to completion in conformance with Ordinances of Fielding Town within two (2) years.

13.030 A PRE-EXISTING NON-CONFORMING USE MAY BE CONTINUED -PROVISIONS. A building utilized prior to the effective date of this Code for a use, which after the effective date of this Code is non-conforming, may continue to be utilized for such non-conforming use unless the building is vacated or the use ceased for a continuous period in excess of 365 calendar days. Land used prior to the effective date of this Code for a purpose which after the effective date of this Code is non-conforming may continue to be so used provided that such non-conforming use is not ceased for a continuous period in excess of 365 calendar days. No such non-conforming use of land may in any way be expanded or extended, either in the same or on adjoining property, except as provided under Section 13.015 above.

13.035 EFFECT OF VACATING A NON-CONFORMING BUILDING AND CEASING A NON-CONFORMING USE. A vacant building may be occupied by a use for which the building or structure was used, designed or intended, if so occupied within a period of 365 calendar days after the use became non-conforming. However, a building or portion thereof occupied by a non-conforming use which is, or hereafter becomes, vacant and remains unoccupied by said non-conforming use for a continuous period in excess of 365 calendar days, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located. Should a non-conforming use of land be ceased for a period in excess of 365 calendar days, any future use of such land shall be in conformity with the provisions of this Code, and the previously authorized non-conforming use is expressly prohibited.

13.040 CONTINUATION OF PRE-EXISTING NON-CONFORMING USE PERMITTED. The occupancy of a building by a non-conforming use, existing on the effective date of this Code may be continued, provided, however, that all non-conforming signs, existing within the Town on April 5, 1994, shall be removed by the owner, lessee or other custodian, of each sign, if any, by no later than Friday, May 6, 1994, at 5:00 p.m.

13.045 EFFECT OF CHANGE OF USE. The non-conforming use of a building or structure may not be changed except to a conforming use; but where such change is made, the use shall not thereafter be changed back to a non-conforming use.

13.050 EXPANSION PERMITTED.

A non-conforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became non-conforming.

13.055 NON-CONFORMING MOBILE HOME UNITS. If a non-conforming mobile home is removed from the premises, it cannot thereafter be returned, except that:

A. If such removal was upon order of the building official for correction of deficiencies or by decision of the owner for the purpose of correcting deficiencies within sixty (60) days; or

B. A new mobile home may be moved on the premises if:

1. Accomplished within sixty (60) days; and
2. The restored or new mobile home is owned by the same owner as the mobile home removed; and
3. Said mobile home is to be occupied for a continuous period of at least six (6) months by the same occupant(s) as the mobile home removed.

C. All mobile home and recreational vehicle parks existing at the time of the adoption of this Code shall comply with the provisions of this chapter within six (6) years.

CHAPTER 14

ZONING DISTRICT ESTABLISHMENT

Sections:

- 14.005 Establishment of Zoning Districts.
- 14.010 Filing of Code and Map.
- 14.015 Rules for locating boundaries.
- 14.020 Authorized uses within Districts.
- 14.025 Additional Requirements.
- 14.030 Zoning at time of Annexation.

14.005 ESTABLISHMENT OF ZONING DISTRICTS. For the purposes of this Code the territory of Fielding Town to which this Code applies is divided into one or more of the following listed zoning districts as shown on the Zoning Map.

- A. Agricultural District, A-20
- B. Rural Residential District, RR
- C. Residential District, R1-20
- D. Residential District, R1-12
- E. Residential District, R1-10
- F. Residential District, R1-8
- G. Multiple Residential District(s), RM-7, RM-15
- H. Neighborhood Commercial District, C-N
- I. Shopping Commercial District, C-S
- J. Highway Commercial District, C-H
- K. General Commercial District, C-G
- L. Central Development District, C-D
- M. Manufacturing - Distribution District, M-D
- N. General Industrial District, M-G
- O. Manufacturing - Distribution - Business Park, MD-B
- P. Planned District, P
- Q. Sensitive Area District, S-A
- S. Sexually Oriented Business - Overlay zone, SOB.
- T. Special Commercial, SC - Overlay zone

14.010 FILING OF CODE AND MAP This Code and map or maps shall be filed in the custody of the Clerk of Fielding Town and may be examined by the public subject to the reasonable regulations established by said Clerk.

14.015 RULES FOR LOCATING BOUNDARIES. Where uncertainty exists as to the boundary of any district, the following rules shall apply:

- A. Wherever the district boundary is indicated as being approximately upon the centerline of a street, alley, or block, or along a property line, then, unless otherwise definitely indicated on the map, the centerline of such street, alley, block, or such property line shall be construed to be the boundary of such district.
- B. Whenever such boundary line of such district is indicated as being approximately at the line of any river, irrigation canal or other waterway, or railroad right-of-way, or public park or other public land, or any section line, then in such case the center of such river or stream, canal or waterway, or of such railroad right-of-way, or the boundary line of such public land or such section line shall be deemed to be the boundary of such district.
- C. Where such district boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing upon the map.
- D. Where the application of the above rules does not clarify the district boundary location, the Planning Commission

shall interpret the map.

14.020 AUTHORIZED USES WITHIN DISTRICTS ARE PLENARY. The uses of land allowed in each district shall be plenary and uses of land not specifically allowed as set forth therein shall be prohibited in the respective district.

14.025 ADDITIONAL REQUIREMENTS IN EACH DISTRICT. In addition to the requirements imposed within each district, the requirements of other chapter may also be applicable in each of the other districts, and applicability of these chapters shall be evidenced by the zoning map and/or pertinent sections of this Code.

14.030 ZONING AT TIME OF ANNEXATION. If Fielding Town is a municipality to which land is to be annexed, the Planning Commission and Governing Body of the municipality shall proceed with rezoning procedures as required for land within the municipality and shall declare the land upon annexation to be zoned to the zoning district or districts determined appropriate by such procedures and by declaration of the Governing Body of the municipality.

(Am 11-17-98) (Am 10-16-07) (Am 04-15-08)

CHAPTER 15

RURAL RESIDENTIAL, RESIDENTIAL AND MULTIPLE RESIDENTIAL DISTRICTS

Sections:

15.005 Purpose.

15.010 Codes and symbols.

15.015 Use Regulations.

15.020 Use Regulations - Table.

15.025 Lot/Property Regulations - Table.

15.005 PURPOSE

A. Rural Residential District RR. The purpose of providing a rural residential district are: to promote and preserve in appropriate areas conditions favorable to large-lot family life, the keeping of limited numbers of animals and fowl, and reduced requirements for public utilities, this district is intended to be primarily residential in character and protected from encroachment by large commercial and industrial uses. Currently, all property within the Fielding corporate limits is zoned Rural Residential (RR). Minimum lot size: one-half (1/2) acre.

B. Residential District R1-20. To provide areas for very low density, single-family residential neighborhoods of essentially spacious and uncrowded character.

C. Residential District R1-15. Same as R1-12.

D. Residential District R1-12. To provide areas for low density, single-family residential neighborhoods of spacious and uncrowded character.

E. Residential Districts R1-8 and R1-10. To provide areas for medium low-density, single-family residential neighborhoods where low and medium costs of development may occur.

F. Multiple Residential District RM-7. To provide areas for low residential density with the opportunity for varied housing styles and character.

G. Multiple Residential District RM-15. To provide areas for medium residential density with the opportunity for varied housing styles and character.

15.010 CODES AND SYMBOLS. In following sections of this chapter, uses of land or buildings which are allowed in various districts are shown as "permitted uses," in the appropriate column, or as "conditional uses," in the appropriate column. If a use is not allowed in a given district, it is either not named in the use list or it is indicated in the appropriate column by a dash, "-", "not permitted." If a regulation applies in a given district, it is indicated in the appropriate column by a numeral to show the linear or square feet required, or by the letter "A." If the regulation does not apply, it is indicated in the appropriate column by a "-."

15.015 USE REGULATIONS. No building, structure or land shall be used and no building or structure shall be hereafter structurally altered, enlarged or maintained in the residential and multiple-residential districts, except as provided in this Code.

All building and parking area lighting is to be arranged so that there will be no glare there from to the occupants of adjoining property. Including public right-of-ways.

15.020 CLASSIFICATION OF NEW AND UNLISTED USES. For uses not listed in this Chapter, the applicant for such use shall take the request for classification to the Planning Commission. The Planning Commission shall determine the appropriate classification based on the following guidelines:

A. Should the Planning Commission determine the new or unlisted use is the same as a use listed under another name in the Land Use Chart, the Planning Commission shall so document this information. The applicant may then proceed under the regulations applicable to that use.

B. Should the Planning Commission determine the use is not considered by the Land Use Chart, the applicant shall petition the Town Council to amend the Zoning Code to specify and locate an appropriate zone or zones for the new use.

15.025 Residential and Multiple Residential Zones - Use Regulations			
Type - or - Use	Conditional Use Zones	Permitted Within These Zones If all requirements from this chapter and other applicable chapters have been met	Not Permitted Zone
DWELLING (Detached single family house - conventional, modular, or prefab home placed on permanent foundation which meets Fielding's Building Code Requirements): Single Family		RR / R1-20 / R1-12 / R1-10 / R1-8/ RM-7 / RM-15	
Two Family		RM-7 / RM-15	All other zones in Ch. 15
Three Family		RM-7 / RM-15	All other zones in Ch. 15
Four Family		RM-7 / RM-15	All other zones in Ch. 15
Multiple-Family		RM-7 / RM-15	All other zones in Ch. 15
Group(s) (PUD)		RM-7 / RM-15	All other zones in Ch. 15
Seasonal / Cabins			All zones in this Chapter
Farm/Ranch bunk house			All zones in this Chapter
Farm/Ranch worker			All zones in this Chapter
Mobile Home			All zones in this Chapter
TEMPORARY SECONDARY DWELLING UNIT (used during construction of permanent dwelling unit)	RR		
MOBILE HOME USED AS A SECOND DWELLING UNIT ON A TEMPORARY BASIS for the housing of a person or persons requiring intensive care by reason of incapacitating illness or injury or physical or mental condition. Conditional use permits for this use shall be issued for no more than 1 year, but may be reissued if necessary	RR		
HOME OCCUPATION	ALL ZONES		
ACCESSORY BUILDING RESIDENTIAL USE		ALL ZONES	
ACCESSORY BUILDING(S) NON RESIDENTIAL USE		ALL ZONES (Housing of farm animals or fowl for personal use R1-20 / RR)	
PASTURING ANIMALS		R1-20 / RR	All other zones in Ch. 15
TILLING / CROPS /			

GARDENING		ALL ZONES	
HOUSEHOLD PETS		ALL ZONES	
KENNEL	RR		All other zones in Ch. 15
FAMILY FOOD PRODUCTION (animals)		R1-20 / RR	All other zones in Ch. 15
FRUIT / VEGETABLE STAND		RR	All other zones in Ch. 15
FORESTRY (Private).15		RR	All other zones in Ch. 15
AGRICULTURE USES: Tilling of soil; raising crops, horticulture; gardening		RR	
Feed Lot	RR		
Grazing, pasturing or keeping animals		RR	
Riding Stable	RR		
Apiary	RR		
Commercial greenhouse or nursery	RR		
AGRICULTURE BUSINESS	RR		
AVIARY		RR	All other zones in Ch. 15
POWER GENERATION/ PERSONAL USE ONLY		RR	All other zones in Ch. 15
PUBLIC / QUASI-PUBLIC	ALL ZONES		
Elderly Housing Meeting all Requirements	ALL Zones (not within ¾ mile of like facility)		
Elderly Housing Meeting all Requirements	ALL Zones (not within ¾ mile of like facility)		
Handicapped Housing meeting all requirements	ALL Zones (not within ¾ mile of like facility)		
Professional Offices	All Zones		
Subdivision(s) / PUD(S)		All Zones	
Land Excavations		All Zones	
Multi-RV Storage			All Zones
Elderly Housing Meeting all Requirements	ALL Zones (not within ¾ mile of like facility)		
Handicapped Housing meeting all requirements	ALL Zones (not within ¾ mile of like facility)		
Professional Offices	All Zones		
Subdivision(s) / PUD(S)		All Zones	

Land Excavations		All Zones	
Multi-RV Storage			All Zones
Medical Accessory on same property			All zones in this Chapter
Private / Public Education Including preschool	All Zones		
Temporary Buildings		All Zones	
Signs (except for those allowed in Chapter 9)			All zones in this Chapter
Christmas Tree Sales		RR	All other zones in Ch. 15
Used move-on Housing		All Zones	
Manufactured Housing		All Zones (see Chapter 12)	
Storage Units			All zones in this Chapter
Private Recreational Grounds / NO FEE		All Zones	
Day Care	More than six (6) Children	Up to six (6) Children	
HOME OCCUPATION	RR		
PUBLIC PARK OR RECREATIONAL FACILITY	RR		
Cellular/ PCS – Towers and antennas. Amateur radio towers and antennas. Commercial towers and antennas.		All Zones meeting the requirements of Chapter 17	
Substation or Transmission Lines of fifty (50) KV or greater	All Zones		
COMMERCIAL USES (Planning Commission review and approval is required for all uses located in the commercial zones:: Retail Sales and service	All Zones		
Wholesale activities	All Zones		
Restaurant	All Zones		
Hotel, motel, motor inn	All Zones		
Service activities	All Zones		
Child day care or nursery	All Zones		
INDUSTRIAL USES Light manufacturing and Industrial activities			All Zones
Warehouse			All Zones
Construction equipment and materials storage yard			All Zones

15.030 Residential and Multiple Residential Zones - Area Requirements							
TYPE	RR	R1-20	R1-12	R-10	R1-8	RM-7	RM-15
<u>AREA REGULATIONS:</u>							
Minimum lot area in square feet for any Single Family dwelling in districts regulated by this chapter:	<u>1/2 Acre</u>	<u>20000</u>	<u>12000</u>	<u>10000</u>	<u>8000</u>	<u>7000</u>	<u>8000</u>
<u>WIDTH REGULATIONS:</u>							
The minimum width in feet for any lot in the districts regulated by this chapter, except as modified for PUD's:	<u>120</u>	<u>100</u>	<u>90</u>	<u>80</u>	<u>70</u>	<u>70</u>	<u>70</u>
<u>FRONTAGE REGULATIONS:</u>							
The minimum frontage in feet for any lot in the districts regulated by this chapter, except as modified by a Conditional Use Permit: (Cul-d-sac, flag, irregular shaped lots, etc.)	<u>35</u>	<u>50</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>
<u>SET-BACK REQUIREMENTS:</u>							
<u>MAIN BUILDING</u>							
Front yard	<u>35</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>25</u>	<u>25</u>
Side Yard, interior	<u>15</u>	<u>10</u>	<u>10</u>	<u>8</u>	<u>8</u>	<u>6</u>	<u>6</u>
Side Yard, street	<u>35</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>25</u>	<u>25</u>
Rear Yard	<u>15</u>	<u>30</u>	<u>30</u>	<u>25</u>	<u>20</u>	<u>20</u>	<u>20</u>
<u>SET-BACK REQUIREMENTS:</u>							
<u>ACCESSORY BUILDINGS</u>							
Front yard	<u>35</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>25</u>	<u>25</u>
Side Yard, interior - (1 foot) from the eve of any accessory building so long as the sloughing of all snow or rain is contained within the accessory building owner's property boundaries	<u>1</u>	<u>10</u>	<u>10</u>	<u>8</u>	<u>8</u>	<u>6</u>	<u>6</u>
Side Yard, street	<u>35</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>25</u>	<u>25</u>
Rear Yard - (1 foot) from the eve of any accessory building so long as the sloughing of all snow or rain is contained within the accessory building owner's property boundaries	<u>1</u>	<u>10</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>
Buildings on corner lots, main buildings shall have two (2) front yard(s), and two (2) side yards, 30' front set back, 25' front setback, two side yards shall not be less than a 10' foot set back.	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>HEIGHT REGULATIONS</u>							
Maximum height in feet	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>

(Am 02-20-96) (Am 01-18-00) (Am 10-16-07) (Am 04-15-08)

CHAPTER 16

COMMERCIAL AND INDUSTRIAL DISTRICTS

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Chapter 17

Wireless Communication Towers and Antennas.

Sections:

- 17.005 Wireless Communication Towers and Antennas.
- 17.010 Conditional Uses.
- 17.015 Co-location.
- 17.020 Amateur Radio Facilities.
- 17.025 Denial of Request to Install.

17.005 Wireless Communication Towers and Antennas.

(1) This section addresses planning issues resulting from the rapid growth in demand for low-power radio services within the Town. It distinguishes low-power radio from other broadcasting type telecommunication technologies and establishes provisions relating to demand, visual mitigation, noise, engineering, residential impact, health, safety and facility siting. The requirements of this section apply both to commercial and private low-power radio services such as cellular or PCS (Personal Communication System) communications and paging systems. All facilities shall comply with the following regulations and all other ordinances of the Town and any pertinent regulations of the Federal Communications Commission and the Federal Aviation Administration.

17.010 Permitted Uses.

Tower and antenna facility placement may be allowed by following all guidelines set forth in this chapter as determined by the Planning Commission.

(1) Yard Requirements. All telecommunication towers shall be located on the lot so that the distance from the base of the tower to any residential zone or any residential structure is a minimum of four (4) times the proposed tower height nor within a ½ mile radius to another tower unless grid documentation is supplied by an independent consultant stating that co-location will create a hardship. No towers shall be permitted in the required front yard in any zoning district and shall not be located in a required landscaped area or required parking area. Towers located on vacant lots shall have a minimum front yard setback of thirty (30) feet in all zoning districts.

(2) Wall Mounted Antennas. A wall mounted antenna is an antenna or series of antennae mounted against the vertical wall of a building. A wall mounted antenna shall comply with the following:

(a) Wall mounted antennas shall not extend above the wall line of the building or extend more than four feet horizontally from the face of the building.

(b) Antennas and all associate equipment shall be painted to match the color of the building or background.

(3) Roof Mounted Antennas. Roof mounted antennas may not extend more than fifteen (15) feet above the highest point of the roof. Antennas must be mounted at least five (5) feet from the exterior wall of the building, and must be screened, constructed and/or colored to match the structure to which they are attached.

(4) Monopole and lattice Structures. A monopole structure is a single cylindrical steel or wooded pole that acts as the support structure for antennas. A monopole and lattice structures shall comply with the following:

(a) All towers will be considered, all plans, engineering, and site locations shall be submitted in writing to the Planning Commission for consideration. Consideration will first be given to co-location on existing towers

(b) All towers shall be designed by a State certified engineer to allow for co-location and also for as many as three separate users on a single pole. A letter must also be supplied stating that the owners of the tower will allow for co-location and that the structure has been constructed to allow for this.

(c) Co-location on an existing monopole or lattice tower is a conditional use and shall be handled administratively.

(5) Stealth Fixtures A stealth fixture is a cellular antenna or antennas which are attached to a structure which acts as a support structure for the antennas. The stealth fixture shall be disguised as part of the object to which it is attached or otherwise concealed from view as much as possible. A stealth fixture shall comply with the following:

(a) Stealth fixtures may be attached to or disguised as a flag pole, light pole, power pole, manmade tree, clock tower, steeple, or other structure which shall not detract visually from the initial use and approved by the Planning Commission.

(b) All stealth fixtures shall be designed by a State certified engineer to verify that the existing or proposed structure can support the proposed fixture.

(c) The overall height of any proposed stealth fixture shall be consistent with similar structures in the area that is being duplicated. In no case shall a proposed stealth structure be out of character in the area determined by the Planning Commission. A stealth fixture shall not extend more than ten (10) feet higher than an existing of proposed structure to which it is being attached, or be greater than thirty (30) inches in diameter at any point of the fixture or mounting hardware.

Temporary Antennas and structures shall be allowed for a maximum time period of sixty (60) days, and shall comply with all requirements. Temporary Antennas are for use only when permanent structures have been approved and are being installed. Emergency Communications are exempt.

(6) Additional Requirements.

(a) All equipment associated with the operation of the antenna shall be located within the structure to which the antenna is attached, or screened from public view.

(b) If the associated equipment is located on the ground it must be appropriately landscaped.

(c) Placement of such equipment shall not detract nor interfere with the integrity of residential developments, commercial developments, pedestrian traffic, vehicle traffic, or other zoning areas which may prohibit height or sight restrictions and noise.

(d) Lighting and Security. All lighting on towers shall meet all FAA and FCC requirements, when such lighting is used it shall not affect surrounding properties. All towers must be enclosed by a six (6) foot chain link or opaque fence.

(e) The agent shall supply the Town with a letter stating that if technology renders the tower or antenna obsolete or is vacated, the agent will remove the tower or antenna, all other apparatus associated with it, the top three (3) feet of the footing/foundation and restore the sit to its original condition within ninety (90) days of vacation. Also, the letter shall state that if the agent does not remove the pole or antenna within the ninety (90) day period Fielding Town shall have the right to enter the subject property and remove the pole at the property owners or agent's expense.

(f) Provide a copy to the Town the lease agreement or verification of ownership prior to obtaining approval for the placement of the fixture or structure.

(g) A Building Permit shall be required for the construction or siting of all commercial or business use towers.

17.015 Co-location.

All commercial telecommunications providers are required to co-locate on existing telecommunication towers. Any commercial provided applicant who applies for a new tower structure site must provide the Planning Commission with extensive evidence that they have exhausted all means possible to co-locate on existing towers, or provide substantiated evidence that co-location on existing towers is contrary to engineering design and would create a substantial hardship for there business if located on any existing towers. Commercial telecommunications providers will be required to provide tower space, as well as ground space where possible, or allow access through existing ground space for necessary equipment and accessories to subsequent telecommunications providers on existing towers and lot areas. If ground space is not available, subsequent providers may have to acquire additional space from land owner(s). the land owner(s), the present tower owner/occupant and the applicant to the tower must bargain in good faith for the use of the tower and all must respect reasonable rates for the area and the industry.

17.020 Amateur Radio Facilities, Towers and Equipment. Amateur Radio facilities are primarily governed by restrictions provided by the Federal Communications Commission, and this section shall defer to Federal provisions for Amateur Radio Operations with the exception of the following conditional uses:

To comply with reasonable standards of Federal law for the permitting of Amateur Radio tower equipment and facilities, a Conditional Use Permit will be required if any of the following structures, buildings, facilities, or equipment are to be constructed. Applicants must present evidence of inability to operate radio equipment by exhausting all other means of operation which shall be verified by the leadership of a reputable radio group as to be determined by the Planning Commission, before the following conditional uses may be permitted:

- (1) Height of support structure over seventy-five (75) feet from the ground.
- (2) Equipment, tower or any accompanying structure or equipment placed in the front yard of any lot.

17.025 Denial of Request to Install or Construct.

Any application for construction of a wireless communication tower that is denied by any official of the Town , the Planning Commission, or the Town Council must be in writing and must be based on evidence with a written record of proceedings. Denial may not be based upon the grounds that radio frequency emissions from the facilities will be harmful to the environment or health of residents. FCC standards govern this application.

(Am 10-16-07)

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CHAPTER 18

Special Commercial Overlay Zone

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Chapter 19

LANDSCAPING RECOMMENDATIONS

Sections

- 19.005 Purpose
- 19.010 Landscaping Requirements
- 19.020 Definitions
- 19.030 Landscaping in New and Existing Dwellings
- 19.040 General Provisions
- 19.050 Enforcement
- 19.070 Appeal
- 19.070 Penalty

19.005 Purpose. It is the intent of this Section to ensure the timely installation of landscaping of residential lots occupied by a dwelling, including any adjacent pastures. The landscaping recommendations specified in this Chapter are intended to foster aesthetically pleasing development which will protect and preserve the appearance, character, health, safety and welfare of the community. These guidelines are intended to increase the compatibility of adjacent uses and, in doing so, minimize the harmful impacts of noise, dust and debris, weeds, fire hazards, and other objectionable activities conducted or created by an adjoining or nearby use thereby fostering compatibility among different land uses. These guidelines are also intended to preserve, enhance and expand the quality of life and promote the prudent use of water and energy resources.

19.010 Landscaping Requirements. The entire lot, including any adjacent pastures, of any new or existing lot containing a dwelling, shall be landscaped so as to control weeds, tall grasses, dust, etc. It shall be unlawful for the owner of any residential lot within the Town to refuse to install and maintain landscaping on any existing lot containing a dwelling. Landscaping shall be properly maintained including removing weeds and mowing turf areas. Turf grass shall not exceed six inches (6") in height.

19.020 Definitions.

A. The term "Landscaping" shall mean and include the installation of any combination of turf (including either sod or seeded area), planter beds, gardens, trees and shrubs, statuary, boulders, rock areas or other customary landscape features that occupy the entire unpaved portion of the yard area.

1. Xeriscape Permitted. Nothing in this Chapter shall be construed to prohibit the use of drought tolerant vegetation (xeriscape), and non-vegetative materials.

Provided, however, failure of an owner to install and maintain landscaping under the guise that the vegetation and bare ground that occur naturally on the site constitutes xeriscaping shall not qualify as conforming with the provisions of this Chapter.

19.030 Landscaping in New and Existing Dwellings.

A. Landscaping in new construction.

1. Landscape Bond Required - Prior to issuance of a building permit, a cash bond in the form of a cash escrow account in the amount listed on the City Fee Schedule, payable to the City and attached to the parcel or other adequate security, together with a landscaping completion agreement signed by the owner of the property shall be provided. The proceeds from this bond shall be released as the landscape improvements are completed.

2. Time Limitation - For all single-family homes that are constructed after the enactment of this provision, landscaping must be installed within two (2) years after the initial occupancy of the home.

B. Landscaping of Existing Dwellings.

1. In the instance of lots upon which a dwelling unit has already been constructed and/or occupied, the owner shall be noticed in writing of the Landscape Ordinance and required to install landscaping within two (2) years of written notice.

19.040 General Provisions.

A. All plantings shall be maintained in a healthy and attractive condition.

B. Landscaping materials shall be contained so as not to spill into the public right of way.

C. All areas not occupied by buildings, parking, storage, future phased plan areas or accessways, shall be landscaped; as well as the area within the public right of way between the roadway and the property line otherwise known as "park-strip"..

When shrubs, bushes, ground covers and/or ornamental grasses other than turf are used for landscaping the park-strip area, the spacing, type and size of plants used shall be such that fifty percent (50%) of all landscaped areas shall be covered with living material within three (3) years of planting.

19.050 Enforcement. The Zoning Administrator is hereby charged with the responsibility for enforcement of this Chapter. The owner of any dwelling that does not conform with the provisions of this Chapter shall be in violation of this Chapter, and as such, be subjected to an

immediate Administrative Citation and a Landscape Installation Fine as shown on the Town Fee Schedule.

19.070 Appeal. Any person adversely affected by a decision involving the provisions of this Chapter may appeal the same to the Board of Adjustment as provided in Chapter 1.04 of the Fielding Town Zoning Ordinance, provided said appeal shall be submitted not less than thirty (30) days following the issuance of the Administrative Citation or forfeited bond. The Board of Adjustment shall have the right, after notice to the owner/builder and hearing on the matter, to confirm, waive or amend the terms of the administrative Citation or forfeiture of bond. In considering an appeal under this Section, the Board of Adjustment shall ensure that the purposes and intent of this Section and the City's other land use ordinances are achieved.

19.080 Penalty. Any public or private entity violating any of the provisions of this Chapter, as determined by a finding by the Zoning Administrator, shall receive a fine/fee according to the Town Fee Schedule.

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CHAPTER 20
PLANNED DISTRICT

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CHAPTER 21

SENSITIVE AREA DISTRICT, SA

Sections:

21.005 Purpose and Intent.

21.010 Permitted Uses.

21.015 Conditional Uses.

21.040 Area, Width, Frontage, Yard, Coverage, Height.

21.005 PURPOSE AND INTENT. The purpose of the Sensitive Area (SA) District is to designate and describe those areas within the local jurisdiction that possess physical and/or environmental characteristics which require special public consideration of use applications which might affect the structure of the land; the management of surface or subsurface water; safety of future land occupants due to increased fire, earthquake, or storm hazards from the proposed development; or the uneconomic extension of public facilities and services. Of specific concern is development in flood-prone areas, earthquake zones, landslide areas, areas of steep slope or unstable soils, and other sensitive areas requiring careful assessment prior to alteration. It is the intent of these regulations to permit the widest possible latitude in the use of property, while at the same time requiring design solutions which will avoid detrimental impacts on sensitive natural areas, as well as provide protection from adverse natural forces and hazards.

21.010 PERMITTED USES. The following uses are permitted in the SA District: (1) tilling of the soil; (2) raising of crops; and (3) horticulture and gardening, excluding agricultural industries.

21.015 CONDITIONAL USES. The SA District is an overlay district whose sole effect is to require additional review of proposed uses in the underlay districts. To this end, any permitted use in a district overlaid by an SA District, with the exception of those uses permitted in Section 21.010 above, is a conditional use. Conditional uses authorized in districts overlaid by the SA District remain conditional uses.

21.040 AREA, WIDTH, FRONTAGE, YARD, COVERAGE, HEIGHT REGULATION. To be determined by conditional use permit or planned unit development approval.

(Am 10-16-07) (Am 04-15-08)

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Chapter 22

Performance Standard Density Bonus

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Chapter 23

Supplementary Regulations

23.005 Swimming Pools

23.010 Flag Poles and Flags

23.015 Planning Commission Determination for uses not listed

23.005 Swimming Pools.

Private swimming pools shall be allowed provided they can meet the following standards and a building permit has been issued:

- A. Pools shall be located no closer than thirty (30) feet to any dwelling on an adjoining lot or property and not closer than ten (10) feet to any property line.
- B. Pool areas shall be secured by a six-foot fence with self-closing and self-latching gates. Jacuzzis, spas, hot tubs, whirlpools may use a hard cover supplied by the manufacturer or a fence as noted above.
- C. For the purpose of this section, "pools" shall include jacuzzis, spas, hot tubs, whirlpools, and any above or below ground swimming pools which exceed 24 inches in depth or 100 square feet in area.

23.010 Flag Poles and Flags.

- A. The maximum height of a flag pole shall not exceed the maximum height allowed for any structure in residential zones where the pole and flag will be located; however, poles that would exceed the allowed height must be approved by the Land Use Authority Board; and, that a conditional use permit may be granted for a flag pole displaying only the United States flag up to a maximum height of one hundred twenty feet (120') in nonresidential zones.
- B. A flag pole shall not be located in such a manner as to cause a safety hazard. No pole or flag shall extend beyond the property line of the lot on which the flag pole is located.
- C. The application for a conditional use permit authorized by subsection A above shall include a plan showing the location, height, material, and mounting specifications of the pole or poles.

23.015 Planning Commission determination for uses not listed.

Determination may be made by the Planning Commission as to the classification of uses not listed and to which use category within the chapters of this title such uses may fit when determining a permitted use, conditional use, or uses not permitted within a zoning district. If such a determination cannot be made, the Planning Commission shall recommend such matters to the Town Council.

- A. A written request for such a determination shall be filed with the Planning Commission following the guidelines of chapter 1.05 of this Title. The request shall include a detailed description of the proposed use and such other information as may be required.
- B. The Planning Commission shall make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those uses specifically listed in this Title, and shall make a determination of its classification based on their findings. If the Planning Commission cannot make a determination as to where the classification of use fits, the issue will then be recommended to the Town Council for review and determination if an amendment to the chapter is necessary to create the particular use.
- C. The determination shall state the zone classifications in which the proposed use will be permitted or conditional, as well as the findings which established that such use is of the same or similar character as uses permitted in that zone classification.

D. The determination and all information pertaining to the use shall be filed and become permanent public record. Such use shall become a permitted or conditional use in the class of district specified in the determination, and shall have the same status as a permitted or conditional use named in the regulations for the zone classification.

(Am 04-15-08)